

**GENERAL TERMS AND CONDITIONS OF SALE AND SOFTWARE LICENSE**  
**("Conditions of Sale")**  
**Rev 22**

**1. Initial Provisions.**

- 1.1 The Products (equipment, service, and software) offered on the quotation by the Philips legal entity identified thereon are subject to these Conditions of Sale.
- 1.2 The purchase prices set out on the quotation excludes all taxes. All taxes on the Products will be borne by the Customer unless Customer provides a tax exemption certification.

**2. Quotation, Order and Payment.**

- 2.1 Any quotation on the Products will be open for acceptance within the period indicated therein and may be amended or revoked by Philips prior to Customer's acceptance. Any purchase orders shall be subject to Philips' confirmation. Any terms and conditions set forth on the Customer's purchase order or otherwise issued by the Customer shall not apply to the Products.
- 2.2 The prices and payment terms are set out on the quotation. Orders are subject to Philips' ongoing credit review and approval. If the quotation indicates net prices that are each associated with a payment method then Philips will invoice Customer, and Customer will pay the net price that corresponds to the payment method that Customer elected in its purchase order or signed quote. Prior to invoice, Customer may modify the payment method by providing Philips with an amended purchase order that reflects the new payment method and corresponding price.
- 2.3 Interest will apply to any late payments. Customer shall pay interest on any overdue amount not actively disputed paid at the annual rate of twelve percent (12%) which may be billed monthly. If the Customer fails to pay any amounts due or breaches these Conditions of Sale, Philips will be entitled to suspend the performance of its obligations and deduct the unpaid amount from any amounts otherwise owed to Customer by Philips, in addition to any other rights or remedies available to Philips. Philips shall be entitled to recover all costs and expenses, including reasonable attorneys' fees related to the enforcement of its rights or remedies.
- 2.4 Customer has no right to cancel an order, unless such cancellation right is granted to the Customer by mandatory law in which case the Customer shall pay the costs incurred by Philips up to the date of cancellation. In other cases of cancellation, Customer shall pay a 15% cancellation fee.
- 2.5 Philips may make partial or early shipments and Customer will pay such invoice based on the date of invoice for each product in accordance with the payment terms set forth in the quotation
- 2.6 Payments may be made by check, ACH or wire. Philips does not accept transaction fees for any electronic fund transfers or any other payment method; Philips imposes a surcharge on credit cards of 2%, which is not greater than our cost of acceptance. All check payments over \$50,000 USD must be paid via eCheck or via Philips prepaid FedEx account with tracking to secure against fraud and misappropriation.

**3. Philips Security Interest until Full Payment.**

- 3.1 Philips is entitled to retain a security interest in the Philips products, until Philips receives full payment.

**4. Technical Changes: Obsolescence of the Product.**

- 4.1 Philips shall be entitled to make changes to the design or specifications of the Products at any time, provided such change does not adversely affect the performance of the Products.

**5. Lease and Trade In**

- 5.1 If the Customer desires to convert the purchase of any Products to a lease the Customer shall within ninety (90) prior to the delivery of the Products provide all relevant rental documents for review and approval by Philips. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all these Conditions of Sale. No product will be delivered to the Customer until Philips has received copies of the fully executed lease documents and has approved the same. For any lease, if the lease does not fund then: (i) Customer guarantees the payment of all monies due or that may become due under these Conditions of Sale; (ii) Philips may convert the lease back to a purchase and invoice Customer accordingly; and (iii) Customer will pay all such invoiced amounts per the invoice terms. In the event that there are multiple Products on one quote, the Product with the longest period for converting the transaction to a lease shall prevail.
- 5.2 Philips may provide a rental agreement at its discretion.
- 5.3 In the event Customer will be trading-in equipment ("Trade-In"), the Customer will provide the following:

- 5.3.1 Customer undertakes to possess good and marketable title to the Trade-In as of the date of the quotation and when Philips takes possession of the Trade-in from Customer's site. In the event Customer is in breach of this undertaking, Customer shall not be entitled to keep a trade-in credit for such Trade-In and shall promptly refund Philips such credited amounts upon receipt of an invoice from Philips.
- 5.3.2 The trade-in value set forth on the Philips quotation is conditioned upon Customer providing Trade-In no later than the date Philips makes the new Product listed on such quotation available for first patient use. Customer shall bear the costs of any reduction in trade-in value arising due to a delay by the Customer causing the trade-in not to occur by the expected date and promptly pay the revised invoice.
- 5.3.3 In the event Philips receives a Trade-In having a different configuration (including software version) or model number than the Trade-In described on the Philips quotation, Philips reserves the right to adjust the trade-in value and revise the invoice accordingly and Customer shall pay such revised invoice promptly upon receipt.
- 5.3.4 Customer undertakes to (i) clean and sanitize all components that may be infected and all biological fluids from the Trade-In; (ii) drain any applicable chiller lines and cap any associated plumbing and (iii) delete all personal data in the Trade-In. Customer agrees to reimburse Philips against any out-of-pocket costs incurred by Philips arising from Customer's breach of its obligations herein.

## **6. Shipment and Delivery Date.**

- 6.1 Philips shall deliver the Products in accordance with the Incoterms set forth on the quotation. If Philips and the Customer agree to any other terms of delivery, additional costs shall be for the account of the Customer. Title (subject to Section 3 entitled Philips Security Interest) to any product (excluding software), and risk of loss shall pass to the Customer upon delivery to the shipping carrier. However, Philips shall pay the cost of freight and risk insurance (during transport to destination). Customer shall obtain and pay for insurance covering such risks at destination.
- 6.2 Philips will make reasonable efforts to meet delivery dates quoted or acknowledged. Failure to deliver by the specified date will not be a sufficient cause for cancellation nor will Philips be liable for any penalty, loss, or expense due to delay in delivery. If the Customer causes the delay, any reasonable expenses incurred by Philips will be paid for by Customer, including all storage fees, transportation expenses, and related costs. Customer shall pay the 80% installment payment upon delivery to Customer site or Philips warehouse. For the purposes of clarification, "Delay" in this section shall mean a date later than the Customer agreed delivery date identified via confirmation of the delivery date with Customer prior to releasing the Product for production.

## **7. Installation.**

- 7.1 If Philips has undertaken installation of the Products, the Customer shall be responsible for the following at its sole expense and risk:
  - 7.1.1 The provision of adequate and lockable storage for the Products on or near the installation site. Additionally, Customers shall consider the manufacturing labeling requirements for environmental and storage conditions. The Customer will repair or replace any lost or damaged item during the storage period.
  - 7.1.2 Philips or its affiliate's representative shall have access to the installation site without obstacle or hindrance in due time to start the installation work at the scheduled date.
  - 7.1.3 The timely execution and completion of the preparatory works, in conformity with Philips' installation requirements. The Customer shall ensure the prepared site shall comply with all safety, electrical and building codes relevant to the Products and installation thereof.
  - 7.1.4 The proper removal and disposal of any hazardous material at the installation site prior to installation by Philips.
  - 7.1.5 The timely provision of all visa, entry, exit, residence, work or any other permits and licenses necessary for Philips' or Philips' representatives' personnel and for the import and export of tools, equipment, Products, and materials necessary for the installation works and subsequent testing.
  - 7.1.6 The assistance to Philips or Philips' representative for moving the Products from the entrance of the Customer's premises to the installation site. The Customer shall be responsible, at its expense, for rigging, the removal of partitions or other obstacles, and restoration work.
- 7.2 If Products are connected to a computer network, the Customer shall be responsible for network security, including but not limited to, using secure administrative passwords, installing the latest validated security updates of operating software and web browsers, running a Customer firewall as well as maintaining up-to-date drivers, and validated anti-virus and anti-spyware software. Unauthorized Updates, as defined in the Product Schedules, may adversely affect the functionality and performance of the Licensed Software.
- 7.3 If any of the above conditions are not complied with, Philips or Philips' representative may interrupt the installation and subsequent testing for reasons not attributable to Philips and the parties shall extend the period for completing the installation. Any additional costs shall be for the Customer's account and Philips shall have no liability for any damage resulting from or in connection with the delayed installation.

- 7.4 Philips shall have no liability for the fitness or adequacy of the premises or the utilities available at the premises for installation or storage of the Products.

## **8. Product Damages and Returns.**

- 8.1 The following shall apply solely to medical consumables:  
The Customer shall notify Philips in writing substantiating its complaints within ten (10) days from its receipt of the Products. If Philips accepts the claim as valid, Philips shall issue a return authorization notice and the Customer shall return the Products. Each returned Product shall be packed in its original packaging.

## **9. Product Warranty.**

- 9.1 In the absence of any specific Product warranty attached to the quotation, the following warranty provisions will apply to the Product.
- 9.2 Hardware Products. Philips warrants to Customer that the Product shall materially comply with its product specification on the quotation and the user documentation accompanying the shipment of such Product for a period of one year from the date of acceptance or first clinical use, whichever occurs first, but under any circumstances, no more than fifteen (15) months from the date of shipment, provided the Product has been subject to proper use and maintenance. Any disposable Product intended for single use supplied by Philips to the Customer will be of good quality until the expiration date applicable to such Product.
- 9.3 Stand-alone Licensed Software Products. Philips warrants that the Stand-alone Licensed Software shall substantially conform to the technical specification for a period of ninety (90) days from the date Philips makes such Stand-alone Licensed Software available to the Customer. "Stand-alone Licensed Software" means Licensed Software sold without a contemporaneous purchase of a server for the Licensed Software.
- 9.4 Service. Philips warrants that all services will be carried out with reasonable care and skill. Philips' sole liability and Customer's sole remedy for breach of this warranty shall be, at its option, to give credit for or re-perform the services in question. This warranty shall only extend for a period of ninety (90) days after the completion of the services.
- 9.5 Customer shall only be entitled to make a Product warranty claim if Philips receives written notice of the defect during the warranty period within ten (10) days from the Customer discovering the defect and, if required, the Product or the defective parts shall be returned to an address stated by Philips. Such defective parts shall be the property of Philips after their replacement.
- 9.6 Philips' warranty obligations and Customer's sole remedy for the Product shall be limited, at Philips' option, to the repair or replacement of the Product or any part thereof, in which case the spare parts shall be new or equivalent to new in performance, or to the refund of a pro rata portion of the purchase price paid by the Customer solely after a reasonable cure period is given to Philips.
- 9.7 Philips' warranty obligations shall not apply to any defects resulting from:
- 9.7.1 improper or unsuitable maintenance, configuration or calibration by the Customer or its agents.
  - 9.7.2 use, operation, modification, or maintenance of the Product not in accordance with the Product specification and the applicable written instructions of Philips or performed prior to the completion of Philips' validation process.
  - 9.7.3 abuse, negligence, accident, damages (including damage in transit) caused by the Customer.
  - 9.7.4 improper site preparation, including corrosion to Product caused by Customer.
  - 9.7.5 any damage to the Product or any medical data or other data stored, caused by an external source (including viruses or similar software interference) resulting from the connection of the Product to a Customer network, Customer client devices, a third-party product or use of removable devices.
- 9.8 Philips is not responsible for the warranty for the third-party product provided by Philips to the Customer and Customer shall make any warranty claims directly with such vendors. However, if Philips, under its license agreement or purchase agreement with such third party, has right to warranties and service solutions, Philips shall make reasonable efforts to extend to the Customer the third-party warranty and service solutions for such Products.
- 9.9 During the term of the warranty and any customer service arrangement the Customer shall provide Philips with a dedicated high-speed broadband internet connection suitable to establish a remote connection to the Products in order for Philips to provide remote servicing of the Products by:
- 9.9.1 supporting the installation of a Philips approved router (or a Customer-owned router acceptable for Philips) for connection to the Products and Customer network (which router remains Philips property if provided by Philips and is only provided during the warranty term.
  - 9.9.2 maintaining a secure location for hardware to connect the Products to the Philips Remote Service Data Center (PRSDC).

- 9.9.3 providing and maintaining a free IP address within the site network to be used to connect the Products to the Customer's network.
- 9.9.4 maintaining the established connection throughout the applicable period.
- 9.9.5 facilitating the reconnection to Philips in case any temporary disconnection occurs.
- 9.9.6 If Customer fails to provide the access described in this section and the Product is not connected to the PRSDC (including any temporary disconnection), Customer accepts any related impact on Products availability, additional cost, and speed of resolution.
- 9.9.7 THE WARRANTIES SET FORTH IN THIS CONDITIONS OF SALE AND QUOTATION ARE THE SOLE WARRANTIES MADE BY PHILIPS IN CONNECTION WITH THE PRODUCT, ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, WHETHER WRITTEN, ORAL, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PHILIPS EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. MOREOVER, PHILIPS DOES NOT WARRANT ANY PRODUCT USING THE CLOUD TO BE UNINTERRUPTED OR ERROR FREE.

## **10. Limitation of Liability.**

- 10.1 THE TOTAL LIABILITY OF PHILIPS ARISING UNDER OR IN CONNECTION WITH THE PRODUCT FOR ANY BREACH OF CONTRACTUAL OBLIGATIONS, WARRANTY, NEGLIGENCE, UNLAWFUL ACT OR OTHERWISE IN CONNECTION WITH THE PRODUCT IS LIMITED TO THE ACTUAL PURCHASE PRICE RECEIVED FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.
- 10.2 PHILIPS SHALL NOT BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES AND/OR FOR ANY DAMAGES INCLUDING LOSS OF DATA, PROFITS, REVENUE, BUSINESS INTERRUPTION OR USE IN CONNECTION WITH OR ARISING OUT OF THESE CONDITIONS OF SALE, REGARDLESS OF WHETHER THEY ARE FORESEEABLE OR NOT AND WHETHER THE CLAIM IS MADE IN TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, AT LAW OR IN EQUITY. NEITHER PHILIPS NOR PHILIPS' SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OR INABILITY TO USE MEDICAL OR OTHER DATA STORED ON OR BY THE PRODUCT.
- 10.3 THE EXCLUSION OF LIABILITY IN THESE CONDITIONS OF SALE SHALL ONLY APPLY TO THE EXTENT ALLOWED UNDER THE APPLICABLE LAW.
- 10.4 FOR US CUSTOMERS, THE FOLLOWING ARE NOT SUBJECT TO THE LIMITATIONS OF LIABILITY UNDER SECTION 10.1:
  - 10.4.1 THIRD PARTY CLAIMS FOR DIRECT DAMAGES FOR BODILY INJURY OR DEATH TO THE EXTENT CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT.
  - 10.4.2 CLAIMS OF TANGIBLE PROPERTY DAMAGE REPRESENTING THE ACTUAL COST TO REPAIR OR REPLACE PHYSICAL PROPERTY TO THE EXTENT CAUSED BY PHILIPS NEGLIGENCE OR PROVEN PRODUCT DEFECT.
  - 10.4.3 OUT OF POCKET COSTS INCURRED BY CUSTOMER TO PROVIDE PATIENT NOTIFICATIONS, REQUIRED BY LAW, TO THE EXTENT SUCH NOTICES ARE CAUSED BY PHILIPS UNAUTHORIZED DISCLOSURE OF PROTECTED HEALTH INFORMATION.
  - 10.4.4 FINES/PENALTIES LEVIED AGAINST CUSTOMER BY GOVERNMENT AGENCIES CITING PHILIPS' UNAUTHORIZED DISCLOSURE OF PROTECTED HEALTH INFORMATION AS THE BASIS OF THE FINE/PENALTY. ANY SUCH FINES OR PENALTIES SHALL CONSTITUTE DIRECT DAMAGES.

## **11. Infringement of Intellectual Property Rights to the Products.**

- 11.1 Philips will, at its option and expense, defend or settle any suit or proceeding brought against Customer based on any third-party claim that any Product or use thereof for its intended purpose constitutes an infringement of any intellectual property rights in the country where the Product is delivered by Philips.
- 11.2 Customer will promptly give Philips written notice of such claim and the authority, information and assistance needed to defend such claim. Philips shall have the full and exclusive authority to defend and settle such claim. Customer shall not make any admission which might be prejudicial to Philips and shall not enter a settlement without Philips' prior written consent.
- 11.3 If the Product is held to constitute infringement of any intellectual property right and its use by Customer is enjoined, Philips will, at its option and expense, either: (i) procure for Customer the right to continue using the Product; (ii) replace it with an equivalent non-infringing Product; (iii) modify the Product so it becomes non-infringing; or (iv) refund to the Customer a pro rata portion of the Products' purchase price upon the return of the original Products.
- 11.4 Philips will have no duty or obligation under this clause 11 if the infringement is caused by a Product being:

- 11.4.1 supplied in accordance with Customer's design, specifications or instructions and compliance therewith has caused Philips to deviate from its normal course of performance.
- 11.4.2 modified by Customer or its contractors after delivery.
- 11.4.3 not updated by Customer in accordance with instructions provided by Philips (e.g. software updates).
- 11.4.4 combined by Customer or its contractors with devices, software, methods, systems, or processes not furnished hereunder and the third-party claim is based on such modification or combination.

The above states Philips' sole liability and Customer's exclusive remedy in respect of third-party intellectual property claims.

## **12. Use and exclusivity of Product documents.**

- 12.1 All documents and manuals, including technical information related to the Products and its maintenance, as delivered by Philips is the proprietary information of Philips, covered by Philips' copyright, and remains the property of Philips, and as such, it shall not be copied, reproduced, transmitted, or disclosed to or used by third parties without the prior written consent of Philips.

## **13. Export Control and Product Resale.**

- 13.1 Customer agrees to comply with relevant export control and sanction laws and regulations, including the UN, EU or US ("Export Laws"), to ensure that the Products are not (i) exported or re-exported directly or indirectly in violation of Export Laws; or (ii) used for any purposes prohibited by the Export Laws, including military end-use, human rights abuses, nuclear, chemical or biological weapons proliferation.
- 13.2 Customer represents that (i) Customer is not located in a country that is subject to a UN, US or EU embargo and trade restriction; and (ii) Customer is not listed on any UN, EU, US export and sanctions list of prohibited or restricted parties.
- 13.3 Philips may suspend its obligation to fulfil any order or subsequent service if the delivery is restricted under Export Laws or an export/import license is not granted by relevant authorities.

## **14. License Software Terms.**

- 14.1 Subject to any usage limitations set forth on the quotation, Philips grants to Customer a non-exclusive, non-transferable license, without the right to grant sub-licenses, to incorporate and use the Licensed Software (as specified on the quotation, whether embedded or stand-alone) in Licensed Products and the permitted use (as referenced in the quotation) in accordance with these Conditions of Sale.
- 14.2 The Licensed Software is licensed and not sold. All intellectual property rights in the Licensed Software shall remain with Philips.
- 14.3 Customer may make one copy of the Licensed Software in machine-readable form solely for backup purposes. Philips reserves the right to charge for backup copies created by Philips. Customer may not reproduce, sell, assign, transfer or sublicense the Licensed Software. Customer shall preserve the confidential nature of the Licensed Software and shall not disclose or transfer any portion of the Licensed Software to any third party.
- 14.4 Customer shall maintain Philips' copyright notice or other proprietary legends on any copies of the Licensed Software. Customer shall not (and shall not allow any third party to) decompile, disassemble, or reverse engineer the Licensed Software.
- 14.5 The Licensed Software may only be used in relation to Licensed Products or systems certified by Philips. If Customer modifies the Licensed Software in any manner, all warranties associated with the Licensed Software and the Products shall become null and void. Customer installation of Philips' issued patches or updates shall not be deemed to be a modification.
- 14.6 Philips and its affiliates shall be free to use any feedback or suggestions for modification or enhancement of the Licensed Software provided by Customer for the purpose of modifying or enhancing the Licensed Software, as well as for licensing such enhancements to third parties.
- 14.7 With respect to any third-party licensed software, the Customer agrees to comply with the terms applicable to such licensed software. Customer shall indemnify Philips for any damage arising from its failure to comply with such terms. If the third-party licensor terminates the third party license, Philips shall be entitled to terminate the third party license with the Customer and make reasonable effort to procure a solution.

## **15. Confidentiality.**

- 15.1 If any of the parties have access to confidential information of the other party, it shall keep this information confidential. Such information shall only be used if and to the extent that it is necessary to carry out the concerned transactions. This obligation does not extend to public domain information and/or information that is disclosed by operation of law or court order.

**16. Compliance with Laws and Privacy.**

- 16.1 Each party shall comply with all laws, rules, and regulations applicable to the party in connection with the performance of its obligations in connection with the transactions contemplated by the quotation, including, but not limited to, those relating to employment practices federal and state anti-discrimination laws (including Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended and the Veterans Readjustment ACT of 1972 as amended), E-Verify, FDA, Medicare fraud and abuse, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Health care providers are reminded that if the purchase includes a discount or loan, they must fully and accurately report such discount or loan on cost reports or other applicable claims for payment submitted under any federal or state health care program, including but not limited to Medicare and Medicaid, as required by federal law (see 42 CFR 1001.952[h]).
- 16.2 Processing of personal data: In relation to the provision of services, Philips may process information, in any form, that can relate to identified or identifiable individuals, which may qualify as personal data. Philips and/or its affiliates will: a) process any protected health information (PHI) as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) on behalf and by instruction of the Customer, the terms, rights and responsibilities of the Parties for such processing of PHI are set forth in a Business Associate Agreement between the parties and b) process information such as log files or device parameters (which may contain personal data), to provide the services and to enable its compliance with and performance of its task as manufacturer of (medical) devices under the applicable regulations and standards (including but not limited to the performance of vigilance, post market surveillance and clinical evaluation related activities).
- 16.3 Customer agrees that Philips and/or its affiliates may use any data, other than personal data, generated by a Product and/or otherwise provided by Customer to Philips for Philips' own legitimate business purposes including, but not limited to, for data analytics activities to determine trends of usage and advise on the use of products and services, for research, product and service development and improvement (including the development of new offerings), substantiation of marketing claims and for benchmarking purposes.

**17. Force Majeure.**

- 17.1 Each party shall not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control, including, but not limited to, acts of God, war, civil war, insurrection, fire, flood, labor disputes, epidemics, pandemic, cyber-attack, act of terrorism, governmental regulations and/or similar acts, embargoes, export control sanctions or restrictions, Philips' unavailability regarding any required permits, licenses and/or authorizations, default or force majeure of suppliers or subcontractors.
- 17.2 If force majeure prevents Philips from fulfilling any order from the Customer or otherwise performing any obligation arising out of the sale, Philips shall not be liable to the Customer for any compensation, reimbursement, or damages.

**18. Miscellaneous.**

- 18.1 Any newly manufactured Product provided may contain selected remanufactured parts equivalent to new in terms of performance.
- 18.2 If the Customer becomes insolvent, unable to pay its debts as they fall due, files for bankruptcy or is subject to it, has appointed a recipient, is subject to a late fee on payments (temporary or permanent), or has its assets assigned or frozen, Philips may cancel any unfulfilled obligations or suspend its performance; provided that, however, the Customer's financial obligations to Philips shall remain in full force and effect.
- 18.3 If any provision of these Conditions of Sale is found to be unlawful, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall remain in full force and effect. In lieu of any provision deemed to be unlawful, unenforceable, or invalid, in whole or in part, a provision reflecting the original intent of these Conditions of Sale, to the extent permitted by the applicable law, shall be deemed to be a substitute for that provision.
- 18.4 Notices or other communications shall be given in writing and shall be deemed effective if they are delivered in person or if they are sent by courier or mail to the relevant party.
- 18.5 The failure by the Customer or Philips at any time to require compliance with any obligation shall not affect the right to require its enforcement at any time thereafter.
- 18.6 Philips may assign or novate its rights and obligations in whole or in part, to any of its affiliates or may assign any of its accounts receivable to any party without Customer's consent. Customer agrees to execute any documents that may be necessary to complete Philips' assignment or novation. The Customer shall not, without the prior written consent of Philips, transfer or assign any of its rights or obligations
- 18.7 The Customer's obligations do not depend on any other obligations it may have under any other agreement or arrangement with Philips. The Customer shall not exercise any offset right in the quotation or sale in relation to any other agreement or arrangement with Philips.



- 18.8 These Conditions of Sale shall be governed by the laws of the country or state wherein the Philips legal entity identified in the quotation is situated, and the parties submit to the exclusive jurisdiction of the courts of that country or state, provided that Philips will be entitled to start legal proceedings against the Customer in any other court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA), in any form, is expressly excluded.
- 18.9 Customer will report immediately to Philips any event of which Customer becomes aware that suggests that any Products provided by Philips, for any reason:
- 18.9.1 may have caused or contributed to a death or serious injury, or
- 18.9.2 have malfunctioned where such malfunctions would likely cause or contribute to a death or serious injury if the malfunction were to occur again. Additionally, Customer will also report to Philips complaints it receives from its personnel and patients or any other person regarding the identity, quality, performance, reliability, safety, effectiveness, labels, or instructions for use of the Products provided by Philips. Philips shall be solely responsible for submitting any filings or reports to any governmental authorities with respect to the Products provided by Philips hereunder, unless otherwise required by law.
- 18.10 To the extent applicable to your country or state, Philips and Customer shall comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and its implementing regulations (42 CFR, Part 420). Philips agrees that until the expiration of four (4) years after furnishing Products pursuant to these Conditions of Sale, Philips shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, these Conditions of Sale and the books, documents and records of Philips that are necessary to verify the nature and extent of the costs charged to Customer hereunder. Philips further agrees that if Philips carries out any of the duties of these Conditions of Sale through a subcontract with a value or cost of ten-thousand U.S. dollars (\$10,000.00) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such Products pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs. This paragraph relating to the retention and production of documents is included because of possible application of Section 1861(v) (1) (1) of the Social Security Act (42 U.S.C. 1395x (v) (1) (I) (1989)), as amended from time to time to these Conditions of Sale. If Section 1861(v) (1) (1) should be found to be inapplicable, then this paragraph shall be deemed inoperative and without force and effect.
- 18.11 As of the date of the sale of this Product, Philips represents and warrants that Philips, its employees and subcontractors, are not debarred, excluded, suspended or otherwise ineligible to participate in a federal or state health care program, nor have they been convicted of any health care related crime for Products provided under these Conditions of Sale (an "Excluded Provider"). Philips shall promptly notify Customer if it becomes aware that Philips or any of its employees or subcontractors providing Products hereunder have become an Excluded Provider under a federal or state healthcare program, whereupon Customer shall provide Philips with a reasonable opportunity to discuss and attempt to resolve in good faith with Customer any Customer related concerns in relation thereto, and/or will give Philips a reasonable opportunity to dispute its, or its employee's or subcontractor's, designation as an Excluded Provider. In the event that the parties are unable to resolve any such Customer concerns of the applicable party's designation as an Excluded Provider, then Customer may terminate this order by express written notice for Products not yet shipped or rendered prior to a date of exclusion.
- 18.12 To the extent applicable to your country or state, it is Customer's responsibility to notify Philips if any portion of the order is funded under the American Reinvestment and Recovery Act (ARRA). To ensure compliance with the ARRA regulation, Customer shall include a clause stating that the order is funded under ARRA on its purchase order or other document issued by Customer.
- 18.13 To the extent applicable, Customer acknowledges it shall comply with all Medicare, Medicaid or state cost reporting requirements, including discounts afforded to Customer under these Conditions of Sale, for any Products purchased hereunder.
- 18.14 Entire Agreement. These Terms and Conditions of Sale, the terms and conditions set forth in the quotation and the applicable Philips' product-specific warranty constitute the entire understanding and agreement by and between the parties with respect to the transactions contemplated by the quotation and supersede any previous understandings or agreements between the parties, whether written or oral, regarding the transactions contemplated by the quotation. The pricing in the quotation is based upon the terms and conditions in the quotation. No additional terms, conditions, consents, waivers, alterations, or modifications shall be binding unless in writing and signed by the parties. Customer's additional or different terms and conditions, whether stated in a purchase order or other document issued by Customer, are specifically rejected and shall not apply to the transactions contemplated by the quotation.

## 19. Product specific terms.

Product specific schedules are incorporated herein as they apply to the Products listed in the quotation and their additional terms shall apply solely to the Products specified therein. If any terms set forth in the Product specific schedules conflict with terms set forth in these Conditions of Sale, the terms set forth in the Product specific schedule shall take precedent.

**Schedule 1**  
**Imaging Systems Portfolio (IS) Rev 22**

Product Category	Products
Image Guided Therapy (IGT)	Interventional X-Ray (iXR)
	Mobile C-Arms (Surg)
	Philips Image Guided Therapy Corporation (IGTD)/fka Volcano (Capital only)
Imaging Clinical Applications (ICAP)	IntelliSpace Portal (ISP)
Diagnostic Imaging	Digital X-Ray (DXR)
	Computed Tomography (CT)
	Magnetic Resonance (MR)
	OEM Imaging Components (Coils)
	Positron Emission Tomography (PET/CT)
	Advanced Molecular Imaging (SPECT & SPECT/CT)
	Radiation Oncology (PROS)

**1. Payment Terms.**

Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice based on the date of the invoice for each of the products and integration services as follows:

**1.1 For Imaging Systems Portfolio:**

- 1.1.1 0% of the purchase price shall be due with Customer's submission of its purchase order.
- 1.1.2 80% of the purchase price shall be due on delivery of the major components of the Product to Customer designated location or Philips warehouse. Product installation will not begin until Customer has paid this portion of the purchase price.
- 1.1.3 Subject to Section 6.2 of the Conditions of Sale, 20% of the purchase price shall be due net thirty (30) days from the invoice date based on Product(s) availability for first patient use. Available for first patient use means the product has been installed and substantially meets Philips' systems verification functionality set forth in the installation manual.

**2. For IGT Fixed Systems.**

- 2.1 Project management support is provided at no additional cost.
- 2.2 Delivery and installation are included in the purchase of the system.
- 2.3 For Catalyst systems, full warranty is included and starts when installation is completed, and system is accepted by the Customer.

**3. Additional Customer Installation Obligations for Magnetic Resonance (MR).**

- 3.1.1 Customer shall provide any and all site preparation and shall be in compliance with all radio frequency (RF) or magnetic shielding and acoustical suppression and building codes relevant to the Product and its installation and use.
- 3.1.2 If applicable, Customer's contractor or Customer's architect is required to provide detailed information on the proposed Helium Exhaust Pipe for their MRI system prior to installation to ensure safety specifications are being met.  
  
Required details include:
  - 3.1.3 Architectural drawing or sketch with complete dimensions including lengths, bending radii, bending angles, and pipe diameters for entire Helium Exhaust Pipe run from RF enclosure to discharge location.
  - 3.1.4 Completed Helium Exhaust Pipe Verification Checklist (Provided by Local Philips Project Manager).
  - 3.1.5 Picture showing the area where the Helium Exhaust Pipe will discharge.
- 3.2 If applicable, Magnets will not be released for delivery unless and until Helium Exhaust Pipe details are provided for verification and have been confirmed to meet all life safety specifications.
- 3.3 Costs of equipment preservation, to ensure a high-quality system, will be passed to the Customer if the installation site is not ready due to delays not caused by Philips. Additionally, climate control costs during and after equipment installation are



also the responsibility of the Customer. Preservation of equipment is required to prevent exposing equipment to the negative effects of a non-climate-controlled construction environment, where there is dust or high humidity. Climate control could include costs associated with ensuring a climate-controlled environment. Activities and expenses required for preservation may include time, materials, and transportation to package and seal, and transport the equipment to a controlled environment to prevent dust from entering the equipment. For MR, as may be applicable, this includes the consumption of Helium for life support.

#### **4. Further use of System Data.**

- 4.1 Mandatory Data. Customer acknowledges and agrees that by executing this Agreement and using the Licensed Software, it has agreed that product inventory and crash signature data generated by the Licensed Software shall be delivered into the custody of Philips, or of systems maintained on Philips' behalf, without notice to Customer. Such data is referred to herein as "Mandatory Data" and such data is described in the Licensed Software's documentation for each Licensed Software release; the data comprising Mandatory Data is subject to change with each release of upgrades, updates, patches and modifications to the Licensed Software.
- 4.2 Customer agrees that any Mandatory Data will be the property of Philips. Part of the Mandatory Data might constitute (non-sensitive) Personal Data, which is anonymized data or aggregate log files, device parameters and other signals collected from the equipment used by Customer and associated with Customer. Customer agrees that Philips may use and disclose Mandatory Data for Philips' own business purposes (including, but not limited to, for data analytics activities to determine trends of usage of Philips' or its affiliates' devices and services, to facilitate and advise on continued and sustained use of Philips' or its affiliates' products and services, for product and service development and improvement (including the development of new offerings), substantiation of marketing claims and for benchmarking purposes). In connection with any disclosure of Mandatory Data, Philips will not associate such data with the Personal Data of Customer's patients, consumers, or employees.

## Schedule 1-A

### Digital Computational Pathology Portfolio (DCP) Rev 22

Product Category	Products
Digital Computational Pathology(DCP) Products	Image Management System (IMS)
	Ultra Fast Scanner (UFS)

#### 1. Definitions.

- 1.1 "Products" means, collectively, the equipment, system, Philips IntelliSite Pathology Solution, including the IMS and UFS, integration services and other products as described within the applicable Philips quotation.
- 1.2 "Project Implementation Plan" shall mean, if a Statement of Work is included in the Quotation (SOW) or otherwise created after award of the contract, the project management implementation plan, mutually agreed to by the parties, that sets timetables and the order of project rollout for the work scope set forth in the SOW, if and as applicable to the Products purchased.
- 1.3 "Authorized Users" of the Product shall mean persons reviewing pathology images or those requiring administrative access to patient records and images scanned into the Image Management System, as authorized by Customer, in support of performance of such services.
- 1.4 "Acceptance" means the following:  
For Equipment: Acceptance means the Product(s) has been successfully installed by Philips at the Customer's site, substantially meets Philips' functionality for the Product(s) as set forth in the applicable Philips documentation for the Product and is available for first clinical use. Upon successful installation, Customer will sign the Philips acceptance form provided by Philips as acknowledgement that installation is complete and accepted by Customer. In the event that Product Integration is included in the scope of a project, Integration will not commence until Philips' receipt of the Equipment acceptance form signed by Customer.  
  
For Integration: Acceptance means the Product(s) has been successfully integrated into the Customer environment and substantially meets the integration requirements described in the applicable SOW ("Integration"). In the event that during Integration Philips discovers elements or features of the Customer's environment that were not properly identified to Philips or could not have been reasonably known or understood by Philips prior to agreement on the applicable SOW, Philips may, after the exercise of commercially reasonable efforts complete implementation of an applicable Integration requirement, determine in good faith, and provide Customer with written notice, that such Integration requirement cannot, in whole or in part, be implemented. Upon Customer's receipt of such notice, that Integration task shall be considered complete. Any such determination by Philips shall not reduce the price of the Integration or delay payment by Customer. Customer will sign the Philips acceptance form provided by Philips as acknowledgement that the Integration of the Products is complete and accepted by Customer.
- 1.5 "Available for first patient use" as it relates to the DCP Products and notwithstanding anything to the contrary set forth in the Philips Standard Terms and Conditions of Sale, means the Product has been installed and performs in substantial compliance with the Philips documentation provided with the Product and is available for Customer's first clinical use.
- 1.6 "Client Device" means a computer, workstation, terminal, or other electronic device used to access the Product(s).
- Any other capitalized term used in this Schedule 1-A shall have the meaning ascribed to it in the main body of the Conditions of Sale.

#### 2. Payment Terms.

- 2.1 Unless otherwise specified in the quotation or Statement of Work (where applicable), Philips will invoice Customer and Customer will pay such invoice on receipt for each product as follows:
- 2.1.1 100% of the purchase Price for Products shall be due thirty (30) days from Philips' invoice date.
- 2.1.2 100% of any Integration services Price shall be due thirty (30) days from Philips' invoice date.
- 2.1.3 Payment terms are subject to credit approval.

#### 3. Customer Room Preparation Responsibilities.

In addition to the requirements set out in Section 7 of the Philips Standard Terms and Conditions of Sale, Customer is responsible for the following site preparation and installation activities:

- 3.1 Customer is responsible for all activities and costs necessary to prepare the facility for installation of the Product by Philips. Customer's obligations include, but are not limited to, any connectivity to the Customer's network, which includes the requirement for such connectivity to comply the applicable Philips Product requirements and specifications, running all

required cables prior to installation.

- 3.2 Prior to acceptance of the quotation, Customer shall obtain from the applicable Philips implementation team any other additional Customer installation preparation requirements in connection with the implementation resulting from unique attributes of Customer's environment and the size of the implementation.
- 3.3 Product Operating Environment: Customer shall ensure an adequate operating environment for the Product that meets generally accepted industry standards for the operation of computer server equipment, including without limitation stable table, power and air conditioning. The installation site shall be protected from unauthorized access.
- 3.4 In the event that multiple server racks are required to support the use of the Product, Customer shall provide, without charge, contiguous rack space at the installation site.
- 3.5 Minimum Network Requirements. Customer shall provide at a minimum the network requirements, if any, as stated in the SOW and/or the final design documentation, as applicable.
- 3.6 In case any or all of the above conditions are not properly or timely complied with, or Philips or its representative has to interrupt the installation and installation validation testing for reasons not attributable to Philips, the period of completion shall be extended accordingly and any and all additional costs resulting therefrom shall be the Customer's responsibility. PHILIPS NEITHER ASSUMES LIABILITY NOR OFFERS ANY WARRANTY FOR THE FITNESS OR ADEQUACY OF THE PREMISES OR THE UTILITIES AVAILABLE AT THE PREMISES IN WHICH THE PRODUCT IS TO BE INSTALLED, USED OR STORED.
- 3.7 Customer-Provided Equipment. Customer shall procure, maintain and upgrade all hardware and Client Devices. Hardware and Client Devices must meet the minimum requirements set forth in the final design and/or SOW. Notwithstanding the foregoing, no variance from the Client Devices specification is permitted. Minimum requirements for hardware and Client Devices may change during the Term. Upon Customer's request, Philips shall provide updated minimum requirements, if any. Customer is solely responsible for determining whether hardware and Client Device display are of diagnostic quality and for maintaining the displays in accordance with the manufacturer's specifications. Philips is not responsible for providing Client Devices.

#### **4. Archive Requirement.**

- 4.1 To the extent required by the final design, Customer is required to have storage and archival capabilities for any Digital Computational Pathology system provided hereunder. If Customer provides its own storage, Customer is responsible for procuring any specialty software or hardware (fiber channel or host bus adapter ("HBA")) necessary to manage storage and allow the system to access the storage. To the extent required by the final design, Customer is responsible for providing fiber channel switches, port upgrades, and other telecommunications and/or network hardware required for the Philips products to physically connect to the storage, regardless of whether or not Philips provides the storage.

#### **5. Software Installation on Hardware or Infrastructure.**

- 5.1 Philips shall install the Licensed Software solely on the hardware delivered by Philips, per the term of Philips Quotation, or on to Customer's virtual infrastructure, provided that it meets Philips' specifications for virtual infrastructure. Customer shall not use the Licensed Software with any other hardware except as expressly stated herein or in an applicable SOW. If Philips releases a Software Update that requires a different Hardware environment and Customer elects to receive the Software Update, Customer shall provide the Hardware changes before Philips performs the Software Upgrade.

#### **6. Storage Sizing.**

- 6.1 To the extent not otherwise stated in the quotation, an applicable SOW, or the final design documentation, Customer and Philips will agree on data retention requirements, including, estimates of storage sizing and which party will source the storage solution(s). Upon request, Philips will provide Customer with estimates of image study sizes for different types of studies that Customer can use as a general aide to calculate and determine its near-term and long-term storage requirements for the DCP solution. Customer is responsible to determine what storage archive device types and sizes are required to support its DCP solution, whether through procurement from Philips or utilization of Customer's own existing storage solutions. Customer acknowledges that use of storage varies greatly based on its unique utilization of the system and based on factors that are outside Philips' control. Therefore, and notwithstanding any estimates provided to Customer by Philips, Customer is solely responsible to determine what storage device and archiving solution is best suited to meet its needs. As part of its decision-making process in connection with archive device storage size, Customer acknowledges that study sizes are affected greatly by (a) changes in the types and amount of modality equipment used, (b) technician discretion in file size creation, and (c) clinical protocols within a department. Customer is solely responsible for system administration for the DCP solution, which includes monitoring the storage archive device for its utilization levels and planning any necessary storage changes as Customer's requirements change. Once the final design is agreed upon between the parties, if it is determined that additional storage capacity is required beyond what is provided for in the Philips quotation, Customer shall be responsible for any additional cost associated with increasing the system's storage capacity to meet the requirements of the final design.

**7. Unauthorized Patches and Anti-Virus Updates.**

- 7.1 Customer's installation or use of (a) operating system patches, updates or upgrades; (b) anti-virus updates (except to the DAT files i.e., virus definitions); or (c) upgrades to anti-virus search engines without prior validation testing and approval by Philips ("Unauthorized Updates") may adversely affect the functionality and performance of the Licensed Software. If Customer installs or uses Unauthorized Updates, Philips shall have no liability or responsibility for performance of the Licensed Software and the warranty shall be void. If Customer is using Unauthorized Updates when requesting service support or an Unauthorized Update is discovered by Philips after commencing the technical support process, then, prior to being obligated to perform warranty support services during a service period, Philips may require Customer to roll back to the most recent operating system and anti-virus search engine versions that have been validated by Philips as posted on the Philips service internet site.

**8. Interfaces.**

- 8.1 Philips' obligation to provide any Digital Computational Pathology interface is expressly conditioned upon Customer enabling its Information System to send and receive messages to and from the applicable Philips products by the date the products are available for first patient use. If Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces against the applicable purchase order. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Upon Philips issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Any interfaces terminated shall be re-evaluated under a separate new sales contract.

**9. Frequent Data Backup/Disaster Recovery Responsibility.**

- 9.1 Philips is not responsible for:

- 9.1.1 the development or execution of a business continuity/disaster recovery plan;
- 9.1.2 providing a means for backing up data and images; or
- 9.1.3 backing up the data and images processed by the system. Customer may request Philips' assistance in designing a disaster recovery plan, but Philips accepts no liability whatsoever for the resulting plan or the results of Customer's utilization of such plan. Customer is responsible for providing a storage solution or storage backup device and for performing frequent backups of any data, patient information or images residing on the repository database, on Philips' products, or an archive. Except to the extent that Customer purchases some or all of the storage solution from Philips, as provided for in Section 6 above, Philips does not provide the storage archive or Client Devices to be used with this Product. These are Customer provided and not included in this purchase.

**10. Statement of Work ("SOW").**

- 10.1 If applicable, Philips and Customer will create a mutually agreed upon Statement of Work (a "SOW") to include design processes and documents which the parties will sign prior to Philips' commencement of the applicable project. Unless expressly stated in a separate SOW for Integrations services, the acceptance criteria for Integration services shall be set forth in this SOW. The SOW is subject to any mutually agreed written adjustments to the project price, and the terms set forth in the Philips Standard Terms and Conditions of Sale, including this schedule, and the applicable quotation.

**11. Applications Administration Requirement.**

- 11.1 Customer, at all times, shall have a designated IMS Applications Administrator that has completed the applications training for the version of the product running at Customer's site. The applicable applications training is set forth in the quotation.

**Schedule 1-A**  
**Annex I**  
**DCP SOFTWARE LICENSE TERMS ("Software License Terms") Rev 22**

In addition to the Licensed Software terms in Philips Standard Terms and Conditions of Sale (which may also be referred to herein as the "Agreement"), the following terms and conditions, apply to Digital Computational Pathology products:

**1. License Grant.**

- 1.1 Software licenses are granted as provided for in the Philips Standard Terms and Conditions of Sale.
- 1.2 Customer acknowledges and agrees that the Product incorporates technology (software, programs, machine codes) owned or certified by Philips' third-party suppliers ("Embedded Software") and that this Embedded Software are either licensed to Customer directly by Philips' suppliers pursuant to third-party license agreements or are subject to certain usage limits beside the ones listed in this Agreement. Customer hereby agrees to be bound by the terms of such third-party license agreements and usage limits. Philips reserves the right to provide additional "notice files" accompanying the Licensed Software as supplied by its third-party suppliers. Such notice files are purely informative.

**2. Modifications.**

- 2.1 If Customer or any of its officers, employees or agents either (i) devise or acquire any improvements in the Licensed Software, or (ii) suggest or recommend to Philips any improvements, then such improvements and such information shall be disclosed in writing and a non-exclusive, world-wide, royalty-free license shall be offered to Philips in writing. In case Philips accepts such offer either in whole or in part by explicit written acceptance, Philips agrees to grant to Customer a non-exclusive, world-wide, royalty-free license to any further improvements Philips makes to any such improvement made by Customer.

**3. Software Updates and Upgrades.**

- 3.1 Philips may create and license versions of the licensed Software containing Software Updates and Upgrades from time to time. Philips will make such Updated and Upgraded versions of the Licensed Software to Customer during the warranty period and during the term of a valid Philips Services Agreement for the related Product. Licensed Software versions containing Updates are identified by a change to the right of the decimal point in the Licensed Software release number and are offered to Customer at no additional charge. Licensed Software versions containing Upgrades are identified by a change to the left of the decimal point in the Licensed Software release number and are offered to Customer at the Philips prices for such Upgraded version and are subject to the terms and conditions of Philips' then applicable Software License terms and conditions.
- 3.2 Philips may make available maintenance of the Licensed Software updates and upgrades to Customer at Philips's published services rates and subject to the terms and conditions of Philips's then applicable software maintenance/customer support agreement.

**4. Operating System Licensed Software Warranty.**

- 4.1 Philips warrants to Customer that the Operating System Licensed Software (the "Licensed Software") will operate in substantial compliance with the Philips manual(s) delivered with the system for a period of twelve (12) months from the date of the system's availability for Customer's first clinical use.
- 4.2 This warranty is made on the condition that during the applicable warranty period: (i) Customer promptly notifies Philips of the nonconformity giving full details of such nonconformity, (ii) such nonconformity is a critical error in the then-current version of the Licensed Software, and (iii) Philips is able to reproduce the nonconformity, then Philips shall at its option, and at its expense, endeavor to correct the nonconformity, either by replacement, work around, or by modification of the Licensed Software. If, after the expenditure of reasonable efforts, Philips is unable to correct the non-compliance, Philips may refund a reasonable portion of the purchase price for the Licensed Software, in which event the refund will be in full satisfaction of all Customer's claims relating to the non-conformance. Philips does not guarantee the effectiveness of the correction efforts and does not represent or warrant that all errors can be corrected. Correction of the Licensed Software shall not extend the original warranty period as set out above at Section 4.1.
- 4.3 NOTWITHSTANDING THE FOREGOING, PHILIPS DOES NOT GUARANTEE THAT THE LICENSED SOFTWARE WILL PERFORM ERROR-FREE OR UNINTERRUPTED. PHILIPS DOES NOT GUARANTEE THAT IT WILL CORRECT ALL PROGRAMMING ERRORS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE WARRANTIES ARE EXCLUSIVE. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.
- 4.4 PHILIPS FURTHER GRANTS NO WARRANTY AS TO DEFECTS THAT APPEAR IN THE LICENSED SOFTWARE DUE TO ONE OR MORE OF THE REASONS SPECIFIED IN SECTION 12 OF THE AGREEMENT.

**Schedule 1-B**  
**MR Subscription Rev 22**

Product Category	Products
Magnetic Resonance	MRI Software License Packages

The following Schedule 1-B shall apply to Magnetic Resonance Software License Packages offered under the MR Subscription.

**1. Definitions.**

- 1.1. Covered System. The Philips MRI scanner on which the subscription licenses will reside. For existing/installed MRI units, the site number is set forth in the service agreement.
- 1.2. Covered Service Description. Included on the Quotation under NNAN399, describes the Subscription and the applicable fees.
- 1.3. Subscription. Philips grants to Subscriber a time-limited, nonexclusive, nontransferable right to use Subscription Service solely for Subscriber's own internal business purposes, subject to these terms.
- 1.4. Software Version. Introduces major release with significant new features and functionality.
- 1.5. Software Update. Provides minor enhancements or improvements to performance, maintainability and serviceability.
- 1.6. Software Fix. Corrects Product Defect.

**2. Subscription Term.**

- 2.1 The Term of this Subscription is defined in the Quotation under NNAN399 ("Term"), and shall continue unless earlier terminated in accordance with this Agreement.
  - 2.1.1 For new MRI system installations, the Subscription will commence upon completion of installation and availability for first patient use.
  - 2.1.2 For existing/installed MRI systems, the Subscription will commence on the first day of the next calendar month.
- 2.2 The Subscription is non-cancelable by Customer and will remain in effect for the Term specified in this Agreement unless terminated in accordance with Section 6.

**3. Scope of Subscription Service.**

- 3.1. Software Applications. Philips will provide the customer access to all Philips MR software applications, made generally commercially available by Philips, for the MR model/ Covered System listed under the service agreement, that have been released as of the date of execution of the contract that does not require additional hardware.
  - 3.1.1. Some software updates and upgrades may require hardware updates or upgrades. Unless included hereunder, Customer is responsible for any such hardware updates or upgrades.
- 3.2. Annual Updates. On an annual basis during the Subscription Term, Philips will update the Covered System with any new and additional applications, made commercially available by Philips for the Covered System model, as well as any new release of software.
- 3.3 MR Clinical Applications Training. If Customer subscribes to On Demand Clinical Support (ODCS), then, within a reasonable time after Philips installs updates to the application software, Philips will provide Customer with four days (28 hours) of virtual clinical application training. If Customer continues to subscribe to ODCS, then Customer will be entitled to four days (28 hours) of virtual clinical application training during each subsequent contract year.
- 3.3. MR Marketing Support. Philips will provide, annually, additional marketing support (for the new applications) in the form of written support that the customer can use to drive additional referrals. This can come in the form of either a MS Word or MS PowerPoint document.

**4. Fees and Payment.**

- 4.1. Refunds and Cancellation. Fees are: (i) nonrefundable; (ii) not decreased during the Subscription Term based on actual User or data storage usage; and (iii) not cancelable for the Subscription Term.
- 4.2. Subscription Fee.
  - 4.2.1 An annual Subscription Fee is due from the Start Date, payable in advance, according to Customer's choice and the Service Description. Choose one:



- ☐ Quarterly Basis
- ☐ Monthly Basis
- ☐ Yearly Basis
- ☐ One-Time Advance Payment

4.2.2 Fees for Subscription Term renewals or Subscriptions added during a Subscription Term will be: (i) at Philips's current standard price, due beginning on the Start Date for the Subscription Term; and (ii) charged for the full calendar month in which Subscriptions are added, and coterminous for the remainder of the Subscription Term.

## 5. **Subscription Service Requirements.**

- 5.1. Customer must purchase Tech Maximizer (Plus) prior to commencement of the MR Subscription as a condition to purchase MR Subscription solution offering.
- 5.2. Customer must purchase a RightFit Service Agreement prior to commencement of the MR Subscription as a condition to purchase MR Subscription solution offering.
- 5.3. In order to receive virtual clinical education, Customer must purchase On Demand Clinical Support.

## 6. **Termination.**

- 6.1. Philips may suspend or terminate Subscription Service with 30 days written notice if Subscriber breaches its obligations including timely payment, or without notice if Philips has a good faith belief that: (i) Subscriber is using Subscription Service for illegal purposes; (ii) the integrity or security of Subscription Service is threatened; (iii) it is necessary to prevent fraud or harm to Philips or Subscriber; (iv) Subscriber has or will breach its confidentiality obligations, infringe Philips' Intellectual Property rights, or assign or transfer its rights or obligations without consent; or (v) it is required by law.
- 6.2. Upon termination (i) Subscriber's right to use Subscription Service ends, (ii) Subscriber will cease using Subscription Service and, at Philips's direction, return or destroy Philips Confidential Information and Documentation, and (iv) Subscriber will immediately pay Philips all Fees due including Fees for the balance of the Subscription Term if Subscription Service is terminated prior to the end of the current Subscription Term.
- 6.3. If Subscriber added this Subscription to a previously installed and operational MRI system, then at the time of termination, all licenses will revert to the version that was in place prior to commencement of the subscription.
- 6.4. This Agreement will terminate automatically upon termination or expiration of all Subscription Terms.

## 7. **Installation.**

- 7.1 Philips will install the product during normal working hours, 8:00 AM – 5:00 PM, in the time zone where the Customer is located.

## 8. **Post Go-Live Support.**

Subscription Service includes telephone and remote support according to the terms of this Schedule.

- 8.1. Philips' standard support generally includes: (1) commercially reasonable efforts to resolve problems which cause Application functionality not to perform substantially as described in the Documentation; (2) remote assistance and troubleshooting advice for trained Subscriber personnel to determine cause and address technical problems with Subscription Service; (3) information and status updates for known Application functionality technical issues; and (4) periodic "as available" updates or upgrades to Subscription Service. Support may address but not resolve minor or partial loss of functionality, intermittent problems or minor degradation of operations.
- 8.2. Philips will use commercially reasonable efforts to respond to support requests as soon as possible and may not respond in the same day a request is received. Subscription Service and support may be unavailable due to scheduled downtime, maintenance, or circumstances beyond Philips' reasonable control. Philips may schedule downtime at any time without notice if Philips reasonably determines that not acting immediately could be harmful to Philips or Subscriber.
- 8.3. Philips is not responsible or liable for support or Subscription Service interruption or problems due to: (1) Subscriber systems, information, content, software, scripts, data, files, application programming, web servers or service, materials, equipment, acts or omissions of Subscriber or its agents; (2) virus or hacker attacks; (3) circumstances beyond Philips' reasonable control; (4) intentional shutdown for emergency intervention or security incidents; (5) Subscriber configuration changes; (6) Subscriber's failure to comply with Philips' security and upgrade policies; (7) Internet or other connectivity between Subscriber's network and Subscription Service or Philips' network, or any other network unavailability outside of the Philips network; or (8) training questions or Subscriber's use of Subscription Service; (9) acts or omissions of a party other than Philips.

**9. Software Versions and Updates.**

- 9.1. If a new software version or update is made generally available by Philips for the Covered System, and the requirements of the Agreement are satisfied, then Philips will upgrade the Covered System application software during the term of the Agreement as follows:
- 9.1.1. Philips will provide new software versions and updates of software for existing applications made generally commercially available within a reasonable period after their release.
  - 9.1.2. Functionality. Customer is entitled to additional functionality previously purchased or bundled with the software, if available, in the version or update released on or after the start date of the Agreement. Customer acknowledges that certain functionality in current and previous software versions may not be available in future new software versions.
- 9.2. To receive a new software version:
- 9.2.1. Customer must be in compliance with all terms and conditions of this schedule and the Agreement, including access to the Covered System by Philips personnel and payment ;
  - 9.2.2. Customer must identify one Customer representative, in writing to Philips, that will manage and be responsible for Customer's selection and scheduling of new software version installations under this Schedule; and
  - 9.2.3. The Covered System that will receive the version or update must meet the specifications of the new software version. Customer shall purchase or provide the Covered System hardware or software necessary to meet such specifications.
- 9.3. Unless specifically included elsewhere in this Agreement, software versions and updates do not include implementation services, virus protection software, security patches, custom interface software, operating system software, or software updates of third party software (e.g. Citrix) or hardware required to use the update or upgrade, unless otherwise covered under a Tech Maximizer service offering purchased for the Covered System. Philips shall have no responsibility to provide software versions or updates for minor software defects that do not impact the intended use of the software or impact patient care.
- 9.4. Customer may not resell, transfer, or assign the right to such versions, updates, or fixes to any third party. All versions and updates provided to the Covered System under this Schedule are subject to the terms and conditions of this Schedule, the Agreement, and any license terms and conditions included in the purchase of the product from Philips or later provided to Customer.

**10. Telephone And Remote Support.**

- 10.1. Telephone Support. Telephone and Remote Support coverage is included with MR Subscription. Technical and Clinical Telephone and Remote Support coverage services are available twenty-four hours per day, seven days per week including Philips recognized holidays.
- 10.2. Remote Access & Diagnostics. Philips may remotely access the Covered System to perform Services. Customer shall provide Philips remote access to the Covered System. Philips shall not be responsible for delays arising from customer's network or IT infrastructure that does not allow for remote dial into the Covered System
- 10.3. On-Site Software Resolution Response. Philips primary method for software services is telephone and Philips Remote Services ("PRS"). Philips, at its sole discretion, may provide on-site software support services to resolve software issues that cannot be resolved through Philips' primary resolution method. On-site service is next business day, Monday through Friday 8:00 a.m. to 5:00 p.m. local time, excluding Philips recognized holidays, and includes labor and travel necessary for the delivery of corrective services.
- 10.4. InCenter Access. Philips will provide Customer access to Philips web based support tool for the system(s) covered under this Agreement.

**11. Customer Success Management Services.**

- 11.1. During the term of the Agreement Philips will assign a resource familiar with the Customer account, key stakeholders, and contract coverage to provide the following:
- 11.1.1. Philips will schedule and deliver a remote coverage and status review meeting annually, at a mutually agreeable date and time. The status meeting will focus on available entitlements and planning. The status review may outline all Covered System service issues resolved during the previous period, and review any open or unresolved issues.
  - 11.1.2. Prior to delivering any new software version, Philips will coordinate with the Customer assigned resource to identify and mitigate dependencies relative to the software upgrade and other service agreement entitlements.
  - 11.1.3. The parties will develop a dependency mitigation plan to address resource needs, hardware needs, operating system requirements, interoperability and other dependencies for the deployment of new software upgrade.

## **12. Clinical Implementation Services.**

- 12.1. If included in the quotation Philips will provide on-site implementation services for new versions or updates that Customer is entitled to receive under this Agreement, at a time mutually agreed to by Philips and the Customer. Scope, duration and delivery methodology of the clinical support of installation and clinical education will vary by new version, update or fix and will be defined by Philips at Philips sole discretion.
- 12.2. Go-Live Support. Philips will provide clinical go-live support during the implementation for new version upgrades and updates. Go-live support will be scheduled between 7:00 a.m. – 7:00 p.m. Monday through Friday, relative to the new software version and will be virtual or on-site at Philips' discretion. Customer may request additional go-live support, or go-live support outside of standard hours, at an additional cost.
- 12.3. Clinical Education. Clinical services will be scheduled between 7:00 a.m. – 7:00 p.m. Monday through Friday, relative to the new software version. Customer may request additional clinical education or clinical education outside of standard hours, at an additional cost.
  - 12.3.1. Clinical Education class size is limited to ten (10) participants;
  - 12.3.2. If applicable, Customer will provide a suitable location for on-site classroom education; and
  - 12.3.3. Customer will provide full and free access and use of the Covered System for training.
- 12.4. Scheduling. Customer must schedule all Clinical Implementation Services, except Online Education, at least eight (8) weeks prior to the desired date for Philips to deliver the applicable service. If Customer representative does not schedule the Clinical Implementations Services with Philips in accordance with this Schedule, then Philips shall not be obligated to perform such Clinical Services.
- 12.5. Travel Expenses. Unless otherwise stated in the quotation, Philips' travel expenses for all Clinical Implementation Services delivered at the Customer site are included in the price described in the Agreement.
- 12.6. Philips will provide the clinical education and product applications training ("Training") that customer has selected from the Philips' course catalog(s) ("Course Catalog(s)").
- 12.7. Clinical Education training and credits will expire upon termination or expiration of the Agreement.
- 12.8. Training does not include (a) maintenance or diagnostic related technical training or (b) clinical applications training on hardware or software not installed or provided by Philips.
- 12.9. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips safety checklist prior to receiving Training.
- 12.10. Training may be conducted at Philips' training facilities, the Customer location(s) described in this Agreement ("Customer Site(s)"), through on-line or remote training, or at a third-party location determined by Philips.
- 12.11. Direct Course Purchase. Customer may purchase individual courses at then current prices.
- 12.12. PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE THE SYSTEM.

## **13. Customer Responsibilities.**

- 13.1. System Administrator. The Customer shall designate an individual(s) to serve as Customer system administrator ("System Administrator") and an alternate, who will serve as Philips' primary support contacts. These individuals should be familiar with all aspects of training provided by Philips, including end-user and system administrator training. In addition, the System Administrator shall maintain the integrity of the Covered System operation and ensure that proper backup procedures are in place as outlined in the System Installation and Reference Guides.
- 13.2. Remote Access. Customer must provide necessary uninterrupted remote access, required information, and support for the Covered System to connect to Philips Remote Service ("PRS"). PRS is the basis for Services delivered under this Schedule. Customer waives all rights to services and service deliverables under this agreement unless PRS connectivity is enabled and maintained.
- 13.3. Security. The Customer is solely responsible for providing adequate security to prevent unauthorized Covered System access to Philips (or its third party vendors) proprietary and confidential information.
- 13.4. Hardware Revision Levels. The Customer must maintain all associated Covered System hardware, firmware, and middleware at the required revision levels for the software version. To receive software versions and updates, the Customer must maintain all associated hardware to the then-current specification for the software versions and updates.
- 13.5. Data Reconstruction. The Customer shall follow the recommended daily back-up processes as outlined in the Covered System Installation or Reference Guide. Additionally, the Customer is responsible for the reconstruction, restoration, retrieval, or recovery of any lost or altered patient records, files, programs, or data. Philips is not responsible for the reconstruction,

restoration, retrieval, or recovery of any lost or altered files, data, or programs.

- 13.6. Intermediate Resolutions. Customer shall implement any intermediate resolutions or workarounds as requested by Philips while Philips seeks a long-term resolution.
- 13.7. Customer shall be solely responsible to perform daily data back-ups for the Covered System and for cybersecurity protection, including malware and anti-virus for the Covered System. This is not included in Philips MR subscription service. Customer shall install and configure anti-virus software pursuant to the Installation manual for the Covered System or risk defects in the Covered Systems function such as performance degradation and slow down. If the defects arise from failure to follow such installation manual, such defects are not covered by this agreement and Philips may require Customer to reconfigure the anti-virus to the recommended settings.

#### **14. Service Limitations.**

- 14.1. Software Restoration. If the software fails and the supported application software requires restoration, then Philips will reinstall the application software, database software, and operating system to the revision level that existed prior to the malfunction or failure and Philips will attempt to reinstall the Customer-created data backup. If the Customer-created data backup cannot be used to re-install any data to the Covered System, the Customer will hold sole responsibility for the loss of data. Custom or third-party software, custom database configurations or reports, and Customer-written product interfaces are not included. If a Covered System failure is attributed to hardware not supported under the Agreement, the Customer shall restore the software, operating system, and database software before Philips begins any software restoration efforts.
- 14.2. Non-Philips Software Assistance. Requests for assistance with hardware, operating systems, communications network, third party software, printer configuration, etc., are outside the scope of this Agreement.

#### **15. Exclusions.**

- 15.1. In addition to the any exclusions set forth in the Schedule, the following Exclusions apply to MR Subscription.
- 15.2. Any combining of the Covered System with a non-qualified device. A non-qualified device is:
- 15.2.1. Any product (hardware, firmware, software, or cabling) not supplied by Philips, whether used internal or external to Covered System without Philips' approval. Examples include, software patches, security fixes, and service packs from the operating system, web browser, or database software manufacturer(s);
  - 15.2.2. Any product supplied by Philips that has been modified by the Customer or any third party; and
  - 15.2.3. Any product maintained under this Agreement in which the Customer does not allow Philips to incorporate engineering improvements;
  - 15.2.4. Any product that has reached its "End of Life". "End of Life" means software and or hardware equipment that has surpassed the published end of support life date by the original equipment manufacturer.
- 15.3. Operating system software issues that manifest themselves in non-performance of another installed application and affect use or performance of the Covered System.
- 15.4. If the Covered System covered by this Schedule is software only, then notwithstanding anything to the contrary in the Agreement or this Schedule, network, hardware and parts are not included in the Services.
- 15.5. Viruses arising from a Customer network, customer client devices such as phones, tablets, laptops and desktops, and/or third party medical devices used by Customer.
- 15.6. Damage caused by fires (including watering systems), floods, and/or use of the Covered System in an environment not meeting the requirements recommended by Philips causing corrosion to the Covered System or other defects to the MR subscription software.

**Schedule 2**  
**Ultrasound Systems Portfolio (UL) Rev 22**

Product Category	Products
Ultrasound Systems (UL)	Cardiovascular Ultrasound (CV UL) General Imaging Ultrasound Systems (GI UL) Women's Health Care (WHC UL) Point of Care (POC UL)

**1. Payment Terms.**

- 1.1 Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice on receipt for each Product as follows:
  - 1.1.1 100% of the purchase price shall be due thirty (30) days from Philips' invoice date.
- 1.2 Support Services, if any, shall be invoiced and paid as set forth on the quotation.
- 1.3 Payment terms are subject to credit approval.

**2. Additional Terms Related to sales of Ultrasound Products.**

- 2.1 The ultrasound system's memory (hard drive, solid state memory, etc.) should not be used as a data repository or central archive to store images and reports. This has led to Customer's losing data in the past. In no event shall Philips be liable for loss of data on an ultrasound equipment. It is the responsibility of Customer to make daily back-up copies of data residing on this equipment. This can be performed by sending images and reports generated by the use of the ultrasound equipment to a Picture Archive and Communication System (PACS) or via another medium that is automated for back-up retrieval. Costs associated with data restoration from a backing-up images and reports to a non-automated source is Customer's entire responsibility and at Customer's sole risk. Data retrieval and restoration from these methods may be time consuming and a non-automated system process may result in further data loss by itself and is not recommended by Philips.

**3. Prior Validation of Operating System (OS) Updates and/or Upgrades.**

- 3.1 Patches introduced by operating system Original Equipment Manufacturers (OEM) or upgrades to anti-virus software can impact the performance and functionality of the applications that run on them and affect patientsafety. Philips shall perform validation testing of certain Microsoft operating systems and McAfee anti-virus software during the warranty period. Philips shall have no obligation to validate any other third-party operating system or anti-virus software. Customer shall not install or use:
  - 3.1.1 operating system patches, updates or upgrades;
  - 3.1.2 anti-virus updates (except to the DAT files, i.e., virus definitions); or,
  - 3.1.3 upgrades to anti-virus search engines, collectively (a) and (b) prior to validation testing and approval by Philips ("Unauthorized Updates").
- 3.2 Philips shall have no liability, including, without limitation, for warranty claims, arising from use of the Licensed Software with Unauthorized Updates. In the event Philips discovers that Customer is using an Unauthorized Update with the Licensed Software, Philips shall have the right to require Customer to roll back to the most recently validated versions of operating systems and anti-virus, prior to performing any support.

**4. Lumify.**

- 4.1 If Customer's purchase includes a Lumify Ultrasound Solution or Bundle, then the following terms apply in addition to the Philips Standard Terms and Conditions of Sale:
  - 4.1.1 Compatible Smart Devices.
    - 4.1.1.1 Use of the Lumify Ultrasound Solution or Bundle for Android requires the following components: A Philips Lumify transducer and cable, a compatible smart device, and the Lumify Software Application (SW App). The compatible smart device is an off-the-shelf consumer tablet or phone meeting Lumify compatibility specification. Philips may change the published compatible device list from time-to-time.
    - 4.1.1.2 Use of the Lumify Ultrasound Solution or Bundle for iOS requires the following components: A Philips Lumify transducer, the Lumify Software Application (SW App), and the Lumify Power Module (LPM), Rigid Connector (to be used with Philips provided custom Thule case), flexible cable, mounting plate (to be used without the Philips provided custom Thule case), and a charging cable.

- 4.1.1.3 Philips does not provide any maintenance or repair services for Customer's smart devices. Philips does not provide anti-virus software for Customer's smart device; Customer is responsible for purchasing anti-virus software or apps and for managing all virus issues in connection with Customer's smart devices. The Lumify Ultrasound Solution does not include any security software for Customer's smart devices. Customer is responsible for managing and maintaining firewalls or other appropriate security and privacy measures for data residing on Customer's smart devices.
- 4.1.2 If Customer selected the Lumify: Outright Purchase, the following terms apply:
  - 4.1.2.1 Customer will purchase at their own expense a smart device from the approved list published on the Lumify website, and Customer will install the Lumify SW App from the commercial play store on the smart device.
  - 4.1.2.2 Customer acknowledges that the purchase of a Lumify Ultrasound Solution does not include the required smart device.
- 4.1.3 If Customer selected the Lumify System Bundle option, Customer's shipment will include a compatible Android device with the Lumify app pre-installed and the following terms apply:
  - 4.1.3.1 Customer authorizes Philips to accept on their behalf the applicable end user license agreement, which can be found at:
    - 4.1.3.2 for Samsung devices: [http://www.samsung.com/us/common/software\\_eula.html](http://www.samsung.com/us/common/software_eula.html), and for other devices: a link will be provided upon request.
  - 4.1.3.3 Customer authorizes Philips to perform basic setup steps and install Lumify SW on the tablet.
  - 4.1.3.4 Customer agrees to the limited replacement-only warranty coverage for the smart device as identified in the warranty agreement.
  - 4.1.3.5 After the warranty period for the tablet, Philips shall not be responsible for the performance or functionality of the Lumify application following any customer installation of OEM operating system patches, updates or upgrades to the tablet.
- 4.2 License to Lumify SW App. The license granted to use the Lumify SW App is limited to use with the Lumify transducer on one or more computers or smart devices that are listed on the approved hardware list published on the Lumify website. The Lumify SW App is available via the Google Play Store and the Apple App Store. When downloaded, the Lumify SW App is in demonstration mode, but it will be fully enabled if Customer purchases and registers the transducer with Philips.
- 4.3 Internet connectivity is not required to use the Lumify Ultrasound Solution but is required to download the Lumify SW App and to register each unique configuration including the smart device, OS updates to the smart device, Lumify App SW versions, and Lumify transducer).
- 4.4 As part of the Lumify Ultrasound Solution, Philips periodically collects system log information; Customer agrees to such collection when Customer purchases a Lumify Ultrasound Solution. See the Privacy Notice for more details.

## 5. Xtend Coverage.

- 5.1 Services Provided. If applicable, the Xtend Coverage (the "Coverage") on the systems listed in the quotation (the "Covered Systems") are offered by Philips North America LLC ("Philips") under the Xtend Coverage terms and conditions described below or otherwise confirmed by Philips in writing.
  - 5.1.1 Repair Service. Commencing on the effective date and subject to the repair limitation below, Philips or Philips' subcontractors will provide repair services for Covered Systems for material defects. Philips will provide all replacement parts, which may be refurbished, and labor necessary to repair Covered Systems. All components used are subject to Philips' inspection and quality control procedures and shall be warranted to the same extent that a non-refurbished component is warranted. Parts removed for replacement become the property of Philips and Philips shall remove parts from Customer's Site. Philips may increase its contract prices if a Covered System is upgraded or reconfigured.
  - 5.1.2 Planned Maintenance Service. Philips will provide Customer a planned maintenance schedule for each Covered System. Philips will provide such planned maintenance during the Service Coverage hours (as defined in the Quotation) at a time that is mutually agreed upon. Customer will make Covered.
  - 5.1.3 Systems available in accordance with this schedule. Philips or its subcontractors will provide planned maintenance on each Covered System at scheduled intervals. If Philips cannot locate a Covered System, or a Covered System was not made available for planned maintenance when scheduled, Philips will notify the Customer that Customer has ninety (90) days to make available such Covered System for planned maintenance, otherwise customer waives right to service, and Philips may delete such Covered System from the list of Covered Systems in the Quotation.
  - 5.1.4 Software Updates. Philips will install operating system software updates provided by the Original Equipment Manufacturer (OEM) for Covered Systems. Software updates mean revisions to OEM proprietary operating system software that enhance existing system functions and operation without hardware changes but will not install



operating system software upgrades to new software platforms or software options offered separately for sale by the OEM.

## 5.2 Exclusions. Unless specifically included in the Quotation, the Coverage does not include:

- 5.2.1 servicing a Covered System if contaminated with blood or other potentially infectious substances;
- 5.2.2 any service necessary due to: a design, specification or instruction provided by Customer or Customer representative;
- 5.2.3 the failure of anyone to comply with Philips' written instructions or recommendations;
- 5.2.4 any combining of a Covered System with other manufacturers product or software other than those recommended by Philips, except for products delivered by Philips and sold under the applicable Quotation;
- 5.2.5 any alteration or improper storage, handling, use or maintenance of a Covered System by anyone other than Philips' subcontractor or Philips;
- 5.2.6 damage caused by an external source, regardless of nature, unless caused by Philips or Philips' subcontractor;
- 5.2.7 any removal or relocation of a Covered System;
- 5.2.8 neglect or misuse of a Covered System;
- 5.2.9 any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors;
- 5.2.10 any rigging or structural alteration incident to the Services;
- 5.2.11 consumable items and supplies (such as biomedical laser tubes and patient used pads), cryogens, Positron Emission Tomography (PET) calibration sources, film, batteries, cassettes;
- 5.2.12 cosmetic repairs;
- 5.2.13 the cost of factory reconditioning, rebuilds, or overhauls if repairs cannot maintain a Covered System in satisfactory operating condition;
- 5.2.14 disposing hazardous, infectious, or biomedical waste or materials;
- 5.2.15 providing service to any Covered System under a current service agreement between Customer and another vendor until such agreements expire or are terminated by Customer. Philips is not liable for any cancellation penalty or cost associated with Customer's termination of any such agreement.
- 5.2.16 unless otherwise specified in the Quotation, maintaining or repairing Philips and/or third-party products including but not limited to nuclear camera detector crystals, Computed Tomography (CT) Tubes and radiation therapy tubes, x-ray tubes, flat panel detectors, image intensifiers magnet replacement, magnet refrigeration system (coldhead, compressor, chillers), Magnetic Resonance (MR) radio frequency (RF) rooms, surface coils HVAC systems, power conditioners, uninterruptible power supplies, ultrasound transducers (probes) (accessory or attach), TEE probes, TV camera pick-up tubes, photo multiplier tubes, accelerator center beam lines, piped medical gases (up to the wall outlets), copier drums, electron guns, fiber optic bundles, foot/hand controls (switches, accessory, or attachment), klystrons and thyratrons, magnetrons, plumbicons, waveguides, and attachments; and,
- 5.2.17 unless otherwise specified in the Quotation: arthroscopy instruments, blood pressure cuffs (accessory or attachment), centrifuge motor brushes, electronic thermometer probes, electrosurgical instruments (pencils & pads), general or surgical instruments, laboratory glass, laser tubes, phaco hand pieces (cataract extraction units, accessory or attachment), non-electrical surgical equipment, rigid & semi-rigid scopes.

## 5.3 Customer Responsibilities. During the term of the Coverage, Customer will:

- 5.3.1 ensure that the Site is maintained in a clean and sanitary condition; and that each Covered System, product or part is decontaminated prior to service, shipping or trade-in as per the Instructions in the User manual;
- 5.3.2 dispose of hazardous or biological waste generated;
- 5.3.3 maintain operating environment within Philips' specifications for the Site (including temperature and humidity control, incoming power quality, incoming water quality, and fire protection system);
- 5.3.4 use Covered Systems in accordance with the published manufacturer's operating instructions;
- 5.3.5 if applicable, attend a start-up meeting at Customer's facility, prior to the effective date of the Coverage, so Philips can explain the Coverage to the Customer's management and selected staff;
- 5.3.6 provide a secure dedicated space within Customer's main facility and at each additional facility or location as necessary for the resident Philips staff;

- 5.3.7 provide Philips with broadband internet or Wi-Fi access for business purposes;
- 5.3.8 for any non-Philips system, provide Philips with the Covered System's service manuals;
- 5.3.9 maintain all software licenses applicable to each Covered System;
- 5.3.10 for Philips use in remote servicing of Covered Systems, provide Philips a secure location for hardware to connect Covered Systems to Philips Remote Service Network ("RSN");
- 5.3.11 the RSN hardware remains Philips' property and is only provided during the term of the Coverage;
- 5.3.12 provide Philips and its vendors full and free access to the RSN hardware to enable Philips to remotely access the Covered System or non-Philips System;
- 5.3.13 provide Philips at each Site, at all times during the term of the Coverage, a dedicated broadband Internet access node, including public and private interface access, suitable to establish a successful connection to the Covered Systems at the Site through the RSN and Customer network; and,
- 5.3.14 if the Covered System cannot be connected to the RSN and Customer fails to provide Philips with reasonably requested access, then Customer waives its rights to Coverage on such Covered System and any uptime guarantee.
- 5.4 System Availability. If Customer schedules service and a Covered System is not available at the agreed upon time, then Philips may cancel the service or charge the Customer at the prevailing demand service rates for all time spent by Philips' service personnel waiting for access to a Covered System.
- 5.5 Coverage. To the extent a repair issue cannot be remedied remotely, Philips will provide services on-site during the hours listed in the quotation, excluding Philips observed holidays, unless otherwise set forth in attachments or exhibits ('Service Coverage'). Customer may request service outside of the Service Coverage or service that is not otherwise included in this Agreement and, subject to the availability of personnel and repair parts, Philips will provide such service at Philips's then-current preferred rates and for material and labor. Customer will be charged a minimum of three hours on-site time plus applicable travel charges and expenses per service visit.
- 5.6 Documentation. Upon Customer's written request, Philips will provide repair and planned maintenance records for each Covered System.
- 5.7 Term and Termination. The term of this Agreement shall be set forth in the Quotation and incorporated herein.
- 5.8 This Agreement is non-cancelable and will remain in effect for the term specified in the Quotation.
- 5.9 Warranty Disclaimer. Philips' full contractual Coverage obligations to Customer are described in this Schedule. Philips provides no additional warranties under this Agreement. All service and parts to support the Coverage under this Schedule are provided AS IS. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO ANYTHING PROVIDED BY PHILIPS' SUBCONTRACTOR OR PHILIPS.
- 5.10 Independent Contractor. Philips is Customer's independent contractor, not Customer's employee, agent, joint venture, or partner. Philips' employees and Philips subcontractors are under Philips' exclusive direction and control. Philips has no liability or responsibility for and does not warrant customer's or customer's employees' act or omissions related to any services that are performed by customer's employees under this agreement.
- 5.11 Subcontracts. Philips may subcontract to service contractors of Philips' choice any of Philips' Coverage obligations to Customer or other activities performed by Philips under this Quotation. No such subcontract will release Philips from those obligations to Customer.
- 5.12 Rules and Regulations. To the extent made known in writing to Philips, Philips and its subcontractors will comply with Customer's rules and regulations provided such rules and regulations do not conflict with established Philips policies.
- 5.13 Solicitation of Philips Employees. For the duration of the Coverage and for one year following the expiration or termination of the Coverage, Customer and its affiliates will not directly or indirectly solicit any employee of Philips or its affiliates engaged in providing the services.
- 5.14 Philips Maximizer (Technology Upgrades PTU). If Maximizer is purchased under this Agreement, then Philips will upgrade the Covered System's software as follows:
  - 5.14.1 Philips will provide the latest available system software upgrades, if any, when available and approved by Philips, to the Covered System operating system software, basic application software, and software options purchased with the Covered System.
  - 5.14.2 Upgrades do not include functionality, applications, options or the like that were not purchased with the System, including but not limited to virus protection software. Customer may not resell, transfer, or assign the right to such Upgrades to any third party. In addition to these terms and conditions, all upgrades to a Covered System's software provided under this Section are subject to the licensing terms and conditions included in the purchase of the Covered System from Philips.

## 6. **Philips Maximizer Package.**

6.1 Philips Maximizer. If Maximizer is purchased under this Agreement, then Philips will upgrade the Covered System's software as follows or as otherwise specified by Philips in writing:

6.1.1 Philips will provide the latest available system software upgrades, if any, when available and approved by Philips, not to exceed one (1) per calendar year, scheduled and delivered within twelve (12) months of the annual eligible upgrade release date, to the Covered System operating system software, basic application software, and software options purchased with the Covered System.

6.1.2 Upgrades do not include functionality, applications, options or the like that were not purchased with the System, including but not limited to virus protection software. Customer may not resell, transfer, or assign the right to such Upgrades to any third party. In addition to these terms and conditions, all Upgrades to a Covered System's software provided under this Section 6 are subject to the licensing terms and conditions included in the purchase of the Covered System from Philips.

6.2 Clinical Education Training.

6.2.1 Training Coverage. Philips will provide the clinical education and product applications training ("Training") that customer has selected from the Philips' course catalog(s) (Course Catalog(s)).

6.2.2 Exclusions. Training does not include (a) maintenance or diagnostic related technical training or (b) clinical applications training on hardware or software not installed or provided by Philips.

6.2.3 Scheduling. Training must be scheduled at least eight (8) weeks in advance except for on-line training. Changes to scheduled Training must be received in writing by Philips at least two (2) weeks prior to scheduled delivery.

6.2.4 Attendance. Philips will train the number of Customer employees (Trainee(s)) for the course specified in the quotation, when space is available. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips safety checklist prior to receiving Training.

6.2.5 Course Location. Training may be conducted at Philips' training facilities, the Customer location(s) described in this Agreement (Customer Site(s)), through on-line or remote training, or at a third-party location determined by Philips.

6.2.6 Payment Options.

6.2.6.1 Flexible Spending Accounts. If Customer purchased Flexible Spending Account option, the initial account balance is specified in the quotation. The account balance is reduced by the list price for the specified course per attendee. When the balance is depleted, Customer may add funds to their account. If the account balance is negative, then Customer shall promptly pay Philips the balance due. Account balances will not carry over from year to year. Any remaining account balance at the end of the year will not be refunded.

6.2.6.2 Direct Course Purchase. Customer may purchase individual courses at then current prices.

6.2.7 Travel. Philips' travel expenses for all Training delivered at the Customer Site are included in the price described in the applicable Course Catalog(s). Unless otherwise indicated in the Course Catalog(s), all travel and living expenses incurred by the Trainee(s) are the Customer's responsibility.

6.2.8 Warranty Disclaimer. PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE THE SYSTEM.

**Schedule 2-A**  
**Collaboration Live or Reacts Rev 22**

Product Category	Products
Ultrasound	Collaboration Live and/or Reacts

The following Schedule 2-A shall apply to Collaboration Live and/or Reacts offered in connection with the purchase of an Ultrasound System. If your purchase includes a license to Collaboration Live or the Reacts Platform (the "Software Services"), then the following terms apply in addition to the Philips Standard Terms and Conditions of Sale:

**1. Definitions.**

- 1.1 "Account" means a Reacts User Account. A Reacts User Account includes the Account Information.
- 1.2 "Account Information" means the personal information related to a specific User, the User Content, the Account settings, as well as the Usage Information residing on the Reacts Platform.
- 1.3 "Administrator" means a Philips support agent (the "Philips Administrator") or a Customer Account holder (the "Customer Administrator") that has been granted certain administrative permission(s), such as but not limited to the management of: (i) Accounts, and (ii) Subscriptions.
- 1.4 "Subscription" means an access purchased by the Customer to the Software Services.
- 1.5 "Usage Information" means the information associated with the Software Services.
- 1.6 "User" means an individual accessing any of the Software Services.
- 1.7 "User Content" means any data provided by the User or shared with the User contained in the User's Reacts Library or secure messaging including text, photos, videos, graphics, items, or other materials, all of which will be subject, as applicable, to the Philips Privacy Notice.

**2. Customer Responsibilities.**

- 2.1 Customer is responsible for its own and each of its User's acts and omissions, including compliance with the end-User License Agreement ("EULA") currently available online at <https://reacts.com/legal/terms>, use of the Software Services, and ensuring adequate security to prevent unauthorized access to Accounts, User Content, and any confidential information including protecting any client devices such as tablets and laptops with anti-virus and appropriate cyber security.
- 2.2 Customer will obtain and retain all necessary consents, including from patients, before using or granting access to the Software Services for medical purposes, and processing personal information for the purposes of providing the Software Services.
- 2.3 Customer will ensure that the Users use the Software Services in accordance with all applicable laws and comply with all requirements related to the use of personal health information, including medical data. Customer will ensure that the Software Services are not used by patients.
- 2.4 Customer will obtain the consent of its Users to grant Philips access to the Usage Information.
- 2.5 Customer will obtain and maintain all required authorizations, permit(s) and/or register with their local agencies, as necessary, to use the Software Services.
- 2.6 Customer will follow the Collaboration Live Pre-Implementation IT Checklist, which Philips will provide to the Customer.

**3. Access to the Software Services.**

- 3.1 Customer acknowledges that before using the Software Services, each of its User must agree to the EULA. Philips makes such terms available to be agreed upon by each User through a click-wrap process enabled at the time such User creates their account information.
- 3.2 Customer acknowledges that the Software Services are administered by Philips or its affiliate(s) in Canada and that Personal Data may be processed by Philips and/or its affiliate(s) in Canada. Customer is responsible for its own, and its Users, compliance with any local laws, including those laws that permit the processing of Personal Data in Canada.
- 3.3 Customer acknowledges that Philips does not need any medical data to operate any of its Software Services.

- 3.4 Customer will designate individual(s) to serve as Customer Administrator(s) and alternate(s), who will serve as Philips' primary support contacts. The Customer Administrator(s) shall manage all Accounts. Philips Administrator(s) can act on behalf of the Customer to administrate the Services.
- 3.5 Software Services may be interrupted for maintenance, upgrades, or as a result of telecommunication failures or other reasons that are beyond Philips' control. Accordingly, Philips does not warrant the Software Services to be uninterrupted or error-free and will have no liability for any disruptions or downtime. Therefore, the patient care provider performing the ultrasound procedure must be sufficiently qualified independent of the Software Services to perform an ordered patient procedure.
- 3.6 Philips may modify the Software Services, or any portion thereof. You agree that Philips shall not be liable to you or anyone else if Philips does so.
- 3.7 Abusive or excessive usage of the Software Services may result in the temporary or permanent suspension of your and/or any User's access to the Software Services and/or termination of applicable Subscriptions. Philips, in its reasonable discretion, will determine what constitutes abusive or excessive usage of its Software Services.
- 3.8 The access to the Software Services starts when the Subscriptions are created, not when they are assigned.
- 3.9 The ability to access the Software Services may require payment of third-party fees, such as telephone toll charges, mobile carrier fees, ISP, data plan, etc. Philips and its Affiliates have no connection to or responsibility for such fees.

#### **4. Further use of System Data.**

- 4.1 Customer agrees that Philips may use aggregated data to analyze the performance of its Services. Only when strictly necessary, Philips may use the following Personal Data, IP address and User ID, to ensure that the Services are functioning as intended, are maintained to ensure the appropriate security controls are in place and to meet Philips' regulatory and legal obligations.

#### **5. Retention of the Account Information and User Content.**

- 5.1 Philips will retain and grant the Customer or other persons access to Account Information and User Content only to fulfil its obligations under this Agreement or as required or permitted by applicable laws. Once deleted by Philips, the Customer, or the Users, Account Information and User Content cannot be restored.

### **Schedule 3**

#### **Cardiac Informatics Portfolio (CAI) Rev 22**

Product Category	Products
Cardiology Informatics (CAI)	Hemodynamics (Xper IM, Philips Hemo)
	IntelliSpace Cardiovascular, Cardiovascular Workspace (ISCV)
	IntelliBridge Enterprise Licensed Software (IBE)

#### **1. Definitions.**

- 1.1 Any capitalized term used in this Schedule shall have the meaning ascribed to it in the main body of the Terms and Conditions of Sale.

#### **2. Payment Terms.**

- 2.1 Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice on receipt based on the invoice date for each Product as follows:
- 2.1.1 0% of the purchase price shall be due with Customer's acceptance of the quotation.
- 2.1.2 80% of the purchase price shall be due on delivery of the major components of the Product to Customer designated location or Philips warehouse. Product installation will not begin until Customer has paid this portion of the purchase price.
- 2.1.3 20% of the purchase price shall be due net thirty (30) days from the date the Product is available for first patient use. Available for first patient use means the Product has been installed and substantially meets Philips' systems verification functionality set forth in the installation manual.

#### **3. Installation.**

- 3.1 In addition to the obligations set forth in Section 7 Site Preparation and Installation, Customer installation must begin within eight (8) weeks of receipt of delivered Product and completed within six (6) months or as set forth in the statement of work (SOW), whichever is longer.

#### **4. Customer Room Preparation Responsibilities.**

- 4.1 In addition to the requirements set out in section 7 of the Philips Terms and Conditions of Sale Customer is responsible for the following site preparation and installation activities:
- 4.1.1 Customer is responsible for all activities and costs necessary to prepare the facility for installation of the Product by Philips. Customer's obligations include, but are not limited to, running all cable in procedure room and network cable to workstations prior to installation.
- 4.1.2 Prior to acceptance of the quotation, Customer shall obtain from the applicable Philips implementation team any other additional Customer installation preparation requirements in connection with the implementation resulting from unique attributes of Customer's environment and the size of the implementation.

#### **5. Archive Requirement.**

- 5.1 Customer is required to have an archive for any IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE) system provided hereunder. If Customer provides its own storage, Customer is responsible for procuring any specialty software or hardware (fiber channel or host bus adapter ("HBA")) necessary to manage storage and allow the system to access the storage. Customer is responsible for providing fiber channel switches, port upgrades, and other telecommunications and/or network hardware required for the Philips products to physically connect to the storage, regardless of whether Philips provides the storage as a one off third-party item at Customer's request.

#### **6. Certified Hardware.**

- 6.1 Philips shall install the Licensed Software solely on certified hardware pursuant to Philips' specifications where such certified hardware is identified and located on Philips website Hardware Specifications - Philips ([http://www.usa.philips.com/healthcare/product/HCNOCTN198/intellispacecardiovascular?int\\_origin=2\\_HC\\_landing\\_na\\_us\\_en\\_clinical\\_informatics\\_cardiology\\_informatics\\_more](http://www.usa.philips.com/healthcare/product/HCNOCTN198/intellispacecardiovascular?int_origin=2_HC_landing_na_us_en_clinical_informatics_cardiology_informatics_more)).

#### **7. Storage Sizing.**

- 7.1 To the extent not otherwise stated in the quotation, Philips shall have no obligation or responsibility in connection with providing or managing storage. Upon request, Philips will provide Customer with estimates of image study sizes for different



types of studies that Customer can use as a general aide to calculate and determine its near-term and long-term storage requirements for Cardiology and HCIS picture archive communication system solution. Customer is responsible determine what storage archive device types and sizes are required to support its, IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE), whether through procurement from Philips or utilization of Customer's own existing storage solutions. Customer acknowledges that use of storage varies greatly based on its unique utilization of the system and based on factors that are outside Philips' control. Therefore, and notwithstanding any estimates provided to Customer by Philips, Customer is solely responsible to determine what storage archive device is best suited to meet its needs. As part of its decision making process in connection with archive device storage size, Customer acknowledges that study sizes are affected greatly by (a) changes in the types and amount of modality equipment used, (b) technician discretion in file size creation, and (c) clinical protocols within a department. Customer is solely responsible for system administration for the IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE), solution, which includes monitoring the storage archive device for its utilization levels and planning any necessary storage changes as Customer's requirements change.

## **8. Unauthorized Patches and Anti-Virus Updates.**

8.1 Customer's installation or use of (a) operating system patches, updates or upgrades; (b) anti-virus updates (except to the DAT files i.e. virus definitions); or, (c) upgrades to anti-virus search engines without prior validation testing and approval by Philips (Unauthorized Updates) may adversely affect the functionality and performance of the Licensed Software. Philips shall perform validation testing of certain Microsoft operating systems, and certified anti-virus software published in the documentation during the warranty period. Philips shall have no obligation to validate any other third-party operating system or anti-virus software. If Customer installs or uses Unauthorized Updates, Philips shall have no liability or responsibility for performance of the Licensed Software and the warranty shall be void. If Customer is using Unauthorized Updates when requesting service support or an Unauthorized Update is discovered by Philips after commencing the technical support process, then, prior to being obligated to perform warranty support services during a service period, Philips may require Customer to roll back to the most recent operating system. Management of third party anti-virus software to protect Customer's network infrastructure, Client Devices, the Server, and the Licensed Software application is the sole responsibility of Customer under this Agreement. Accordingly, anti-virus issue resolution is Customer's responsibility and expense.

## **9. Interfaces.**

9.1 Xper IM, Philips Hemo IntelliSpace Cardiovascular (ISCV), and IntelliBridge Enterprise Licensed Software Interfaces (IBE). Philips' obligation to provide any Xper IM, Philips Hemo, IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE) interfaces is expressly conditioned upon Customer enabling its Hospital Information System (HIS) system to send and receive HL7 messages to and from the applicable Philips products by the date the products are available for first patient use. If Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces against the applicable purchase order. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Upon Philips issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Any interfaces terminated shall be re-evaluated under a separate new sales contract.

## **10. Customer Controlled Workflow Tools.**

10.1 Certain Philips products contain Customer maintained tools used in the creation and maintenance of interfaces, forms, screens, reports, data mappings, and calculations (Customer Controlled Workflow Tools). Because these tools control what information is presented to the end-user and how the information is presented, Customer must thoroughly test and validate each interface, form, screen, report, mapping, and calculation after making any changes to the Product or to external systems that supply data to the Philips product. Failure to do so could result in information being presented to the end-user in a manner different than originally configured, less desirable to the patient care giver and negatively impacting patient care outcomes. Therefore, prior testing of any of the above changes by the Customer is recommended by Philips. In all cases, Customer is solely responsible for data field population in Philips products directly arising from;

10.1.1 Customer's use of the Customer Controlled Workflow Tools; or,

10.1.2 through the receipt of information delivered from a non- Philips information system that has been modified post project implementation test. These factors are not within Philips control.

## **11. Frequent Data Backup/Disaster Recovery Responsibility.**

11.1 Philips is not responsible for the development or execution of a business continuity/disaster recovery plan or backing up the data and images processed by the Products. Customer may request Philips' assistance in designing a disaster recovery plan, but Philips accepts no liability whatsoever for the resulting plan or the results of Customer's utilization of such plan Customer is responsible for performing frequent backups of any data, patient information or images residing on the repository database, on Philips Products, or an archive, on a daily basis at minimum; however, more frequent back-ups are appropriate depending upon the application; provided that, it is Customer sole liability and responsibility to determine such frequency more often than on a daily basis. Except to the extent that Customer purchases some or all of the storage solution from Philips, as provided for in Section 7.1 (Storage Sizing), Philips does not provide the storage archive or Client Devices to be used with the Products. These are Customer provided and not included in this purchase.

**12. Statement of Work (SOW).**

12.1 A Statement of Work, if required as defined in the product schedules, must be signed in writing by both parties and submitted with Customer's purchase order. Philips may reject orders in the absence of the Statement of Work.

**13. Support Services.**

13.1 During the applicable product warranty period, Philips shall provide, at no charge to Customer, Philips' then- current in-warranty service for the products. Customer must provide Philips with remote access to the Products and shall use Philips Remote Service Data Centre (PRSDC) service to enable Philips to access the system to perform its support obligations.

13.2 Warranty exclusions set forth in Section 9.6 of Philips Terms and Conditions of Sale also apply to Support Services hereunder. The conditions that resulted in the exclusion of product warranty coverage, set forth in Section 8.6, shall also apply to any service provided during an in- warranty or post warranty coverage period.

**14. Systems Administration Requirement.**

14.1 Customer, at all times, shall have a designated systems administrator that has completed systems administration training for the version of the product running at Customer's site. Systems administration training is set forth in the quotation.

**15. Migration.**

15.1 Philips standard migration tool set-up service (Migration Tool Set-Up Service) consists of Philips installing a migration solution tool, configuring the migration interface, testing the migration solution tool, and training the Customer to operate and manage the migration tool for Customer to perform the data migration (Migration Set-up Tool Activities). For the purposes of clarification, Migration Set-Up Activities do not include Philips performing the migration, including starting and stopping the migration tool process, loading off-line media, monitoring the process, and correcting the migrated data (and not any Data Migration Project Management Consulting Service).

15.2 Unless Customer purchases a separate data migration project management consulting service from Philips and signs an SOW clearly indicating that Philips will be performing and managing the data migration on the Customers behalf (Data Migration Project Management Consulting Service), Philips is responsible solely to perform the Migration Set-Up Activities.

15.3 In all instances, Philips shall have no responsibility under either its Migration Tool Set-Up Service or Data Migration Project Management Consulting Service to: (a) locate missing studies; (b) fix corrupt media or studies; or, (c) repair failed Customer legacy hardware discovered during the migration service.

15.4 Migration Tool Set-Up Service or Data Migration Project Management Consulting Service to migrate studies affected by the foregoing events. Additionally, Customer shall have the sole responsibility to estimate the number of studies required to be migrated and to pay any additional costs that result from an inaccurate estimate.

**Schedule 4**  
**Monitoring & Hospital Respiratory Care (HRC) Portfolio Rev 22**

Product Category	Products
Measurement and Monitors	IntelliVue Patient Monitors and Systems
	IntelliVue Telemetry System
	Fetal Monitors
	SureSigns/EarlyVue Vitals Monitors
	Clinical measurements
	MR Patient Care Monitors
Clinical Informatics	IntelliVue Critical Care and Anesthesia
	IntelliSpace Perinatal
	IntelliVue Guardian Systems
	IntelliBridge Family of Solutions
Sleep Therapy	DreamStation
	DreamStation Accessories
Respiratory	Ventilators
Airway Clearance	Cough Assist
Hospital Respiratory Care Supplies	Patient Interface (Masks & Cannulas)
	Circuits
Diagnostic Cardiology Solutions	Stress Testing System (ST80i) Holter Monitoring System (DigiTrak) Cardiographs (PageWriter) IntelliSpace ECG
Respiratory Drug Delivery (RDD) Supplies	Aerosol Mask SideStream Nebulizers Sidestream Plus Threshold IMT Optichamber LiteTouch Masks Peak Flow Misc Asthma Mouth PiecesOptichamber Diamond Peak Flow MetersProChamber Asthma Pack

**1. Prices.**

1.1 Unless stated otherwise on the face of the quotation, the quotation will remain valid for ninety (90) days unless withdrawn or changed by Philips.

**2. Orders.**

2.1 Notwithstanding Section 7 of the Philips Terms and Conditions of Sale in the quotation, Philips reserves the right to charge a shipping fee for Hospital Respiratory Care and Respiratory Drug Delivery supplies.

2.2 Orders for Hospital Respiratory Care and Respiratory Drug Delivery supplies are accepted through:

Philips Healthcare eStore: (<http://www.philips.com/newhealthcarestore>.);  
Phone: 800-225-0230;  
Email: [medical.supplies@philips.com](mailto:medical.supplies@philips.com); and  
Fax: 800-227-7843

**3. Payment Terms.**

3.1 Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice on receipt for each product as follows:

3.1.1 100% of the purchase price shall be due thirty (30) days from Philips' invoice date.

3.2 Support Services, if any, shall be invoiced and paid as set forth on the quotation.

3.3 Payment terms are subject to credit approval.

**4. Return Policy.**

- 4.1 If there is a problem with an order, Philips wants to correct it as soon as possible. Please note the following instructions before returning merchandise to Philips.
- 4.1.1 The Customer Services Department of Philips Healthcare Supplies Center in Nashville, TN must authorize all returns of medical supplies. Please call 1-800-225-0230 for a return authorization number. Customer shall pay all shipping charges for returns.
- 4.2 Returns after sixty (60) days of shipment shall be subject to a restocking charge.
- 4.3 Philips does not accept returns of Supplies Products that have been opened, are expired or damaged. Please contact Philips Healthcare at 1-800-225-0230 for guidance on any returns.

**5. Installation.**

- 5.1 For products with installation included in the purchase price, acceptance by Customer occurs upon completion of installation by Philips. For products without installation included in the purchase price, acceptance by customer occurs upon delivery. If Customer schedules or delays installation by Philips more than thirty (30) days after delivery, Customer's acceptance of the products will occur on the thirty-first (31st) day after delivery.

**6. Philips IntelliVue Products.**

- 6.1 The following applies in the event Customer elects to use the Philips IntelliVue Information Center on Customer provided general network versus dedicating a separate Philips provided IntelliVue Clinical Network to support the communication between the Philips IntelliVue Information Center and the Philips IntelliVue bedside Vital Signs Patient Care Monitors:
- 6.2 The Philips IntelliVue Information Center is a secondary vital signs monitoring tool that is used by Customers to monitor the activity arising from alarms that sound from a Vital Signs Patient Care Monitor at the patient bedside. Philips advises that the likelihood of network or bandwidth outages is generally greater when using a medical device on a general network vs. a network dedicated solely to its use. In the event of a network or bandwidth outage were to directly affect the Philips IntelliVue Information Center's ability to communicate with a bedside Monitor, the Philips IntelliVue Information Center would not be available to get real time alarm information from a bedside Monitor. Accordingly, Customer is reminded that its nursing protocols at the patient room floor must be based on using the Philips bedside Monitor, at all times, as the primary medical device to use and respond to, for monitoring patient's vital signs at the patient bedside.

**7. Clinical Informatics Products, and Philips IntelliVue Information Center Product Family.**

- 7.1 The following additional terms shall apply:
- 7.1.1 Anti-Virus.
- 7.1.1.2 Philips does not sell anti-virus software with these products. Customer bears the sole responsibility to purchase and manage all virus issues in connection with the products. Use of anti-virus in a manner not recommended in the user manual or without patch validation with Philips is Customer's sole responsibility or risk.
- 7.1.1.3 Philips IntelliVue Information Center. PIIC iX supports multiple antivirus solutions. See the document PIIC iX and PIIC Antivirus Software Use and Configuration Guide for details.
- 7.2 Prior Validation of Operating System (OS) Updates and/or Upgrades.
- 7.2.1 Operating System patches introduced by Original Equipment Manufacturers (OEM) can impact the performance of the application resulting in a risk to Patient Safety.
- 7.2.2 Customers are prohibited from applying operating system patches, point releases, updates, and/or upgrades ("OS Modifications"), prior to their validation by Philips for use with Clinical Informatics Products, and IntelliVue Information Center Family of solutions. Customer is solely responsible for issues arising from use of these products with a non-validated OS Modification. Philips shall post on its technical support website which OS Modifications are validated and approved for use with these products. Philips shall have no obligation under a warranty or services to resolve technical issues arising from these products being run with non-validated OS Modifications and Philips will require that Customer roll back the OS to a validated and approved version prior to being obligated to perform.
- 7.2.3 technical issue resolution under warranty or service. Philips provides a third-party software validation tool with IntelliSpace Perinatal. Customers are prohibited from applying an OS Modification – including Microsoft security updates - to IntelliSpace Perinatal prior to running an OS Modification through the third party validation tool for IntelliSpace Perinatal.
- 7.2.4 Philips tests the latest applicable security updates and publishes them as Philips Product Security Status documents. These documents have product-specific vulnerability updates and security-related information such as supported anti-virus software, OS security features, and remote service. Customers can access Philips InCenter portal to access update information.

7.2.5 It is the customers' responsibility to deploy applicable, validated updates at their discretion. <http://www.usa.philips.com/healthcare/about/customer-support/product-security>.

7.2.6 See "Security for Clinical Networks" document for additional security related information, accessible on the [InCenter \(mizecx.com\)](http://mizecx.com) service portal.

### 7.3 Interfaces.

7.3.1 Philips' obligation to provide any interfaces is expressly conditioned upon Customer enabling its HIS system to send and receive HL7 messages to and from the applicable Philips products by the date Philips' products are available for first patient use. If Customer has not fulfilled its interface obligations in a reasonable amount of time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces against the applicable purchase order. Upon Philips' issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Any interfaces terminated shall be re-evaluated under a separate new sales contract.

### 7.4 Frequent Data Backup/Disaster Recovery Responsibility.

7.4.1 Philips is not responsible for the development or execution of a business continuity/disaster recovery plan or back up of data and images processed by the system. Customer is responsible for performing frequent backups of any data, patient information, or images residing on the repository database, on Philips products, or an archive. Recommendations around disaster recovery are included in "Security for Clinical Networks" Section 14, accessible on the [InCenter \(mizecx.com\)](http://mizecx.com) service portal.

### 7.5 Statement of Work.

7.5.1 Professional services performed in connection with this transaction shall be performed pursuant to a Statement of Work, which the parties will execute and attach to the quotation, subject to the terms set forth in the quotation.

## 8. Support Services.

8.1 To the extent services for any other products are set forth in the quotation, such service shall be per the Philips then current Terms and Conditions of Service for the period of time indicated on such quotation, which will be provided by Philips and attached hereto.

8.2 **CLINICAL SERVICES.** If included in the quotation, Philips will provide implementation services for new versions or updates that Customer is entitled to receive under this Agreement, at a time mutually agreed to by Philips and Customer. Scope, duration, and delivery methodology of the clinical support of installation and clinical education will vary by new version, update, or fix and will be defined by Philips at Philips' sole discretion.

8.2.1 **After Hours Support.** If included in the quote, Clinical Implementation after hour support will be provided between the hours of 7pm-7am, including weekends and holidays if needed.

8.2.2 **Go-Live Support.** Philips will provide clinical go-live support (onsite, remote or a combination thereof) during the implementation for new version upgrades and updates. Go-live support will be scheduled between 7:00 AM – 7:00 PM Monday through Friday, relative to the new software version. Customer may request additional go-live support, or go-live support outside of standard hours, at an additional cost.

8.2.3 **Clinical Education.** Clinical services will be scheduled (onsite, remote or a combination thereof) between 7:00 AM – 7:00 PM Monday through Friday, relative to the new software version. Customer may request additional clinical education or clinical education outside of standard hours, at an additional cost.

8.2.3.1 Clinical Education class size is limited to ten (10) participants.

8.2.3.2 Customer will provide a suitable location for on-site classroom education; and

8.2.3.3 Customer will provide full and free access and use of the Covered System for Education.

8.2.4 **Equipment Configuration.** Configuration services will be scheduled between 7:00 AM – 7:00 PM Monday through Friday and are limited to the new software version implementation. Customer will provide access and use of their equipment. Configurations are based on current monitoring solution. If expert screen services are required, as determined solely by Philips, they are available at an additional cost.

8.2.5 **User Acceptance Testing.** Following implementation of a new software version or Equipment Configuration services. Philips and Customer will perform user acceptance testing. Philips will provide Customer with an electronic copy of the resultant configuration files and reports.

8.2.6 **Scheduling.** Customer must schedule all Clinical Implementation Services, except Online Education, at least eight (10) weeks prior to the desired date for Philips to deliver the applicable service. If Customer representative does not schedule the Clinical Implementations Services with Philips in accordance with this Exhibit, then Philips shall not be obligated to perform such Clinical Services.

**8.2.7 Travel Expenses.** Unless otherwise stated in the quotation, Philips' travel expenses for all Clinical Implementation Services delivered at Customer site are included in the price described in the Agreement.

- 8.3 Post Warranty Service. Service coverage may vary depending on the product and the use of that product. Accordingly, if Customer elects to purchase post warranty service when Customer purchases products under this Product Specific Schedule, then Customer and Philips shall sign an amendment to the quotation. This amendment shall incorporate the information on the face of the service quotation addressing the description of the products being covered, the price of coverage, payment terms, the period of coverage, the level of support coverage, and the Philips Technology Update Service description, if purchased by Customer. Additionally, such amendment shall incorporate the Medical IT Service Exhibit that provides greater specificity of the support coverage offering being purchased, along with memorializing that the additional terms and conditions applicable to service set forth in the quotation shall apply.
- 8.4 Warranty exclusions set forth in Section 9.6 General Terms and Conditions of Sale and Software License also apply to Support Services. The conditions that resulted in the exclusion of product warranty coverage, set forth in above-mentioned Section 9.6, shall also apply to any service provided during an in- warranty or post warranty coverage period.

## **9. Customer Supplied Network (CSN) Installation and Configuration Responsibilities.**

- 9.1 Philips provides information on which patient monitoring devices (and in what locations) will be connected to the CSN following the standard IntelliVue Clinical Network design rules. During the CSN installation process, Philips is responsible for proper configuration and physical installation of the Philips patient monitoring products ("Philips Products"). In CSN situations, Philips does not configure the network or connect the Philips Products to the network. Customer has ownership of these tasks.
- 9.2 Customer Responsibilities:
- 9.2.1 Installation. It is Customer's responsibility to configure the network infrastructure devices as specified in the Philips CSN specification document. After Philips has completed physical installation of the Philips Products, it is the Customer's responsibility to connect the Philips Products to the hospital network infrastructure, and to confirm the Philips Products have a network that meets the CSN specification document.
- 9.2.2 Ongoing Support. As it applies to the Philips Products being used with a CSN, it is Customer's responsibility to maintain the network in a manner that continuously adheres to the CSN specification. Additionally, it is Customer's responsibility to perform the first line of support for all questions related to the Philips Products at the Customer site. It is Customer's responsibility to determine if the problem is a clinical issue, a Philips Products issue, or a network connectivity issue and to contact the responsible party for resolution.
- 9.3 The Customer agrees is reminded that, unless the Philips Products are being used in a telemetry fashion, the bedside monitor and bedside screen must be used as the primary patient alarm device.
- 9.4 Under no circumstances is Philips responsible for Customer's inability to use Philips Products (including but not limited to loss of patient alarms or data) due to any CSN outages, downtime, or customer failure's to properly maintain or configure the CSN.

## **10. Statement of Work.**

- 10.1 Philips shall not accept orders for IntelliSpace Perinatal without a signed statement of work accompanying such order.

## **11. Sleep and Respiratory Care Products.**

### **11.1 Preparation of Site/Installation/Training:**

- 11.1.1 Site Preparation: Customer shall be responsible for providing the necessary environment and materials for the proper operation of the Products. In the event the site is not correctly prepared or equipment supplied by Customer is not functioning correctly, which requires Respirationics to spend additional time installing products, or a second visit to Customer location, this additional time will be charged to Customer at Respirationics standard daily rates plus expenses.
- 11.1.2 Installation: The configuration defined prior to the Respirationics technician's arrival will be installed as part of these terms and conditions of sale. Equipment that is not defined prior to arrival and requires additional time to install or a second visit to Buyer's location will be charged to Buyer at Respirationics standard daily rates.
- 11.1.3 Training: If applicable, Buyer is responsible for having its personnel available and dedicated to training at the time of installation. Respirationics will provide onsite training to technologists, physicians and other personnel in the operation.

- 11.2 Additional BiPAP Conditions: Respirationics requires the dealer to have appropriate medical personnel on staff to support patient training and follow up. Such personnel include, but are not limited to, credentialed respiratory therapist, credentialed nursing personnel or physician's assistants.



## **Schedule 5**

### **Therapeutic Care Capital Portfolio Rev 22**

Product Category	Products
Emergency Care & Resuscitation (ECR)	AEDs
	ALS Monitor/Defibrillators
Tempus	Tempus Pro Monitor
	Tempus LS Defibrillator
Emergency Care and Resuscitation	AED Consumables
	ALS Consumables

#### **1. Prices.**

- 1.1 Unless stated otherwise on the face of the quotation, the quotation will remain valid for sixty (60) days unless withdrawn or changed prior to shipment by Philips.

#### **2. Acceptance.**

- 2.1 Acceptance by Customer occurs upon delivery. Philips will make reasonable efforts to meet Customer's delivery requirements. If Philips is unable to meet Customer's delivery requirements, alternative arrangements may be mutually agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order. If the Customer requests a major delay in the date of delivery of the product, Philips may attempt to arrange re-delivery within a reasonable time or may terminate the order.

#### **3. Payment Terms.**

- 3.1 Unless otherwise specified in the quotation, Philips will invoice Customer, and Customer will pay such invoice on receipt as follows:
- 3.1.1 100% of the purchase price shall be due thirty (30) days from Philips' invoice date.
- 3.2 Support Services, if any, shall be invoiced and paid as set forth on the quotation.
- 3.3 Payment terms are subject to credit approval.

#### **4. Installation.**

- 4.1 Deployment and installation are Customer's responsibility.

#### **5. Operating Software License.**

- 5.1 Purchase of a hardware product includes a license to use the software contained therein, which may not be reverse engineered, decompiled, altered or transferred. Customer agrees that it will not attempt to defeat any copy protection mechanism.

**Schedule 6**  
**Monitoring & Medical Consumables and Sensors (MCS) Portfolio**  
**Rev 22**

Product Category		Products Consumables and Sensors (non-serialized)
Patient Care	Medical Consumables and Sensors (MCS)	Accessories
		Fetal Measurements
		Gas Measurements
		NIBP Cuffs
		Paper
		SpO2
		Temperature
	Emergency Care and Resuscitation	AED Consumables
		ALS Consumables
	Newborn Solutions	Jaundice
		Calming and Soothing Therapy Support
	MR Patient Care (MRPC)	Accessories (disposable and reusable)
		ECG
		NIBP Cuffs
		ETCO2 Supplies
		SPO2
		Temperature
		Batteries
		Chargers
Diagnostic Cardiology Solutions	Medical Consumables and Sensors (MCS)	ECG Cables and Lead sets
		ECG Electrodes

**1. Prices.**

1.1 Unless stated otherwise on the face of the quotation, the quotation will remain valid for sixty (60) days unless withdrawn or changed prior to shipment by Philips.

**2. Orders.**

2.1 Notwithstanding Section 7 of the Philips Terms and Conditions of Sale in the quotation, Philips reserves the right to charge a shipping fee for Medical Consumables and Sensors.

2.2 Orders for Medical Consumables and Sensors are accepted through:

Philips eStore: (<https://www.patientcare.shop.philips.com/>);  
Phone: 800-225-0230, Option1;  
Email: [medical.supplies@philips.com](mailto:medical.supplies@philips.com)  
Fax: 1-800-227-7843 2.3

Orders for MR Patient Care are accepted through:

Philips eStore: (<https://www.patientcare.shop.philips.com/>);  
Phone: 800-225-0230, Option1;  
Email: [medical.supplies@philips.com](mailto:medical.supplies@philips.com)  
Fax: 1-800-947-3299

**3. Payment Terms.**

3.1 100% of the purchase price shall be due thirty (30) days from Philips' invoice date.

**4. Return Policy.**

- 4.1 If there is a problem with an order, Philips wants to correct it as soon as possible. Please note the following instructions before returning merchandise to Philips.
- 4.2 The Customer Services Department of Philips Supplies Center in Nashville, TN must authorize all returns of medical supplies. Please call 1-800-225-0230 for a return authorization number. Customer shall pay all shipping charges for returns.
- 4.3 Returns after sixty (60) days of shipment shall be subject to a 15% restocking charge.
- 4.4 Philips does not accept returns of Consumables Products that have been opened, are expired or damaged. Please contact Philips at 1-800-225-0230 for guidance on any returns.

**Schedule 7**  
**EI Software and Services Solutions Rev 22**

Product Category	Products
Enterprise Informatics (EI)	Philips MyVue
	Philips Vue Reporting
	Philips Vue Motion
	Philips Vue PACS
	Philips Vue Explorer (WFM)
	Philips Vue Archive

Section 5 (Lease and Trade-In) of the Philips standard terms and conditions of sale does not apply to this Schedule.

The following additional terms shall apply to sale of Licensed Software Products ("EI Software and Services Solutions") under this Schedule:

**1. Definitions.**

Notwithstanding anything contrary in Philips standard terms and conditions of sale, the following license terms and restrictions shall apply and govern in the event of conflict with terms expressly set forth in the Philips standard terms and conditions of sale:

- 1.1 "Client Device" shall mean a computer, workstation, terminal, or other electronic device used to access the Product.
- 1.2 "License Commencement Date" shall mean the date that Philips makes the EI Software and Services Solutions available to Customer for first use consistent with the usage rights and restrictions under the terms of this Agreement and upon completion of the installation of any server(s) provided by Customer as part of the Customer Provided Hardware or purchased through Philips and related network infrastructure.
- 1.3 "Acceptance" of all EI Software and Services Solutions shall occur upon the License Commencement Date. Customer shall promptly sign the Philips' Customer Acceptance Form, at such time. All fees for licenses commence at the same time and, in the event of multiple sites, all licenses and fees start upon the License Commencement Date for the first site, unless otherwise provided on a Quotation. If Customer does not sign the Philips' Customer Acceptance Form within five (5) days of the completion of testing and implementation, Customer shall then be deemed to have accepted the EI Software and Services Solutions as of the end of the acceptance testing period. In any event, Customer shall be deemed to have accepted the EI Software and Services Solutions upon use thereof.
- 1.4 "Quotation" shall mean the Philips quote affixed to this schedule signed by the Customer for the Philips EI Software and Services Solutions. Each Quotation shall list all the fees and any license limitations applicable to customers purchase of licenses, maintenance and support, professional services, including all installation, migration, interfacing tasks set forth on a Statement of Work. All Licenses fees, maintenance fees, subscriptions fees and professional services fees, as applicable, shall be payable per the payment terms in the Quotation.
- 1.5 "Statement of Work" shall mean the Philips statement of work signed by the Customer and Philips at time the Customer places its order to purchase EI Software and Services Solution. A statement of work shall be required for all EI Software and Services Solutions and such document shall address in general terms all interfacing and professional services delivery project scope requirements, at minimum.
- 1.6 "Updates" means fixes or corrections for Software bugs to enable the Software to substantially perform in accordance with its Documentation which is typically designated by a change in the third number in the series (always can be found to the right of the decimal point). Software Update is made generally available to its customer that are under a service or maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Updates do not include new products, modules or extensions for which Philips elects to charge separately.
- 1.7 "Upgrades" means a new version or release of software that contains new features and enhancements to functionality and may include a change to the platform. A new version and release, under this definition, are typically designated by a change in the first or second number in the series (which can always be found to the left of the decimal point). Software Upgrades are made generally available to its customer that are under a service maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Customer will be charged for professional services fees and other fees as a result of a change associated with the Upgrades, as detailed in the Quotation. Notwithstanding the foregoing, Upgrades do not include new products, platform, modules or extensions for which Philips elects to charge separately; provided however, such Upgrades has a substantial change from the previous major version with respect to product feature(s) or underlying technology. New optional licensable software may be available for additional software and services fees and shall not include Software changes with a version change in the first or second number in the series.

**2. License Term & Limitations.**

- 2.1 Term License Model with Separate Maintenance and Support Purchase Option. Under this sale model, each EI Software and Services Solution license shall commence upon the License Commencement Date (as defined in Section 1.2

above), and continue for the license period set forth on the Quotation ("Term License"). Furthermore, in addition to the warranty set forth in Section 1.4, Philips shall provide the maintenance and support services set forth in Schedule A and any applicable Supplemental schedules affixed to this schedule for a period of ninety (90) days. Customer's purchase of maintenance and support services post warranty of the Term License are optional and not required. Therefore, Philips shall have no obligation to perform maintenance and support on the Term License software, for any period post warranty that Customer has elected not to purchase maintenance and support agreement coverage. The license to a EI Software Solution shall expire upon the final anniversary date of the License Commencement Date based on the number of years in the Term License, unless customer renews the license term prior thereto. In the event Customer elects to purchase maintenance and support services for a post warranty period, such maintenance and support services shall be provided under the terms of this Terms and Conditions of Sale, including Schedule A, as applicable; provided that, Customer issues a purchase order with a separate line item listing the post warranty maintenance and support purchase per the Philips post warranty service Quotation.

- 2.2 **Solution Subscription Option.** Under the subscription service model, commencing upon the License Commencement Date the Customer receives an annual subscription license for the number of years set forth on the Quotation ("Subscription License Term"), and the maintenance and support set forth in Schedule A and any supplemental schedules, as applicable, affixed to this schedule for the entire Subscription License Term for one annual fee ("EI Software and Services Solutions Subscription Option"). Thereafter, the then current EI Software and Services Solutions Subscription Term shall expire on the end of the last anniversary date of the Subscription License Term, unless Customer renews the subscription term prior thereto.
- 2.3 **Products Warranties** for all sales models 2.1-2.2. The warranties set forth in Section 9 in the baseline Agreement shall apply to sales of the EI Software and Services Solutions purchased under Sections 2.1-2.2 of this Schedule.
- 2.4 All licenses are subject to a limited number of sites (by physical address), users, connections and study or exam volume set forth in the Quotation. In all cases a "Site" shall mean a unique physical street address for imaging equipment that has usage information sent to or pulled by the EI Software and Services Solutions Licensed Software and "Users" shall mean the number of named users that are employees or contract temporary employees by the Customer legal entity expressly set forth on the Quotation and/or Statement of Work. In no event shall GE, Siemens, or another medical device manufacturer, distributor, or independent service organization use or have access to EI Software and Services Solutions. Customer shall have the right to replace a User with a different named User at no additional charge; provided that, the User being replaced is permanently no longer using the EI Software and Services Solutions Licensed Software to benefit Customer.
- 2.5 Prior to the assignment of any licenses, including an assignment pursuant to a purchase of substantially all of the Customer's assets, organic growth or expansion plans, Customer will provide Philips with written notice along with reasonable data to determine how such events will impact the licensing limitations applicable to each License. These events may require the Customer purchase additional Licenses to address a change in the number of Users, Sites, connections and Annual Exam Volume prior to the use of EI Software and Services Solutions Licensed Software for such events.
- 2.6 Subject to fulfillment of any payment obligations by Customer arising from the use of the EI Software and Services Solutions Licensed Software, Philips grants Customer the applicable license under the model quoted. All EI Software and Services Solutions licenses are, non-exclusive, non-transferable and subject to compliance with the usage, rights and restrictions set forth herein and solution description on the Quotation.
- 2.7 **Termination.** Customer may terminate this Agreement upon 60 days written notice to Philips specifically describing a material breach or default of this Agreement by Philips, provided however that Philips may avoid such termination by curing the condition of breach or default within such 60 days' notice period. Philips may terminate this Agreement, if Customer defaults in the performance of any of its obligations under this Agreement, and fails to remedy the same within thirty (30) days of a written notice; as described in Section 3.1 (Billing).
- 2.8 **Termination Fees.** The sales models offered by Philips under Sections 2.1 & 2.2 are non-cancellable for their full term set forth in the Quotation ("Term"). Accordingly, in the event customer provides written termination notice other than Philips' uncured material breach or is in material breach of its obligations arising therefrom and Philips terminates the Agreement for such models, Customer shall promptly pay Philips all charges for the EI Software and Services Solutions provided through the date of termination plus a "Termination Charge" equal to the fees that Philips would have been entitled to receive for the balance of the Term for such licenses, maintenance and support purchased, and/or subscription period. The parties agree that all fees were negotiated based upon Customer's commitment to the full Term. Philips' damages in the event that the Term is terminated early would be difficult or impossible to ascertain. The Termination Charge is intended, therefore, to establish liquidated damages in the event of termination and is not intended as a penalty.

### **3. Billing based on Customer Delays, Offset & Pricing.**

- 3.1 **Billing.** Customer shall pay Philips invoices per the payment terms set forth in the Quotation or within thirty (30) days of Philips' invoice date. First payment (excluding Upfront Fee as described in the Quotation) will be due and payable within twelve (12) months from contract signing date or upon License Commencement Date, whichever comes sooner. Following a period of two (2) years from the receipt of a customer order, Philips shall maintain the right to bill Customer for all fees associated with such project regardless if Customer decides to proceed with the project or not.
- 3.2 **Offset.** Payment obligations for the fee set forth on a Quotation for each EI Software and Services Solutions are independent

fee obligations not subject to offset.

3.3 Philips reserves the right to adjust customer list pricing and (or) net pricing, during the Term of the agreement, in accordance with the Consumer Price Index published by the United States Department of Labor in its website at <http://www.bls.gov/cpi>. Such adjustment in pricing requires thirty (30) day written notice, will not be retroactive, cannot start before first year of contract and will not exceed more than five percent (5%) change annually.

3.4 Within ninety (90) days of the anniversary of each contract year, Philips may perform a comprehensive review of the billing terms and conditions of the Agreement, including commitment analysis, Fee per Study rates, Subscription fees, training entitlements, and sorting logic. If Philips determines that there is any deficiency in the amounts paid to Philips by Customer, then Philips will (i) notify Customer of such deficiency and (ii) invoice Customer for such deficiency. Customer shall pay such applicable amount to Philips within thirty (30) days from the date of Philips' invoice until the agreement amount and all applicable taxes and interest are paid in full.

#### **4. Pricing Harmonization.**

4.1 In an effort to simplify and harmonize Philips product portfolio pricing structure, Philips may, no more than once during the term of the agreement, unilaterally adjust the price list and discount schedule for products under this Agreement, with no impact to the current net price.

4.2 Philips will:

4.2.1 Provide 30 days' written notice prior to fixing the net price of the product(s) sold under the agreement for 12 months (the "Lock Period") at the net price (the "Lock Price") of the product(s) in effect at the time of Customer's receipt of the written notice.

4.2.2 Provide an updated agreement price file showing the new list price and new discount, which together will not change the Lock Price set at the beginning of the Lock Period.

4.3 Upon termination of the Lock Period, the net price of the product(s) will be maintained in the manner defined in the agreement.

#### **5. Philips Ownership in the EI Software and Services Solutions.**

5.1 The Licenses granted under these Philips Additional Terms and Conditions of Sale for all EI Software and Services Solutions offered under Sections 2.1 & 2.2 of this schedule shall not affect the exclusive ownership by Philips of the Licensed Software or of any trademarks, copyrights, patents, trade secrets, or other intellectual property rights of Philips (or any of Philips' suppliers) relating to the Licensed Software. Except for the licenses set forth in this exhibit for the term (under options offered per subsections 2.1 & 2.2), Philips retains all rights, title, and interest to all intellectual property in or arising from the Licensed Software.

#### **6. Third party software.**

6.1 Unless otherwise specified in the Quotation, the EI Software and Services Solutions may include software from other commercial suppliers who require Philips to pass through, or otherwise have Customer agree to, their end user license terms. Such terms are specified in [https://images.philips.com/is/content/PhilipsConsumer/Campaigns/HC20140401\\_DG/Documents/Pass-through-August-2020.pdf](https://images.philips.com/is/content/PhilipsConsumer/Campaigns/HC20140401_DG/Documents/Pass-through-August-2020.pdf) or otherwise provided via means including software delivery. Philips does not warrant the operation of third party software, rather all third party software acquired by Customer from Philips is subject to the warranties contained in the third party software end user terms.

#### **7. Cancellation.**

7.1 The term set forth on the Quotation ("Term") is non-cancellable before the expiration date of the Term. Each Quotation will commence on its respective effective date and thereafter will remain in effect forth entire Term stated therein.

#### **4. Statement of Work.**

8.1 A Statement of Work, if required as defined in the product schedules, must be signed in writing by both parties and submitted with Customer's purchase order. Philips may reject orders in the absence of the Statement of Work.

#### **9. Server Hardware.**

9.1 Customer Provided IT Infrastructure. Customer shall be responsible to procure all hardware (including server, storage, and client devices) and network bandwidth as set forth in the Statement of Work ("Customer Provided Hardware & IT Infrastructure"). All Customer provided hardware must meet Philips certified hardware specification requirement. Such requirement shall be listed on a Quotation or provided in the Statement of Work. The cost of any new hardware or hardware change to use the EI Software and Services Solutions, including any updates or upgrades provided by Philips under Section 2.1 & 2.2, shall be Customer's obligation and not included in a purchase of EI Software and Services Solution.

9.2 Philips Pass Through Resale IT Infrastructure. In limited cases, Philips may offer a hardware pass through resale service for servers that can be used with EI Software and Services Solutions; however, this is offered purely for one

purchase order fulfillment convenient purposes and Customer shall remain responsible to work directly with the vendor for such hardware directly for any break/fix non software issues and purchase any maintenance and support directly with such vendor.

9.3 Philips Provided IT Infrastructure. Customer may elect to purchase hardware from Philips with an option to purchase maintenance and support with Philips for any break/fix issues as described in Schedule A.

## **10. Customer Managed IT Support Structure.**

10.1 Customer's Client Device Types. EI Software and Services Solutions may solely be used with client device types and minimum configuration specifications set forth on the Quotation, Statement of Work or Project Implementation Plan. In all cases, EI Software and Services Solutions are not designed nor recommended for mobile device use. Philips shall not be responsible for issues arising therefrom.

10.2 PACS Interfaces. For those Customer's purchasing interface services listed in the statement of work, for which Philips would have to create new interface code to work with third party vendor software, Customer shall ensure that such third parties have completed such interface work for their software by the interface testing date set forth in the project plan. Any delays in meeting such date are the sole responsibility of Customer. If Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces, except for amounts representing the cost for work performed by Philips prior to such termination which Philips shall be entitled to retain. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Upon Philips issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Any interfaces terminated shall be re-evaluated under a separate new sales contract, when Customer's third-party vendor is available to perform interface testing at such time.

10.3 Data Archiving. Customer is required to have an archive for all EI Software and Services Solutions that are used as diagnostic tools to provide patient care (Workflow Tool are Excluded). Customer is responsible for procuring any specialty software or hardware (fiber channel or host bus adapter ("HBA")) necessary to manage storage and allow the system to access the storage. Customer is responsible for providing fiber channel switches, port upgrades, and other telecommunications and/or network hardware required for the Philips products to physically connect to the storage, regardless of whether Philips provides the storage as a one off third-party item at Customer's request.

10.4 Storage Sizing. To the extent not otherwise stated in the quotation, Philips shall have no obligation or responsibility in connection with providing or managing storage. Upon request, Philips will provide Customer with estimates of image study sizes for different types of studies that Customer can use as a general aide to calculate and determine its near-term and long-term storage requirements for EI Software and Services Solutions, whether through procurement from Philips as a third-party item or utilization of Customer's own existing storage solutions. Customer acknowledges that use of storage varies greatly based on its unique utilization of the system and based on factors that are outside Philips' control. Therefore, and notwithstanding any estimates provided to Customer by Philips, Customer is solely responsible to determine what storage archive device is best suited to meet its needs as long as it meets the requirements published by Philips. As part of its decision-making process in connection with archive device storage size, Customer acknowledges that study sizes are affected greatly by:

10.4.1 changes in the types and amount of modality equipment used,

10.4.2 technician discretion in file size creation, and

10.4.3 clinical protocols within a department. Customer is solely responsible for system administration for the Software Solutions, which includes monitoring the storage archive device for its utilization levels and planning any necessary storage changes as Customer's requirements change.

10.5 Frequent Data Backup/Disaster Recovery Responsibility. Philips is not responsible for the development or execution of a business continuity/disaster recovery plan or backing up the data and images processed by the EI Software and Services Solutions. Customer is responsible for performing frequent backups of any data, patient information or images residing on the repository database on Philips EI Software and Services Solutions, or an archive, on a daily basis at minimum. Philips also not responsible for backing up the data and images processed by the system. Customer may request Philips' assistance in designing a disaster recovery plan, but Philips accepts no liability whatsoever for the resulting plan or the results of Customer's utilization of such plan. Customer is responsible for providing a storage solution or storage backup device and for performing frequent backups of any data, patient information or images residing on the repository database, on Philips' products, or an archive. Such back-ups shall occur on a daily basis at minimum; however, more frequent back-ups are appropriate depending upon the application; provided that, it is Customer sole liability and responsibility to determine such frequency more often than on a daily basis. Except to the extent that Customer purchases some or all of the storage solution from Philips, as provided for in Section 9.4 (Storage Sizing), Philips does not provide the storage archive or Client Devices to be used with this Product. These are Customer provided and not included in this purchase.

10.6 Unauthorized Patches and Anti-Virus Updates. Customer's installation or use of (a) operating system patches, updates or upgrades; (b) anti-virus updates (except to the DAT files i.e., virus definitions); or, (c) upgrades to anti-virus search engines without prior validation testing and approval by Philips ("Unauthorized Updates") may adversely affect the functionality and performance of the EI Software and Services Solutions. Philips shall perform validation testing of certain Microsoft operating systems, and certified antivirus software published in the documentation during the warranty period. Philips shall have no



obligation to validate any other third-party operating system or anti-virus software. If Customer installs or uses Unauthorized Updates, Philips shall have no liability or responsibility for performance of the Licensed Software and the warranty shall be void. If Customer is using Unauthorized Updates when requesting service support or an Unauthorized Update is discovered by Philips after commencing the technical support process, then, prior to being obligated to perform warranty support services during a service period, Philips may require Customer to roll back to the most recent operating system. Management of third party anti-virus software to protect Customer's network infrastructure, Client Devices, the Server, and the EI Software application is the sole responsibility of Customer under this Agreement. Accordingly, anti-virus issue resolution is Customer's responsibility and expense.

10.7 Systems Administration Requirement. Customer, at all times, shall have a designated systems administrator that has completed systems administration training for the version of the EI Software and Services Solutions running at Customer's site. Systems administration training is set forth in the Quotation.

11. If Customer purchases Vue VNA, Studies (regardless DICOM or non-DICOM) ingested in the Vue VNA from other sources that are outside of contract scope set forth in the Quotation will be charged the same VNA storage rate under the Agreement unless otherwise quoted separately.

## **12. Data Usage.**

12.1 Philips may use de-identified information to improve the EI Software and Services Solutions, including serviceability thereto, as well as the Philips products to which such de-identified data arose. In all cases, such improvements are made available for purchase to all EI Software and Services Solutions customers. Philips shall defend, indemnify, and hold Customer harmless from any breach of its obligations under this Agreement with respect to permitted use of de-identified data for benchmarking purposes, marketing, advertising, or improving the serviceability of the EI Software and Services Solutions.

**Schedule A**  
**Annual Maintenance and Support for EI Software and Service Solutions**

**1. Telephone and Remote Support.**

- 1.1 Telephone Support. Telephone and Remote Support coverage is included with all software maintenance agreements. Technical and Clinical Telephone and Remote Support coverage services are available twenty- four hours per day, seven days per week including Philips recognized holidays.
- 1.2 Remote Access & Diagnostics. Philips may remotely access the EI Software and Services Solutions at the Customer site. Customer shall provide Philips remote access to the EI Software and Services Solution.
- 1.3 On-Site Software Resolution Response. Philips primary method for software services is telephone and Philips Remote Services Data Centre ("PRSDC"). Philips, at its sole discretion, may provide on-site software support services to resolve software issues that cannot be resolved through Philips' primary resolution method. On-site service is next business day, Monday through Friday 8:00 a.m. to 5:00 p.m. local time, excluding Philips recognized holidays, and includes labor and travel necessary for the delivery of corrective services.
- 1.4 InCenter Access. Philips will provide Customer access to Philips' web-based support tool for the system(s) covered under this Agreement.
- 1.5 Online Education. Customer shall be entitled to unlimited access to the virtual classroom at the online Philips Learning Center during the term of the Agreement.

**2. Interface Support.**

- 2.1 Philips supports DICOM and HL7 communication to and from the EI Software and Services Solutions as per Philip's standard specifications as published per message type. In the case of new software versions provided hereunder, Philips shall provide the following:
  - 2.1.1 If the EI Software and Services Solutions, interoperability mapping engine, or biomedical device is upgraded to the latest version, Philips will restore inbound and/or outbound communication to the pre-upgrade condition as part of the Upgrade Project, additional fees may apply.
  - 2.1.2 Philips' interface support does not include the modification of any interface due to interface changes in third party hardware or software or replacement of Philips interoperability mapping engine product with a different interoperability engine product. In the case of a planned upgrade of the EI Software and Services Solutions that involves modifications to the interface specifications, Philips will provide a quote to Customer for additional professional services fee and requires that detailed technical information on such modifications be made available to Philips at least ninety (90) days in advance of the planned upgrade. In such a case, Philips shall work with the third party to understand changes in interface specifications and format and may modify and upgrade the EI Software and Services Solutions to support such new interface specifications at a schedule and additional cost to be mutually approved by Philips and the Customer. Philips is not responsible for issues arising from third party modifications to their software or interfaces that result in errors fielding inquires or sending data to EI Software and Services Solutions.

**3. Software Versions and Updates.**

- 3.1 If a new software version or update is available for the EI Software and Services Solutions, and the requirements of the Agreement are satisfied, then Philips will upgrade the EI Software and Services Solutions application software during the term of the Agreement as follows:
  - 3.1.1 Philips will provide Updates and Upgrades (as defined in Schedule 1) of software for the licensed EI Software and Services Solutions applications originally purchased by Customer. Such Updates and Upgrades do not apply to third party software, including, but not limited to, client and server operating system licenses to use such updates, database software licenses, and anti-virus software (unless specifically specified in the Quotation). Such Updates and Upgrades do not include hardware updates or replacement.
  - 3.1.2 Functionality. Customer is entitled to Updates and Upgrades for the EI Software and Services Solutions applications Philips makes generally commercially available to customers having maintenance and support on the same EI Software and Services Solutions application with the same software version and purchased options, original purchased by Customer. Customer acknowledges that certain functionality in current and previous software versions may not be available in future new software versions.
  - 3.1.3 Hardware updates and replacement. Software versions, updates and fixes may require hardware updates or replacement. In the case where hardware refresh option is not purchased, Customer is responsible for any such hardware updates or replacements. Upgrade installation and clinical support of the installation are subject to the terms of this Agreement.
  - 3.1.4 Certain functionality and/or clinical application in current and previous software versions may not be available in future new software versions. Philips will provide supporting documentation to each of the Updates and Upgrades.

- 3.2 To receive an Update or Upgrade:

- 3.2.1 New Order for professional services and hardware, if purchasing from Philips, and a statement of work;
- 3.2.2 Customer must be in compliance with all terms and conditions of this Schedule and the Agreement including the availability of PRSDC capability and access to the EI Software and Services Solutions by Philips personnel;
- 3.2.3 Customer must identify one Customer representative, in writing to Philips, that will manage and be responsible for Customer's selection and scheduling of new software version installations under this Exhibit; and,
- 3.2.4 The EI Software and Services Solutions that will receive Upgrade or Update must meet the specifications of the Update or Upgrade. Customer shall provide the EI Software and Services Solutions hardware or software necessary to meet such specifications.
- 3.3 Unless specifically included elsewhere in this Agreement, software versions and updates do not include: applications that were not purchased with the EI Software and Services Solutions, including any third party software, such as virus protection software, third party custom interface software, operating system software for client device or server hardware.
- 3.4 Philips manages and maintains the lifecycle of its products and old versions of the EI Software and Services Solutions are discontinued from time to time. During the term of this Agreement, Customer shall maintain the EI Software and Services Solution at a currently supported version (or one before that) to receive Service or Upgrades under this Exhibit. In the event that the Customer refuses to an Update or an Upgrade, Philips may terminate the Service Agreement since it is unable to support discontinued versions of the EI Software and Services Solutions.
- 4. Customer Success Management Services.**
  - 4.1 During the term of the Agreement Philips will assign a resource familiar with the Customer account, key stakeholders, and contract coverage to provide the following:
    - 4.1.1 If applicable, Philips will schedule and deliver a remote coverage and status review meeting annually, at a mutually agreeable date and time. The status meeting will focus on available entitlements and planning. The status review may outline all EI Software and Services Solutions service issues resolved during the previous period and review any open or unresolved issues.
    - 4.1.2 Prior to delivering any new software version, Philips will coordinate with the Customer assigned resource to identify and mitigate dependencies relative to the software upgrade and other service agreement entitlements.
    - 4.1.3 The parties will develop a dependency mitigation plan to address resource needs, hardware needs, operating system requirements, interoperability and other dependencies for the deployment of new software upgrade.
- 5. Annual Review.**
  - 5.1 If applicable, Philips and Customer will annually review the EI Software and Services Solutions covered by the Agreement to match quantities of equipment, connections, site or annual exam volumes being used by Customer and to adjust price if actual usage exceeds any licenses purchased.
- 6. Customer Requirements.**
  - 6.1 Minimum Network Requirements. Customer shall provide at a minimum a switched 1 Gb/s local area network (LAN) and 5ms latency. Provided Customer with sites reading large studies, such as large CTs (study size > 700 MB and number of frames > 1000) and mammography tomosynthesis Studies, Customer shall provide a 1 Gb/s network adapter and 1 Gb/s end-to-end connection to the server. For Study acquisition scenarios that require 'stat' interpretation, Hardware (DICOM processors and storage modules) and Client Devices must reside on a contiguous 1GB/s switched LAN. DSL, cable modem, satellite and other non-commercial-grade technologies should not be used due to high-latency. Issues including delays with image retrieval, delays in Study migration between servers/locations, and application responsiveness issues (pauses, halting) may be experienced when the Software Services is used on a network that does not meet the Minimum Network Requirements.
  - 6.2 Network Access. Customer shall provide Philips with 24x7 direct VPN remote network access to the Customer Provided Hardware to enable Philips to monitor, maintain, upgrade and support the PACS Services. Customer must provide Philips with administrator access to all Software and third-party software installed on the Customer Provided Hardware. Customer will allow Philips to establish a site-to-site VPN using either a Philips managed firewall/VPN device or a Customer managed VPN device for secure access to Customer Provided Hardware. The Customer shall allow the Customer Provided Hardware to send alert messages over the VPN to Philips for proactive monitoring. The Customer will work with Philips to establish the VPN and enable the required access to support the Customer Provided Customer Provided Hardware. If the VPN is established using Customer's VPN device AND the Customer Provided Hardware is assigned a private IP, the Customer will need to work with Philips to translate the private IP to something unique to both networks. This is not necessary if using a Philips supplied firewall/VPN device.
  - 6.3 Customer shall allow outgoing e-mail from the Customer Provided Hardware to access Philips SMTP e-mail service. Email access is required in order for Philips to monitor, maintain, upgrade and support the PACS Services which Customer must use Philips' secure managed SMTP relay in order to avoid any possible transmittal of unencrypted sensitive data or PHI. Upon reasonable advance notice, Customer shall provide Philips personnel or subcontractors with physical access to all Customer Provided Hardware to support, maintain and upgrade such Customer Provided Hardware.
  - 6.4 Customer shall notify Philips of any planned VPN connection, network outages or configuration changes that impact Philips

remote monitoring or servicing the Customer Provided Hardware. Philips shall not be liable for remote support availability issues or other service delays caused by Customer's failure to permit remote access. If Customer is using Philips Cloud and/or archiving services, a Philips managed VPN device is required.

- 6.5 Under no circumstances shall users be permitted to access the Software Services remotely except via a Customer VPN providing adequate security and network functionality establishing a 1 GB connection between the Client Device being used remotely and the server for the Software Services. Philips shall have no liability under this Agreement for events arising from or use of the Software Services remotely by users in a manner not meeting the foregoing requirements.
- 6.6 Modalities. Each Customer modality connected to the EI Software and Services Solutions must have a published DICOM format (or successor industry standard) conformance statement. Philips will provide connectivity testing for all Modalities without charge for the initial installation per the project implementation plan. Thereafter, any such services shall be chargeable at Philips then current professional services rates. Philips will not validate the quality of the data generated by Customer modalities. Philips will confirm that the modality will connect to the EI Software and Services Solutions and the EI Software and Services Solutions will be able to store and display the data as delivered by the modality. Philips will cooperate with Customer's Modality vendors without charge to troubleshoot any Modality connectivity issues.
- 6.7 No Modification of Customer Provided Hardware. Customer may not modify, relocate, or install third-party software on the Customer Provided Hardware without Philips' prior written consent. Philips will attempt to reasonably accommodate any Customer requests to relocate Customer Provided Hardware.

## 7. **Customer Support.**

### 7.1 Customer Support

- 7.1.1 Customer may report issues or obtain technical support 24 hours a day, 7 days a week by telephoning 877-328-2808 or online web portal. Philips shall respond to Customer by phone during the Coverage Period for failures rendering all functionality or a substantial proportion of functionality unavailable or unusable which significantly impacts multiple active users and/or affects patient care ("Critical Failure") of any service plan within 60 minutes of (i) call receipt within the Coverage Period or (ii) commencement of the next Coverage Period if calls are received after hours or within less than 60 minutes from the end of the current Coverage Period (" Call Response Time"). Prior to contacting Philips, Customer shall perform any problem determination procedures, diagnostic activities and actions detailed by Philips in the Documentation or other customer communications.
- 7.1.2 Philips includes Philips' proprietary remote management service (" RMS" ) which, when configured and enabled, allows Philips to remotely monitor, diagnose and resolve a variety of software issues, and remotely install Updates, through a secure, encrypted internet connection or a secure remote service access (" SRSA") virtual private network ("VPN") connection. As a condition of Philips performing services described herein, Customer shall permit Philips to use its remote access tools as its first call response method for software service requests.
- 7.1.3 Philips will provide Customer with Customer-requested IP address changes, native DICOM connections, technical Training (as described in Schedule B) and other non-warranty support and services upon request at Philips' then published rates.
- 7.2 Philips shall have no obligation or liability for Software Services problems attributable to any of the following and Customer shall pay Philips, at Philip's then current rates, for any time Philips spends diagnosing or correcting issues caused by any of the following:
  - 7.2.1 Modifications, additions or attachments to the Operating Environment, or Software Services, unless such modifications are performed by, and at the request of, Philips and such additions and attachments are purchased from, or specified by, Philips;
  - 7.2.2 Customer's failure to (i) follow the Documentation; (ii) perform, or permit Philips, to perform routine maintenance; (iii) adhere to the Operating Environment; or (iv) adhere to site preparation and environmental specifications;
  - 7.2.3 Misuse, abuse, accident, vandalism, viruses or any other malicious or negligent act or omission by a party that is not under the direct control of Philips;
  - 7.2.4 Environmental conditions, moisture or water, excessive radiation, improper servicing or fire;
  - 7.2.5 Electrical problems caused by power surges, lightning or Customer's wiring or electrical supply;
  - 7.2.6 Network issues, problems caused by Customer's other vendors, or issues related to or caused by non-Philips' equipment, hardware or software.
  - 7.2.7 The Philips customer support center will provide connectivity testing from Philips PACS system to the customer supplied network; any network connectivity issue beyond the Philips managed system will require customer network engineering support.

## 8. **Hardware Support Coverage.**

- 8.1 If Server Hardware is purchased from Philips and Customer elects to purchase maintenance and support from Philips, Philips or Philips designated third parties, will provide hardware support services during standard coverage hours, Monday through Friday, 8:00 AM to 5:00 PM local time, excluding Philips recognized holidays. Hardware support coverage provides Customer's technical or biomed support organization with clinical and technical phone support, troubleshooting, parts or repairs as follows:
- 8.1.1 Support Parts. If included in the Agreement, then Philips will provide the technical and clinical phone support as well as parts for corrective services for Covered System hardware covered under this Schedule. Unless otherwise specified, parts will be shipped via priority delivery.
- 8.2 Onsite. Philips or Philips designated Original Equipment Manufacturer (OEM) Service representatives, or third parties will provide the parts, labor and travel for corrective Services for Hardware covered in the Service Agreement Monday through Friday, 8:00 AM to 5:00 PM local time.

**SCHEDULE B**  
**ADDITIONAL TERMS AND CONDITIONS FOR CLINICAL AND TECHNICAL EDUCATION TRAINING – EI**

1. **Training Coverage.** Philips will provide the clinical and technical education and product applications training ("Training") that Customer has selected from the Philips' course catalog(s) ("Course Catalog(s)").
2. **Exclusions.** Training does not include (a) maintenance or diagnostic related technical training or (b) clinical applications training on hardware or software not installed or provided by Philips.
3. **Scheduling.** Training must be scheduled at least eight (8) weeks in advance except for on-line training. Changes to scheduled Training must be received in writing by Philips at least two (2) weeks prior to scheduled delivery.
4. **Attendance.** Philips will train the number of Customer employees ("Trainee(s)") for the course specified in the Quotation, when space is available. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips's safety checklist prior to receiving Training.
5. **Course Location.** Training may be conducted at Philips' training facilities, Customer location(s) described in this Agreement ("Site(s)"), through on-line or remote training, or at a third-party location determined by Philips.
6. **Payment Options**
  - 6.1. **Education Credit.** If Customer purchased education credit, the initial account balance is specified in the Quotation. As Customer requests training services, the account balance will be reduced by the days for the requested course per attendee. If the account balance is exhausted, Customer may add funds/days to the balance account, or request and pays training service at Philips' then current published list price for the training. The Customer is only entitled to use the days which the Customer has accumulated overtime. The education credit expires in the end of the calendar year or as indicated in the Quotation, or in case of termination of this Agreement, and no credit for any remaining account balance is carried forward or eligible for refund.
  - 6.2. **Direct Course Purchase.** Customer may purchase individual courses at Philips' then current published prices.
7. **Travel.** Philips' travel expenses for all Training delivered at Customer Site are included in the price described in the applicable Course Catalog(s). Unless otherwise indicated in the Course Catalog(s), all travel and living expenses incurred by the Trainee(s) are Customer's responsibility.
8. **WARRANTY DISCLAIMER.** PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE THE SYSTEM.

**Schedule 8**  
**MRI Coil and Disease Management Solutions Portfolio Rev 22**

Product Category	Products
Magnetic Resonance Imaging (MRI) Coils	Capital Coils
Consumables	Consumables Coils
Disease Management Solutions	UroNav, DynaCAD, Disposable Items, Misc. HW & SW options and accessories

**1. Prices.**

- 1.1 Unless stated otherwise on the face of the quotation, the quotation will remain valid for sixty (60) days unless withdrawn or changed by Philips DS North America, LLC.

**2. Shipment.**

- 2.1 Philips DS North America, LLC will use reasonable efforts to ship the product to the Customer (i) by the mutually agreed upon shipment date, (ii) by the date stated in the quotation, or (iii) as otherwise agreed in writing. Philips DS North America, LLC will ship the product according to Philips DS North America, LLC's standard commercial practices.

**3. Payment Terms.**

- 3.1 Quotation. Philips may quote and invoice the Philips DS North America, LLC products in the name of its affiliate, Philips DS North America, LLC.
- 3.2 Payment Terms: Unless otherwise specified in the quotation, Philips DS North America, LLC's will invoice Customer and Customer will pay such invoice on receipt as follows: 100% of the purchase price shall be due thirty (30) days from Philips DS North America, LLC's invoice date.
- 3.3 Purchase Orders. Customer must submit separate and unique purchase orders for the Products listed in this Product Specific Schedule to Philips DS North America, LLC.
- 3.3.1 For Philips DS North America, LLC:  
Philips DS North America, LLC. 3650 NE 53rd Avenue  
Gainesville, FL 32609  
Tel: 1-877-468-4861
- 3.4 Invoices. Unless otherwise specified in the quotation, Philips DS North America, LLC will issue one invoice(s) for the Products identified on this Product Specific Schedule under "Philips DS North America, LLC" and a separate and unique invoice(s) for the Products listed in all other Product Specific Schedules under "Philips". Philips DS North America, LLC will invoice Customer, and Customer will pay such invoice for each product in accordance with the payment terms set forth in the applicable Product Specific Schedule attached to these Terms and Conditions of Sale and remit payment to the locations stated in each invoice.
- 3.5 Credit Approval. Payment terms are subject to credit approval.
- 3.5.1 Support Services. If any, shall be invoiced and paid as set forth on the quotation.

**4. Return Policy.**

- 4.1 If there is a problem with an order, Philips DS North America, LLC wants to correct it as soon as possible. Please note the following instructions before returning merchandise to Philips DS North America, LLC.
- 4.2 Buyer must first receive a Returned Goods Authorization (RGA) from the Philips DS North America, LLC Customer Service Department in Gainesville, Florida at 1-877-468-4861 Philips DS North America, LLC. If an RGA is issued, Buyer is responsible for all costs associated with the return. Returns will be subject to a fifteen percent 15% restocking fee.
- 4.3 Returns after sixty (60) days of shipment shall be subject to a restocking charge.
- 4.4 Philips DS North America LLC does not accept returns of Consumables Products that have been opened, are expired or damaged. Please contact Philips DS North America LLC Customer Service Department at 1-877-468- 4861 for guidance on any returns.

**5. Installation.**

- 5.1 For Products with installation included in the purchase price, acceptance by Customer occurs upon completion of installation by Philips DS North America, LLC. For Products without installation included in the purchase price, acceptance by customer occurs upon delivery. If Customer schedules or delays installation by Philips DS North America, LLC, more than thirty (30) days after delivery, Customer's acceptance of the Products will occur on the thirty-first (31st) day after delivery.



**6. Product Warranty.**

- 6.1 In addition to the limited warranties stated herein, Philips DS North America, LLC may provide limited product-specific warranties that are set forth in separate Philips DS North America, LLC warranty documents incorporated herein by reference.

**STANDARD PRODUCT WARRANTY PERIODS**

MRI Coils - Three (3) years, parts and factory repair labor  
Disease Management Solutions Products - One (1) year, parts and factory repair labor  
Sentinelle coils -One (1) year, parts and factory repair labor  
Parts and Accessories - Ninety (90) days, replacement Supplies  
Consumable Items and repaired product - Thirty (30) days, replacement

- 6.2 Philips DS North America, LLC's sole obligations and Customer's exclusive remedy under any product warranty are limited, at Philips DS North America, LLC's option, to the repair or the replacement of the product or a portion thereof, within thirty (30) days after receipt of written notice of such material breach from Customer ("Product Warranty Cure Period") or, upon expiration of the Product Warranty Cure Period, or to a credit or refund of a portion of the purchase price paid by Customer. Warranty service outside of normal working hours (i.e., 8:00 AM to 5:00 P.M., Monday through Friday, excluding Philips DS North America, LLC's observed holidays), will be subject to payment by Customer at Philips DS North America, LLC's standard service rates.
- 6.3 Customer shall at all times during the warranty period specified in this Agreement provide Philips DS North America, LLC suitable connection to the product through the Customer's network for Philips DS North America, LLC use in remote servicing of the product.

**Schedule 9**  
**Non Diagnostic Enterprise Operational Informatics (EOI) Software Solutions Rev 22**

Product Category	Products
Non Diagnostic Enterprise Operational Informatics (EOI) Software Solutions	PerformanceBridge Software Solutions

Section 5 (Lease and Trade-In) of the Philips standard terms and conditions of sale does not apply to this Schedule.

**1. Definitions.**

- 1.1 "Acceptance" of all EOI Software Solutions shall occur upon the License Commencement Date. Customer shall promptly sign the Philips' Customer Acceptance Form, at such time. All fees for licenses commence at the same time and, in the event of multiple sites, all licenses and fees start upon the License Commencement Date for the first site, unless otherwise provided on a Quotation. If Customer does not sign the Philips' Customer Acceptance Form within five (5) days of the completion of testing and implementation, Customer shall then be deemed to have accepted the EOI Software Solutions as of the end of the acceptance testing period. In any event, Customer shall be deemed to have accepted the EOI Software Solutions upon use thereof.
- 1.2 "Client Device" shall mean a computer, workstation, terminal, or other electronic device used to access the Product.
- 1.3 "License Commencement Date" shall mean the date that Philips makes the EOI Software Solutions available to Customer for first use consistent with the usage rights and restrictions under the terms of this Agreement and upon completion of the installation of any server(s) provided by Customer as part of the Customer Provided Hardware or purchased through Philips and related network infrastructure.
- 1.4 "Quotation" shall mean the Philips quote affixed to this schedule signed by the Customer for the Philips EOI Software Solutions. Each Quotation shall list all the fees and any license limitations applicable to customers purchase of licenses, maintenance and support, professional services, including all installation, migration, interfacing tasks set forth on a Statement of Work. All Licenses fees, maintenance fees, subscriptions fees and professional services fees, as applicable, shall be payable per the payment terms in the Quotation.
- 1.5 "Statement of Work" shall mean the Philips statement of work signed by the Customer and Philips at time the Customer places its order to purchase EOI Software Solutions. A statement of work shall be required for EOI Software Solutions and such document shall address in general terms all interfacing and professional services delivery project scope requirements, at minimum.
- 1.6 "Updates" means fixes or corrections for Software bugs to enable the Software to substantially perform in accordance with its Documentation which is typically designated by a change in the third number in the series (always can be found to the right of the decimal point). Software Update is made generally available to its customer that are under a service or maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Updates do not include new products, modules or extensions for which Philips elects to charge separately.
- 1.7 "Upgrades" means a new version or release of software that contains new features and enhancements to functionality and may include a change to the platform. A new version and release, under this definition, are typically designated by a change in the first or second number in the series (which can always be found to the left of the decimal point). Software Upgrades are made generally available to its customer that are under a service maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Customer will be charged for professional services fees and other fees as a result of a change associated with the Upgrades, as detailed in the Quotation. Notwithstanding the foregoing, Upgrades do not include new products, platform, modules or extensions for which Philips elects to charge separately; provided however, such Upgrades has a substantial change from the previous major version with respect to product feature(s) or underlying technology. New optional licensable software may be available for additional software and services fees and shall not include Software changes with a version change in the first or second number in the series.

**2. Payment Terms.**

- 2.1 Customer shall pay Philips invoices per the payment terms set forth in the Quotation or within thirty (30) days of Philips' invoice date.

**3. License Term & Limitations.**

- 3.1 Notwithstanding anything contrary in Philips standard terms and conditions of sale, the following license terms and restrictions shall apply and govern such issues:
- 3.2 EOI Software Solutions Capital Model with Separate Optional Maintenance and Support Purchase Option. This model is a perpetual license to an EOI Solution, commencing upon the License Commencement Date, subject to the license provisions in the baseline agreement and any usage limitations set forth on the quote, as well as Sections 3.1.4-3.1.6. Furthermore, in addition to the warranty set forth in Section 3.1.3, Philips shall provide the maintenance and support services set forth in Schedule 1-A affixed to this Agreement for such warranty period only. Customer's purchase of maintenance and support

services post warranty of the Term License shall be provided under the terms of this Terms and Conditions of Sale, including Schedule 1-A; provided that, Customer issues a purchase order with a separate line item listing the post warranty maintenance and support purchase per the Philips post warranty service Quotation. Philips shall have no obligation to perform maintenance and support, for any period post warranty that Customer has elected not to purchase maintenance and support agreement coverage.

- 3.3 EOI Software Solution Subscription Option. Under the subscription service model, commencing upon the License Commencement Date the Customer receives an annual subscription license for the number of years set forth on the quotation ("Subscription License Term"), and the maintenance and support set forth in Schedule 1-A affixed to this Exhibit for the entire Subscription License Term for one annual fee. ("EOI Software Solution Subscription Option"). Thereafter, the then current EOI Software Solution Subscription Term shall expire on the end of the last anniversary date of the Subscription License Term, unless Customer renews the subscription term prior thereto.
- 3.4 Products Warranties. The warranties set forth in Section 9 (except Section 9.2) in the Philips standard terms and conditions of Sale shall apply to sales of the EOI Software Solutions purchased under Section 3.1.2 of this schedule.
- 3.5 All Licenses are subject to a limited number of sites (by physical address), users, connections and exam volume set forth in the Statement of Work. In all cases a "Site" shall mean a unique physical street address for imaging equipment that has usage information sent to or pulled by the EOI Software Solution Licensed Software and "End Users" shall mean end users that are employees or contract temporary employees by the Customer legal entity. In no event shall another medical device manufacturer, distributor, or independent service organization use or have access to EOI Software Solutions.
- 3.6 Prior to the assignment of any Licenses, including an assignment pursuant to a purchase of substantially all of the Customer's assets, organic growth or expansion plans, Customer will provide Philips with written notice along with reasonable data to determine how such events will impact the licensing limitations applicable to each License. These events may require the Customer purchase additional Licenses to address a change in the number of Users, Sites, connections and Annual Exam Volume prior to the use of EOI Software Solutions for such events.
- 3.7 Subject to fulfillment of any payment obligations by Customer arising from the use of the EOI Software Solutions, Philips grants Customer the applicable license under the model quoted. All EOI Software Solution licenses are, non-exclusive, non-transferable and subject to compliance with the usage, rights and restrictions set forth in the Agreement and solution description on the quotation.
- 3.8 Termination Fees. In the event customer provides written termination notice other than Philips' uncured material breach or is in material breach of its obligations arising therefrom and Philips terminates the Agreement for such models, Customer shall promptly pay Philips all charges for the EOI Software Solutions provided through the date of termination plus a "Termination Charge" equal to the fees that Philips would have been entitled to receive for the balance of the Term for such licenses, maintenance and support purchased, and/or subscription period. The parties agree that all fees were negotiated based upon Customer's commitment to the full Term. Philips' damages in the event that the Term is terminated early would be difficult or impossible to ascertain. The Termination Charge is intended, therefore, to establish liquidated damages in the event of termination and is not intended as a penalty.

#### **4. Billing based on Customer Delays and Pricing.**

- 4.1 Customer shall pay Philips invoices per the payment terms set forth in the Quotation or within thirty (30) days of Philips' invoice date. All installations of the EOI Solutions shall commence no later than ninety (90) days from the date Philips received a customer order for such solution ("EOI Solution Required Installation Commencement Period"). Philips shall have the right to commence billing on the earlier of (i) License Commencement Date or (ii) expiration of the Required Installation Commencement Period, the later only to extent installation of an EOI Solution on a Customer Provided Hardware has not started. In all cases, acceptance for EOI solutions occurs on the License Commencement Date shall mean the date Philips makes the EOI Solution available for use to Customer upon completion of installation of such licensed software on the Customer Provided Hardware.
- 4.2 Offset. Payment obligations for the fee set forth on a Quotation for EOI Software Solutions are independent fee obligations not subject to offset.
- 4.3 Customer shall pay such invoices per the payment terms of the Agreement. Philips reserves the right to adjust customer list pricing and (or) net pricing, during the Term of the agreement, in accordance with the Consumer Price Index published by the United States Department of Labor in its website at <http://www.bls.gov/cpi>. Such adjustment in pricing requires thirty (30) day written notice, will not be retroactive, cannot start before first year of contract and will not exceed more than five percent (5%) change annually.

#### **5. Pricing Harmonization.**

- 5.1 In an effort to simplify and harmonize Philips product portfolio pricing structure, Philips may, no more than once during the term of the agreement, unilaterally adjust the price list and discount schedule for products under this Agreement, with no impact to the current net price.

5.2 Philips will:

- 5.2.1 Provide 30 days' written notice prior to fixing the net price of the product(s) sold under the agreement for 12 months (the "Lock Period") at the net price (the "Lock Price") of the product(s) in effect at the time of Customer's receipt of the written notice.
- 5.2.2 Provide an updated agreement price file showing the new list price and new discount, which together will not change the Lock Price set at the beginning of the Lock Period.

5.3 Upon termination of the Lock Period, the net price of the product(s) will be maintained in the manner defined in the agreement.

**6. Philips Ownership in the EOI Software Solutions.**

6.1 The Licenses granted under these Philips Additional Terms and Conditions of Sale for all EOI Software Solutions offered under Sections 3.1.1-3.1.2 of this schedule shall not affect the exclusive ownership by Philips of the Licensed Software or of any trademarks, copyrights, patents, trade secrets, or other intellectual property rights of Philips (or any of Philips' suppliers) relating to the Licensed Software. Except for the licenses set forth in this exhibit for the term (under options offered per subsections 3.1.1-3.1.2), Philips retains all rights, title, and interest to all intellectual property in or arising from the Licensed Software.

**7. Cancellation.**

7.1 The term set forth on the Quotation ("Term") is non-cancellable before the expiration date of the Term. Each Quotation will commence on its respective effective date and thereafter will remain in effect forth entire Term stated therein.

**8. Statement of Work for all EOI Software Solutions Subscription & Data Usage.**

8.1 A Statement of Work identifying the License criteria (as indicated above in Section 3.1.4), Customer's & Philips responsibilities for software implementation, training and/or any professional service deliverables (as applicable) must be signed in writing by both parties and submitted with Customer's purchase order. As part of the implementation of an EOI Software Solutions, Philips shall provide benchmarking information to all of its customers in general about the customer user base as it applies to their use of the EOI Software Solution as a whole and best practice information based on lessons learned by our users. However, in doing so, Philips shall de-identify Customer data. Philips may use Customer information in support of such benchmarking deliverable and such process of de-identification shall occur on Customer's premises. Separation of such from the benchmarking database is impossible, therefore Philips shall have the right to continue using such data upon expiration of this Agreement; provided that, Philips protects it and indemnifies for such use pursuant to this Section 8. In no event shall Philips' use Customer's name in a press release or marketing materials, without the express written consent of Customer. Philips does reserve the right, and may, use benchmarking information in marketing materials or advertising to extent made in compliance with this Agreement and not attributed to one specific customer. Philips may use such de-identified information to improve the EOI Software Solutions, including serviceability thereto, as well as the Philips products to which such de-identified data arose. In all cases, such improvements are made available for purchase to all EOI customers. Philips shall defend, indemnify, and hold Customer harmless from any breach of its obligations under this Agreement with respect to permitted use of de-identified data for benchmarking purposes, marketing, advertising, or improving the serviceability of the EOI Software Solutions. A Statement of Work, if required as defined in the product schedules, must be signed in writing by both parties and submitted with Customer's purchase order. Philips may reject orders in the absence of the Statement of Work.

8.2 Philips' project personnel shall perform the tasks set forth in the Statement of Work. Philips retains all rights, title, and intellectual property, in all ideas, methods, or algorithms used by the Philips project team to fulfill any obligations under a quotation. Customer does own a copyright to the specific Customer reports delivered by the Clinical Consultant (Solution Advisor); provided that, Customer receives a perpetual, irrevocable, non-transferable license to use such reports to support customer's workflow improvement and technician training internal business purposes. The Clinical Consultant (Solution Advisor) is not customizing software code or reporting generation features. All rights, title, and interest, in the Licensed Software used to generate the reports and the EOI Software solution remains with Philips, except for the Licenses granted hereunder to Customer and the copyright to the Customer report delivered to Customer. Notwithstanding the foregoing, Customer owns all Customer data. Philips may solely use such data to fulfill its obligations and per this Agreement.

**9. Customer Provided Hardware/Customer Managed IT Support Structure.**

9.1 Customer Provided IT Infrastructure. Customer shall be responsible to procure all hardware (including server, storage, and client devices) and network bandwidth as set forth in the Statement of Work ("Customer Provided Hardware & IT Infrastructure"). In all cases, Customer shall be solely responsible to manage anti-virus threats as it applies to the Licensed Software and backing-up data daily. Therefore, Customer is responsible for all data loss; except for data loss solely arising from Philips providing maintenance and support on the Licensed Software remotely; further provided, Philips' responsibility in such instance shall be limited to the period of time preceding that date that Customer was obligated to perform data back-up hereunder.

9.2 Customer Client Device Types. EOI Software Solutions may solely be used with client device types and minimum configuration specifications set forth on the Statement of Work. In all cases, EOI Software Solutions are not designed nor recommended for mobile device use. Philips shall not be responsible for issues arising therefrom.

9.3 Interfaces. For those Customer's purchasing interface services listed in the statement of work, for which Philips would have to create new interface code to work with third party vendor software, Customer shall ensure that such third parties have

completed such interface work for their software by the interface testing date set forth in the project plan. Any delays in meeting such date are the sole responsibility of Customer. If Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces, except for amounts representing the cost for work performed by Philips prior to such termination which Philips shall be entitled to retain. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Upon Philips issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Any interfaces terminated shall be re-evaluated under a separate new sales contract, when Customer's third-party vendor is available to perform interface testing at such time.

**Schedule 9-A**  
**Annual Maintenance and Support for the EOI Software Solutions Rev 22**

**1. TELEPHONE AND REMOTE SUPPORT.**

- 1.1 **Telephone Support.** Telephone and Remote Support coverage is included with all software maintenance agreements. Technical and Clinical Telephone and Remote Support coverage services are available twenty- four hours per day, seven days per week including Philips recognized holidays.
- 1.2 **Remote Access & Diagnostics.** Philips may remotely access the EOI Software Solution to perform Services. Customer shall provide Philips remote access to the EOI Solution.
- 1.3 **On-Site Software Resolution Response.** Philips primary method for software services is telephone and Philips Remote Services Data Centre ("PRSDC"). Philips, at its sole discretion, may provide on-site software support services to resolve software issues that cannot be resolved through Philips' primary resolution method. On-site service is next business day, Monday through Friday 8:00 a.m. to 5:00 p.m. local time, excluding Philips recognized holidays, and includes labor and travel necessary for the delivery of corrective services.
- 1.4 **InCenter Access.** Philips will provide Customer access to Philips web based support tool for the system(s) covered under this Agreement.
- 1.5 **Online Education.** Customer shall be entitled to unlimited access to the virtual classroom at the online Philips Learning Center during the term of the Agreement.

**2. INTERFACE SUPPORT.**

- 2.1 Philips supports DICOM and HL7 communication to and from the EOI Software Solution as per Philip's standard specifications as published per message type. In the case of new software versions provided hereunder, Philips shall provide the following:
  - 2.1.1 If the EOI Solution, interoperability mapping engine, or biomedical device is upgraded to the latest version, Philips will restore inbound and/or outbound communication to the pre-upgrade condition
  - 2.1.2 Philips' interface support does not include the modification of any interface due to interface changes in third party hardware or software or replacement of Philips interoperability mapping engine product with a different interoperability engine product. In the case of a planned upgrade of the EOI Solution that involves modifications to the interface specifications, Philips requires that detailed technical information on such modifications be made available to Philips at least ninety (90) days in advance of the planned upgrade. In such a case, Philips shall work with the third party to understand changes in interface specifications and format and may modify and upgrade the EOI Solution to support such new interface specifications at a schedule and additional cost to be mutually approved by Philips and the Customer. Philips is not responsible for issues arising from third party modifications to their software or interfaces that result in errors fielding inquiries or sending data to an EOI Solution.

**3. SOFTWARE VERSIONS AND UPDATES.** If a new software version or update is available for the EOI Solution, and the requirements of the Agreement are satisfied, then Philips will upgrade the EOI Solution application software during the term of the Agreement as follows:

- 3.1 Philips will provide Updates and Upgrades of software versions and updates of software for the licensed EOI Solution applications originally purchased by Customer. Such Updates and Upgrades do not apply to third party software including, but not limited to client and server operating system licenses to use such updates, database software licenses, and anti-virus software (unless specifically specified in the Quotation). Such Updates and Upgrades do not include hardware updates or replacement.
  - 3.1.1 Hardware updates and replacement. Software versions, updates and fixes may require hardware updates or replacement. In the case where hardware refresh option is not purchased, Customer is responsible for any such hardware updates or replacements. Upgrade installation and clinical support of the installation are subject to the terms of this Agreement.
  - 3.1.2 Certain functionality and/or clinical application in current and previous software versions may not be available in future new software versions. Philips will provide supporting documentation to each of the Updates and Upgrades.
- 3.2 To receive an Update or Upgrade:
  - 3.2.1 Customer must be in compliance with all terms and conditions of this Schedule and the Philips standard terms and conditions of Sale, including the availability of PRSDC capability and access to the EOI Solution by Philips personnel;
  - 3.2.2 Customer must identify one Customer representative, in writing to Philips, that will manage and be responsible for Customer's selection and scheduling of new software version installations under this Exhibit; and
  - 3.2.3 The EOI Solution that will receive the Upgrade or Update must meet the specifications of the new Update or Upgrade. Customer shall provide the EOI Software Solution hardware or software necessary to meet such specifications.
  - 3.2.4 Philips manages and maintains the lifecycle of its products and old versions of the EI Software and Services Solutions are discontinued from time to time. During the term of this Agreement, Customer shall maintain the EI Software and Services Solution at a currently supported version (or one before that) to receive Service or Upgrades under this Exhibit. In the event that the Customer refuses to an Update or an Upgrade, Philips may terminate the Service Agreement since it is unable to support discontinued versions of the EOI.

**\*\*Unless specifically included elsewhere in this Agreement, software versions and updates do not include applications that**

were not purchased with the EOI Software Solutions, including any third party software, such as virus protection software, third party custom interface software, operating system software for client device or server hardware.

4. **CUSTOMER SUCCESS MANAGEMENT SERVICES.** During the term of the Agreement, Philips will assign a resource familiar with the Customer account, key stakeholders, and contract coverage to provide the following:
  - 4.1 If applicable, Philips will schedule and deliver a remote coverage and status review meeting annually, at a mutually agreeable date and time. The status meeting will focus on available entitlements and planning. The status review may outline all EOI Software Solution service issues resolved during the previous period, and review any open or unresolved issues.
  - 4.2 Prior to delivering any new software version, Philips will coordinate with the Customer assigned resource to identify and mitigate dependencies relative to the software upgrade and other service agreement entitlements.
  - 4.3 The parties will develop a dependency mitigation plan to address resource needs, hardware needs, operating system requirements, interoperability and other dependencies for the deployment of new software upgrade.
5. **ANNUAL REVIEW.** If applicable, Philips and Customer will annually review the EOI Solutions covered by the Agreement to match quantities of equipment, connections, site or annual exam volumes being used by Customer and to adjust price if actual usage exceeds any licenses purchased.



**Schedule 10**  
**Clinical Insights Manager Rev 22**

1. **Application of Terms and Conditions of Sale.** This Clinical Insights Manager Product Specific Schedule ("Schedule") is subject to and incorporated into the Terms and Conditions of Sale. Without limiting the applicability of Section 19 (Product Specific Terms) therein, the following sections of the Terms and Conditions of Sale do not apply to this Schedule: 3 (Philips Security Interest Until Full Payment) 5 (Lease and Trade-In), 9.1 through 9.6 (Product Warranty), and 14, Licensed Software.
2. **Definitions.**
  - 2.1. **Bed(s)** means patient bedsides belonging to Customer that are an endpoint for data collected by the Subscription Service.
  - 2.2. **Deliverables** means materials, work products, and documentation provided and/or delivered as part of the Professional Services.
  - 2.3. **Documentation** means the Instructions for Use (IFU) for the Subscription Service provided by Philips as may be updated from time to time by Philips.
  - 2.4. **Maintenance** means the tracing or repairing of defects of the Subscription Service through Updates and Upgrades made available from time to time, at the discretion of Philips, according to the Service Level Agreement.
  - 2.5. **Order Effective Date** means the date the Quotation is accepted by Customer, as evidenced by the signature of Customer's authorized representative on such Quotation.
  - 2.6. **Order Term** means the period(s) of time specified on the Quotation during which Customer may have a license to access the Subscription Service(s), Professional Services, as described on the Quotation. Each renewal of an Order Term shall be referred to as a ("**Renewal Term**").
  - 2.7. **Professional Services** means the services ordered by Customer and provided by Philips pursuant to this Schedule, including but not limited to installation, implementation, and training, excluding the provision of any Technical Support Services or Maintenance with respect to the Subscription Service or Software.
  - 2.8. **Protected Health Information (PHI)** has the meaning as defined at 45 C.F.R. § 160.103 and is limited to the information Philips (as Customer's Business Associate) received from, or created, received, maintained or transmitted on behalf of, Customer.
  - 2.9. **Quotation** means the quotation offered by Philips and accepted by Customer that describes, among other things, the Services, term, number of licensed Beds, and price.
  - 2.10. **Service Level Agreement** means Philips' Service Level Agreement for Subscription Service as of the Order Effective Date, which is attached hereto as Exhibit A to Schedule 1 of this Agreement. Philips reserves the right to publish revisions to the Service Level Agreement from time to time.
  - 2.11. **Services** means, collectively, the Subscription Service and any Professional Services.
  - 2.12. **Statement of Work (SOW)** means the statement of work made pursuant to and a part of this Agreement, describing the implementation specifications, project plans, or other technical instructions, as applicable and agreed by the parties in writing prior to Philips' commencement of the Services.
  - 2.13. **Subscription Service** means the online, web-based application hosted and provided by Philips via certain websites designated by Philips to Customer on a SaaS basis, including Maintenance and Technical Support Services, as well associated offline components, including the data collector deployed by Philips on Customer's premises (the "**CIM Collector**"), all as described in the Documentation and as specified in the Quotation and Service Level Agreement. Subscription Service includes any software manufactured by 3<sup>rd</sup> parties that is a component of the Subscription Service licensed and managed by Philips.
  - 2.14. **Technical Support Services** means the technical support services provided by Philips for the Subscription Service according to Philips' current published policy for Technical Support Services, as updated by Philips from time to time. Philips current Technical Support Services policy is part of the Service Level Agreement.
  - 2.15. **Third-Party Products and Services** means any hardware, software, peripherals, network, content protected by copyrights, or other equipment or services, other than the Subscription Service or Customer Content, that a) Customer has acquired or may acquire the right to use from a party other than Philips (irrespective of whether it is delivered by Philips), or b) for which Philips is not the original equipment manufacturer.
  - 2.16. **Third-Party Terms** means different or additional terms and conditions governing Customer's use of Third-Party Products and Services as may be supplied directly to Customer by the original equipment manufacturer for such Third-Party Products and Services passed through to Customer by Philips.

- 2.17. **Update** means a minor release (from .x to .y), including bug fixes or limited enhancements, that is made generally available by Philips to all Subscription Service Customers entitled to the Same Subscription Service configuration as Customer.
- 2.18. **Upgrade** means a major release (from x. to y.) of the Subscription Service that may offer substantial enhancements to Customer's purchased configuration of the Subscription Service and that is made generally available by Philips to all Subscription Service Customers entitled to the same Subscription Service configuration as Customer.
- 2.19. **User(s)** means any person who is authorized by Customer to use and access the Subscription Service solely for Customer's benefit, in accordance with this Schedule and has been supplied user identification and password by Customer.

### **3. Subscription Service Access.**

- 3.1. Subject to the terms and conditions of this Schedule, including (without limitation) full and timely payment of fees and Customer's compliance with this Schedule, Philips will, during the Order Term, make the Subscription Service available to Customer and grants to Customer a limited, non-exclusive, non-transferable license, without the right to sublicense, to use the Subscription Service for the Order Term which Customer hereby accepts.
- 3.2. Delivery of the Subscription Service is effective upon Philips first providing Customer with access to Philips' standard instance of the Subscription Service, including installation of the CIM Collector at Customer's premises, as evidenced by Customer's signature of Philips' Customer Acceptance Form. Subscription Service Fees are not contingent on Philips' or Customer's configuration of the Subscription Service, or Customer data acquisition.
- 3.3. Customer agrees that it is entering into the Agreement is neither contingent upon the delivery of any future functionality or features of the Subscription Service nor dependent upon any oral or written statements made by Philips with respect to future functionality or features of the Subscription Service. Philips' sole obligations are documented in this Agreement.
- 3.4. The Subscription Service may not be used in conjunction with more than the number of Beds stated on the Quotation. Additional Bed subscriptions may be added for the Order Term according to Philips' then-current rates, and subject to additional minimum order quantity of not less than a Customer care unit.
- 3.5. Customer will use the Subscription Service solely as contemplated by this Schedule. Furthermore, Customer will not:
- 3.5.1 use the Subscription Service for any purpose other than in conformity with the Documentation including, but not limited to, in a manner inconsistent with any instructions for use;
  - 3.5.2 sell, resell, rent, lease, transfer, assign, distribute, time share, or otherwise commercially exploit or make the Subscription Service available to any third party, other than to Users or as otherwise set forth on the Quotation;
  - 3.5.3 access the Subscription Service in order to (i) build a competitive product or service or (ii) copy any ideas, features, functions or graphics of the Subscription Service; or
  - 3.5.4 exceed the licensed use of the Subscription Service as described in the Quotation.

### **4. Deployment.**

- 4.1. The Subscription Service will be delivered and deployed by Philips or by a subcontractor named by Philips, as specified on the Quotation or SOW.
- 4.2. Customer is responsible for cooperating and performing its deployment responsibilities identified in the applicable SOW without delay.
- 4.3. Customer will maintain adequate internet connection bandwidth in compliance with the Documentation.
- 4.4. The parties understand that there may be instances where a performance obligation of Philips or Customer is dependent on a precedent performance obligation of the other party. In the event the other party does not perform its precedent performance obligation as of the scheduled date or in accordance with the specifications for such precedent performance obligation, such that the non-delaying party does not have adequate or sufficient time to fulfill its obligations in a commercially reasonable manner and stay within the agreed-upon schedule, the non-delaying party will be entitled to take a reasonably necessary amount of time to complete its performance obligation not less than the length of the delay engendered by the delaying party.
- 4.5. For any changes to Services (excluding modifications made by Philips to the Subscription Services generally applicable to all similarly situated Philips' customers), the parties will follow the change control procedure as set out in this clause. At any time during the applicable Order Term, either party may request a change to the SOW, but no such change will be effective and binding unless a written change order is agreed and signed by authorized representatives of both parties. For the avoidance of doubt, and notwithstanding anything to the contrary, a change order can only amend the technical and commercial conditions of the applicable Quotation or SOW and will not in any event amend any of the Terms and Conditions of Sale (e.g., relating to allocation of legal liability or compliance with regulatory requirements).
- 4.6. Philips may subcontract to contractors of Philips' choice any of its obligations to Customer or other activities performed by Philips under this Schedule. No such subcontract will release Philips from its obligations to Customer set forth herein.

### **5. Service Fees.**

- 5.1. Unless otherwise specified in the Quotation, Philips will invoice Customer, and Customer will pay such invoice within thirty (30) days of receipt.
- 5.2. Unless otherwise set forth in the Quotation, Subscription Service fees will be invoiced by Philips upon delivery of the Subscription Service, and then every twelve (12) months from the start of the Order Term.
- 5.3. The implementation services fee will be billable upon the Order Effective Date
- 5.4. In the event Customer has exceeded its use of the Subscription Service beyond the maximum number of Beds identified on the Quotation, Philips will invoice, and Customer will pay, Philips' then-current Fees for such additional Beds, subject to minimum order quantity of not less than an entire care unit for the remainder of the Order Term.
- 5.5. Subscription Service Fees are not decreased based on actual usage.

## **6. Responsibilities of Parties.**

- 6.1. Philips will provide Technical Support Services in accordance with the Quotation and make the Subscription Service available in accordance with the Service Level Agreement.
- 6.2. Customer is responsible for Customer's own infrastructure necessary to access the Subscription Service, including (but not limited to) (network) connectivity, as well as maintenance for the same. Customer must employ industry-standard virus protection software and security protection for Customer's infrastructure used to access Subscription Service.
- 6.3. Customer will provide full and timely cooperation with Philips' Technical Support Services resources.
- 6.4. Customer will insure and back up all Customer Content provided to Philips under this Schedule. Philips shall not be responsible for any losses or damages related to or resulting from loss of Customer Content.
- 6.5. Customer is responsible for all activities that occur in User accounts and for Users' compliance with this Schedule. Customer will: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content in the Subscription Service; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Subscription Service, and notify Philips promptly of any such unauthorized access or use and promptly furnish full details of such use or access, and cooperate fully with Philips in any litigation against third parties deemed necessary by Philips to protect Philips' proprietary and contractual rights; and (iii) ensure the proper configuring, programming, updating, and operating of Customer's hardware, software, websites, content, and telephone and internet connections to allow access to and use of the Subscription Service.
- 6.6. Customer agrees to comply with any and all Third-Party Terms as they are disclosed to Customer in writing in connection with Customer's use of Third-Party Products and Services.

## **7. Warranty.**

- 7.1. Philips warrants that the Subscription Service will perform materially in accordance with the Documentation during the Order Term.
- 7.2. If the warranty set out in clause 7.1 is breached, Customer must promptly notify Philips in writing. Upon receipt of such notice, Philips will use commercially reasonable efforts to repair or modify the Subscription Service to make it perform in accordance with the Documentation. All corrections will be made in accordance with Philips' Subscription Service Technical Support Services Policy. Philips does not represent or warrant that all errors can be corrected. If, after using commercially reasonable efforts for a period not less than thirty (30) days, Philips is unable to replace or repair the Subscription Service, Customer may terminate this Schedule without liability upon written notice to Philips. The foregoing are Customer's sole and exclusive remedies for breach of this warranty.
- 7.3. The warranty set forth herein will not apply if the warranty claim arises out of Customer's: (a) use of the Subscription Service contrary to the Documentation; (b) modification of the Subscription Service; or (c) failure to provide prompt notice to Philips as set forth in Section 7.2 of this Schedule.
- 7.4. The warranty set forth in this Schedule does not apply to any Third-Party Products and Services. Warranties for Third-Party Products and Services (if any) may be supplied directly to Customer by the third-party suppliers.
- 7.5. The warranty in clause 7.1 is made to and for the benefit of Customer only. Except as specifically set forth in THIS SCHEDULE, Philips makes no representations OR warranties, express or implied, relating to the Subscription Service, including but not limited to any warranty that the Subscription Service will meet Customer's requirements, or will operate error free or uninterrupted. Philips specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, non-infringement of third-party rights or any warranties regarding the quality of Customer Content, except to the extent that any warranties implied by law cannot be validly waived.
- 7.6. Philips is not responsible for circumstances beyond its control, including without limitation: non-Philips' supplied infrastructure or application programming interfaces, single sign-on capability, hardware, virtual machines, network (connectors), information, content, software, scripts, data, files, application programming, web servers or service, materials, equipment; acts or omissions of Customer or its agents; virus or hacker attacks; intentional shutdown for emergency

intervention or security incidents; acts or omissions of a party other than Philips; Customer's failure to comply with Philips' Documentation and security and upgrade policies; or Customer's use of Subscription Service in violation of this Schedule.

## **8. Technical Support Services.**

- 8.1. Technical Support Services will be provided by Philips to Customer according to the Terms and Conditions of Sale set forth in the Quotation and the Service Level Agreement.
- 8.2. Philips is not obligated to provide any technical support services for Third-Party Products and Services, including (without limitation) Customer's networks or installation of networks.
- 8.3. Remote Servicing. If applicable to a component of Subscription Service, as informed by Philips, during the applicable warranty and any Technical Support Services period agreed hereunder, if any, Customer will provide Philips at each site a dedicated high-speed broadband internet connection suitable to establish a remote connection to the component and to facilitate the realization of the required remote infrastructure in order for Philips to provide remote servicing of the component by:
  - 8.3.1 supporting the installation of a Philips-approved router (or a Customer-owned router acceptable for Philips) for connection to the component and Customer network (which router remains Philips' property if it is provided by Philips and is only provided during the term of this Quotation);
  - 8.3.2 maintaining a secure location for hardware to connect the Product to the Philips Remote Service Data Center ("PRSDC");
  - 8.3.3 providing and maintaining a free IP address within the site network to be used to connect the component to the Customer's network;
  - 8.3.4 maintaining the so-established connection throughout the applicable warranty and Customer service period (including restraining from any temporary disconnection or disabling of such connection); and
  - 8.3.5 facilitating the reconnection of the above in case any temporary disconnection occurs.
- 8.4 If Customer fails to provide the access described in this clause 8, and the component is not connected to the PRSDC (including any temporary disconnection), Customer accepts any related impact on Subscription Service availability, additional cost and speed of resolution.

## **9. Obsolescence.**

- 9.1 Customer acknowledges and agrees that the Subscription Service functionality, features, specifications, and Documentation are subject to change by Philips at any time, provided that Philips will not materially degrade the functionality or security of the Subscription Service and will provide reasonable advanced notice of any substantial changes.
- 9.2 Philips may determine that the Subscription Service is obsolete or will otherwise be discontinued and that no version will be maintained or supported. Accordingly, Philips may no longer provide the Subscription Service or Maintenance or Technical Support Services for same. In such event, Philips may, with 180 days' prior notice, terminate the Agreement, and provide Customer with a refund of any pre-payments for periods of any Maintenance and Technical Support Service and Subscription Service not yet rendered.

## **10. Audit Rights and License.**

- 10.1. For the duration of the Order Term and for a period of six (6) months after its termination, Customer will allow Philips to carry out audits, including (without limitation) electronic audits, of Customer's use of the Subscription Service in order to verify Customer's compliance with the terms of this Schedule.
- 10.2. The Subscription Service incorporates license management tools and technology to ensure Customer complies with this Schedule and to allow Philips to exercise self-help remedies in the event temporary or permanent suspension of Customer's use of the Subscription Service is required in accordance with clause 14.5 herein. Philips will not exercise any such self-help remedies without prior written notice to Customer, unless such prior written notice is reasonably not possible, for instance, with regard to the protection of the security of the Subscription Service. Customer consents to such license management tools and technology and their use by Philips on the conditions above.

## **11. Privacy.** The parties acknowledge that Philips may process PHI on behalf of Customer as part of the Subscription Service and accordingly agree that Philips' processing of such PHI will be done in accordance with the terms of the Business Associate Agreement agreed by Customer and Philips, as set forth in clause 14.3 of the Terms and Conditions of Sale.

## **12. Intellectual Property Rights.**

- 12.1. Ownership. Except for the limited-use license explicitly granted to Customer herein, Philips owns all rights, title and interest, including intellectual property rights, in and to the Subscription Service, Deliverables, Documentation and other Philips' confidential information and all modifications and derivative works of each of the foregoing.
- 12.2. Feedback. Philips will have the right to use in any manner that Philips determines any suggestion, idea, enhancement request, feedback, recommendation, or other information relating to the Subscription Service that Customer may supply or communicate (collectively, "Feedback") and Customer agrees that Philips will be the exclusive owner of any intellectual

property rights therein or arising from Philips' use of such Feedback.

- 13. Customer Indemnification.** Customer understands and agrees that the Subscription Service is an informational tool only and not a substitute for the professional judgment and care of healthcare providers in diagnosing and treating patients. Customer will defend and indemnify Philips against any and all losses and liabilities in connection with any claim arising from Customer's use of the Subscription Service contrary to the Documentation or instructions for use provided by Philips, or from Customer's failure to maintain adequate backup procedures to maintain continuity of patient care in the event of Subscription Service unavailability. Customer further agrees to defend and indemnify Philips against any and all losses and liabilities in connection with any claim: 1) that Customer Content infringes the privacy or intellectual property rights of another party or 2) arising out of Customer's noncompliance with Third-Party Terms.

**14. Term and Termination.**

- 14.1. **Order Term.** The Order Term, and the applicability of this Schedule, commences on the Order Effective Date, and unless otherwise set forth on the Quotation, Order Terms (and each Renewal Term) will renew automatically for a Renewal Term of one (1) year, provided that Customer may opt not to renew an Order Term for any reason with ninety (90) days' written notice prior to the renewal date, and Philips may opt not to renew for any reason with 180 days' notice prior to the renewal date.
- 14.2. **Termination for Breach.** Either party may terminate an Order Term upon a material breach of this Agreement by the other party if such breach is not cured within thirty (30) days after receipt of written notice specifying the breach. Termination or expiration of the Order Term will result in termination of this Schedule.
- 14.3. **Effect of Termination and Expiration.** Termination of the Schedule for any reason will not constitute a termination of any other orders, or schedules made under the Terms and Conditions of Sale that are not subject to this Schedule, and will not relieve Customer of any of its obligations incurred prior to such termination including, but not limited to, payment of all outstanding invoices for Subscription Service performed until the effective date of such termination and will not impair any of Philips' rights which have accrued prior to such date. In the event of termination due to Customer's breach: a) all fees or charges due for the remaining period of the Order Term will immediately become due and payable and b) Philips' obligations under this Schedule will cease. Upon termination or expiration of this Schedule or the Order Term, for any reason, Customer will immediately cease accessing the Subscription Service.
- 14.4. **Customer Content.** For a period of ninety (90) days after the effective date of termination or expiration, Philips will make available to Customer for download the Customer Content stored in the Subscription Service. After such ninety (90) day period, Philips will have no obligation to maintain or provide any Customer Content and will have the right, unless legally prohibited, to delete all such Customer Content in its systems or otherwise in its possession or under its control.
- 14.5. **Suspension of Service.** In addition to any of its other rights or remedies Philips may, at its discretion, suspend the Subscription Service or Professional Service, where Customer has failed to perform any obligation under this Schedule where such breach is irremediable or, if the breach is remediable, fails to remedy such breach within thirty (30) days after being notified in writing to do so. Philips will not exercise this remedy without prior written notice to Customer, unless such prior written notice is not reasonably possible, for instance, with regard to the protection of the security of the Subscription Service.

**15. Professional Services Terms.**

- 15.1. **Recommendations Only.** The Professional Services may include advice and recommendations, such Services are advisory in nature, Customer is responsible for evaluating such advice and considering all relevant factors and shall be solely responsible for the decision to implement such advice and any and all outcomes.
- 15.2. **Timelines and Labor Hours.** Unless expressly agreed upon between the parties in writing, any hours and dates described in the Quotation and/or SOW, including (without limitation) with regard to milestones and Deliverables, are estimates only and are solely intended for Philips' budgeting purposes and resource-scheduling purposes. Philips exceeding an estimate does not constitute a breach by Philips.
- 15.3 **Fees, Expenses, and Payment.**
- 15.3.1 If the Quotation includes more than one Deliverable (for example, multiple projects) and each such Deliverable has a price associated with it, then (i) each such Deliverable will be deemed to be a standalone item, (ii) Philips may invoice for each item as it is delivered, and (iii) Customer will pay for each item as it is invoiced.
- 15.3.2 Unless expressly stated otherwise in the Quotation, in addition to the Fees, Customer will reimburse Philips for all expenses actually incurred by Philips in performing the Professional Services, including travel, lodging, meals, transportation, and other customary out-of-pocket expenses. At Customer's request, Philips will furnish reasonable documentation supporting all such expenses.
- 15.3.3 Unless a Quotation explicitly sets forth the Deliverable to be provided on a fixed fee basis, Professional Services are Quoted on an hourly basis, and any totals listed are estimates of the total required for the Deliverable/Professional Services, Customer will be invoiced on the actual hours spent performing the Professional Services. Such invoice may exceed the total estimated hours listed in the Quotation. If Philips foresees that the estimated number of hours will be exceeded, it will use commercially reasonable efforts to inform the Customer thereof.

15.4 License for Use. Professional Services Deliverables are provided under a nonexclusive, nontransferable license for Customer's use in its internal operations subject to Customer's continued compliance with the terms of this Schedule.

15.5 Customer's Responsibilities. Philips' responsibility to provide the Professional Services, meet the milestones (if any), and provide Deliverables is contingent on Customer meeting its responsibilities in a timely and appropriate fashion, free of charge. If Customer fails to meet such responsibilities, it may result in an increase in the Fees, or in delays or extensions of the agreed milestones or Deliverables. Customer will provide:

- 15.5.1 access to Customer's employees, representatives, or agents required to accomplish the objectives described in the Agreement;
- 15.5.2 access to relevant information and materials (written and electronic) as needed to accomplish the objectives described in the Agreement;
- 15.5.3 prompt written notification to Philips if Customer knows that earlier-provided information or materials are incorrect or have changed in such a way that any inaccuracy or change may impact Philips' delivery of the Professional Services in any way;
- 15.5.4 written information to Philips identifying all healthcare and other regulatory and quality requirements applicable to the Professional Services, and Customer will obtain all required approvals of the relevant governmental or regulatory bodies to permit Philips to perform the Professional Services for Customer;
- 15.5.5 Philips personnel with adequate safety and other training and familiarize them with local procedures and rules of Customer;
- 15.5.6 written feedback promptly upon Philips' request; and
- 15.5.7 Philips with a Customer representative, in writing, who will be responsible for providing the items described in this clause 15.4 and any other information, materials, or feedback requested by Philips in connection with the Professional Services.



## Schedule 10A Rev 22

### 1. Service Level Agreement

- 1.1 This is the Service Level Agreement describing the hosting, Maintenance, and Technical Support Services, provided as part of Philips' Clinical Insights Manager solution (the "**Subscription Service**"). Philips reserves the right to change, update, or modify this Service Level Agreement from time to time upon publication to Customer. This Agreement is subject to the Subscription Service terms and conditions agreed between Customer and Philips or the Philips authorized reseller making Subscription Service available to Customer (the "**Agreement**").

### 2. Definitions, Terms and Abbreviations

- 2.1 The terms that start with an uppercase letter have the meaning assigned to them in this SLA. Terms that start with an uppercase letter and are used in this SLA, but are not defined therein, have the meaning assigned to them in the Agreement.

Availability	This is the guaranteed access to the Software on the Production Environment, excluding the Scheduled Downtime.
On Premise Software (CIMCollector)	The software component of the CIM Collector provided by Philips that will be installed on the customer provided virtual environment.
Customer Provided Infrastructure	The hardware and the Virtual Environment provided by the customer on which the Software runs.
Philips Production Environment	The cloud-based environment that is maintained by Philips to store and access data built and hosted on Philips' Health Suite Digital Platform ("HSDP"). Excludes any test or acceptance environment.
Maintenance Window	The agreed periods during which Scheduled Downtime takes place to perform maintenance for: <ul style="list-style-type: none"> <li>On Premise Software</li> <li>Customer Provided Infrastructure</li> <li>Philips Production Environment</li> </ul>
Priority	The relative evaluation of a Ticket's priority with respect to other Tickets.
Modification	A supplement, change or deletion in the Subscription Service.
Response Time	The time that lapses between the moment a Ticket is submitted and the moment Philips shares the first feedback on the Ticket status (Assigns Priority) with the Customer.
Scheduled Downtime	The time that the Subscription Service is unavailable due to scheduled maintenance, as further detailed under section 3.2.
Software	Collectively or individually, the On Premise Software, or software components deployed in the Philips Production Environment, delivered by Philips to the Customer, as further specified herein.
Support Desk	The point of contact with Philips for providing support on the Subscription Service to the Customer. (Customer Service Center)
Support System	The information system in which Customer support requests are registered.
Ticket	A support request submitted by Customer to the Support Desk in the Philips Support System, including issues, requests, questions or other notifications regarding the Subscription Service.
Working Day/Hours	The Philips Customer Service Center is available weekdays 8AM-5PM local time at 800-722-9377
Workaround	A method indicated by Philips to avoid the consequences of an issue as far as possible, without the need for a new update to Subscription Service, which enables Customers to use the Subscription Service uninterrupted as far as possible.

### 3. Service Overview

- 3.1 Below is a table summarizing the different services offered by Philips. What the customer is entitled to is indicated on the Quotation agreed by Philips and Customer.

Section	Service
1	Installation/Configuration and Onboarding
2	Clinical Training
3	Technical Support
4	Subscription Service updates (Including Maintenance Window)
5	Privacy

#### 4. Installation/Configuration and Onboarding

- 4.1 The installation of the CIM Collector will be performed by authorized Philips Personnel. The installation will be on a customer provided virtual machine, as specified by the CIM System Administrator Guide. Typical steps will include.
- 4.2 Deploy cloud-based software component of Subscription Service (on HSDP).
- 4.3 Install and Configure CIM Collector.
- 4.4 On-Boarding Client Users.
- 4.5 Active Directory & Connectivity Configuration.
- 4.6 Inspection of Data Collection.
- 4.7 Inspection of Data Send/Storage/Access.
- 4.8 Inspection of CIM/AIM Client Function.

The deployment completion will include solution test and inspection to ensure reliable function prior to transition to support.

#### 5. Clinical Training

- 5.1 The Subscription Service includes support from a Philips Clinical Professional Services consultant (limit 100 hours/year upgradeable to 400 hours/year) to help the customer in their quality improvement and research needs, following a proven, straightforward approach grounded in partnership and accountability.
- 5.2 Example of this support may be, but not limited to:
  - 5.2.1 Clinical onboarding & system review:
  - 5.2.2 Facilitation of clinicians per care area (kick-off workshop)
  - 5.2.3 Onboarding of clinicians per care area support.
- 5.3 Access keys to CIM web-based e-learning module.
- 5.4 Additional support for data extraction and viewing tools.
- 5.5 Sentinel Event Analysis (If CIM Data Viewer and 400 hours/year available).
- 5.6 Alarm foundation consulting (if AIM available)
- 5.7 Alarm analysis consulting (If AIM and 400 hours/year available)

#### 6. Technical Support

- 6.1 The Customer is responsible for the (primary) support of the Customer's Users and shall appoint local support staff and set up appropriate processes and facilities to deal with User creation and maintenance.
- 6.2 Customer will be responsible for provisioning and maintaining (operating system, malware protection and security aspects) the virtual environment for the On-Premise Software.

- 6.3 The CIM System Administrators Guide will contain detailed specifications necessary for the virtual machine host and the CIM Collector.
- 6.4 Philips provides second- and third-line support on the Subscription Service. A Support Desk has been set up for this purpose. The Support Desk assists by providing advice or registering and resolving Tickets with respect to the Subscription Service.
- 6.5 The Support Desk can be reached on Working Days during Working Hours (from 8:00 to 17:00 local time) by telephone and e-mail.
- 6.6 The Support Desk Support Engineer will record the customer inquiry using the Support System to capture the details, creating a visible, traceable record (Case) for the matter. The Ticket may then be assigned/transferred to the necessary/appropriate support outlet or regional contact for the appropriate support skillset.

## **7. Subscription Service updates (Including Maintenance Window)**

- 7.1 Philips carries out several updates of the Subscription Service each year. These updates could be for either the:
  - 7.1.1 On Premise Software, or
  - 7.1.2 Philips Production Environment
- 7.2 Any updates done for Customer Provided Infrastructure is not controlled by Philips.
- 7.3 If updates for the On-Premise Software cannot be performed during Working Hours, they will be scheduled outside Working Hours in consultation with the Customer.

## **8. Maintenance Window**

- 8.1 On Premise Software:
 

Standard maintenance and updates for the On Premise Software component is carried out on Working Days. If maintenance cannot take place during Working Hours, the Customer may request that the maintenance will be carried out outside office hours. Maintenance is performed by Philips' personnel either onsite or Remote based on the type and issue.
- 8.2 Philips Production Environment (Including maintenance by hosting Provider):
  - 8.2.1 Maintenance of the Software for the Philips Production Environment takes place on an average of five to ten times a year and will be performed on Thursday evening between 17:30 and 23:00 CET. Some of these maintenance activities (on an average of two to three times) could be a longer Scheduled Downtime. The execution of this longer Scheduled Downtime will take place with notification to the Customer.
  - 8.2.2 In case of unexpected and/or unplanned situations, maintenance can also take place at other times. This will be kept to a minimum and will be announced to the Customer in advance when possible.

## **9. Privacy**

- 9.1 CIM provides two configuration options to ease any concerns related to privacy. The options provided are as follows:
  - 9.1.1 Send Personally Identifiable Information ("PHI") to the HealthSuite. In this case, all PHI is encrypted using SSL certificates over secure HTTPS. PHI is encrypted in flight and at rest in HealthSuite.
  - 9.1.2 Do not send PHI to HealthSuite. In this case, no PHI is sent to the HealthSuite. Only bed and unit labels are sent. In this case, the Data Analysis & Review application displays patients by bed and clinical unit only. The AIM dashboard is not affected since it does not have any PHI related views.

**Schedule 11**  
**Informatics Service Agreement Essential (ISA Essential) Rev 22**

**1. SERVICES PROVIDED**

- 1.1 Commencing on the Effective Date of the Agreement and subject to the limitations below, Philips will provide the ISA ESSENTIAL Subscription Service described herein or as otherwise specified on the quotation(s), as further defined below and identified on the quotation. ISA ESSENTIAL is a service designed solely for Customers who have purchased Philips patient monitoring system at the bedside and PIC iX central stations. ISA ESSENTIAL provides a per Bed/Sector based subscription with some cybersecurity services as well as remote support and clinical and technical implementation services to manage the delivery of a PIC iX software upgrade over a multiyear term.
- 1.2 This ISA ESSENTIAL Specific Schedule ("Schedule") is subject to and incorporated into the Terms and Conditions of Sale. Without limiting the applicability of Section 19 (Product Specific Terms) therein, the following sections of the Terms and Conditions of Sale do not apply to this Schedule: 3 (Philips Security Interest Until Full Payment) 5 (Lease and Trade-In), 9.1 through 9.6 (Product Warranty), and 14, License Software Terms.

**2. DEFINITIONS**

- 2.1 **"Agreement" or "ISA ESSENTIAL Agreement"** refers collectively to the quotation, this Schedule, and the Philips Healthcare Terms and Conditions of Sale. In the event of a conflict between any of the terms and conditions, the terms of the quotation will govern, followed by this Schedule, and then the Philips Healthcare Terms and Conditions of Sale.
- 2.2 **"Bed"** means a physical location which includes actual patient care beds and have a patient monitoring system capability.
- 2.3 **"Sector"** means the licensing schema for the PIC iX software. Customer's purchased quantity of Sectors shall appear on the quotation, and Customer shall be charged for additional Sectors during the True Up process if Customer exceeds the currently licensed quantity of Sectors. This licensing schema describes a license assignment on a central station where a patient and the related monitoring equipment have been assigned and is often used interchangeably with patients as that is how an Authorized User experiences this model. When describing Philips obligations for ISA ESSENTIAL Subscription Services it is described on a per Sector basis.
- 2.4 **"Software Version" or "Software Revision"** means the introduction of a major release of the software available to Customer under this Schedule. For illustrative purposes, without limitation, a release of PIC iX Rev. B to PIC iX Rev C.
- 2.5 **"Software Update"** means minor enhancements or improvements to performance, maintainability, and serviceability of the software available to Customer under this Schedule.
- 2.6 **"Software Fix"** means the correction of an error or bug of the software available to Customer under this Schedule which are provided as an included feature of the service under this Agreement.
- 2.7 **"Subscription Fee"** means the fee charged to Customer for each equipped patient monitoring device regardless of whether its occupied or used for patient care and number of Sectors equipped which includes ISA ESSENTIAL Subscription Services and which is rolled up to a single per Monitored Bed fee.

**3. TERM**

- 3.1 **Term.** The term of the Agreement is defined in the quotation and the end date for all Beds and associated Sectors will be co-terminus regardless of when they are added to the Agreement. For Beds where the Hospital Patient Monitoring products have not been installed by Philips prior to execution of the first quotation for ISA ESSENTIAL Subscription Services, the Agreement term will commence immediately following installation and availability for first patient use. For existing bedside monitoring systems or renewals of existing ISA ESSENTIAL Subscriptions Services, the start and end date of the Agreement shall be defined in the quotation.
- 3.2 **Renewal Notice.** Customer may elect not to renew the ISA ESSENTIAL Agreement by providing a non-renewal notice to Philips no less than six (6) months prior to the expiration of the current Term.
- 3.3 **Conclusion of Term.** Either Party may terminate this Agreement upon written notice in the event that the other Party becomes or is deemed to be insolvent, discontinues business, is unable to pay its debts, is the subject of bankruptcy proceedings, enters into liquidation whether compulsory or voluntarily or has a receiver or administrator appointed over all or any part of its assets, enters into any arrangement or agreement, or assignment with, or for the benefit of its creditors or any of them, or if the other Party takes or suffers any similar action in consequence of debt or insolvency in any jurisdiction.

3.3.1 Customer may terminate this Agreement, wholly or partially, upon 60 days written notice to Philips:

- a) representing that any of the Equipment is being permanently removed from the Site and is not being used in any other Customer site, or
- b) specifically describing a material breach or default of this Agreement by Philips, provided however that Philips may avoid such termination by curing the condition of breach or default within such 60 days' notice period.

3.3.2 Philips may terminate this Agreement, wholly or partially,

- a) if Customer defaults in the performance of any of its obligations under this Agreement, and fails to remedy the same within thirty (30) days of a written notice;
- b) as described in section 11 (End of Life / End of Support).

#### 4. **TELEPHONE AND REMOTE SUPPORT**

- 4.1 **Telephone Support.** Telephone and Remote Support coverage is included with all ISA ESSENTIAL Agreements. Technical and Clinical Telephone and Remote Support coverage services are available twenty-four (24) hours per day, seven (7) days per week, including Philips-recognized holidays.
- 4.2 **Remote Access and Diagnostics.** Philips may remotely access any Customer system provided by or required to perform Services. Customer shall provide Philips remote access to all elements of Customer's patient monitoring solution covered by this Agreement.
- 4.3 **InCenter Access.** Philips will provide Customer access to Philips' web-based support tool for the Covered System(s) under this Agreement.
- 4.4 **Online Education.** Customer shall be entitled to access those online courses covering core concepts of purchased Philips product/system through the Philips Learning Center. Core concept courses provide orientation to basic system functionality and are managed through the PM Clinical Education - Essential Subscription. Access will be terminated at the end of the term of this Agreement.

#### 5. **ISA ESSENTIAL ENTITLEMENTS** Subscriptions come with the following:

- 5.1 **Validated OS Patches.** Philips shall make available through Focal Point validated OS patches for Customer Sectors. This entitlement does not include any extended support which must be separately purchased from Microsoft.
- 5.2 **PIC iX Software.** Customer is entitled to one (1) software upgrade during the term of the contract for the PIC iX covered in the ISA ESSENTIAL agreement.
- 5.3 **Software Functionality.** Customer acknowledges that certain functionality in current and previous software versions may not be available in future new software versions. Customer is not entitled to any package, functionality, or configuration of the software not appearing on Customers quotation. This exclusion does not prevent Customer from receiving anything that was moved to the general release available to all customers.
- 5.4 **Hardware updates and replacement.** Software versions, updates, and fixes may require central server/nursing station laptop hardware updates or replacement. Customer is responsible for any such hardware updates or replacements.
- 5.5 **Restrictions.** To receive new software under this Agreement:
  - 5.5.1 **Contract Compliance.** Customer must be in compliance with all terms and conditions of this Schedule and the Agreement, including the availability of PRS capability and access to the Covered System by Philips personnel.
  - 5.5.2 **Customer Engagement.** Customer must identify one (1) Customer representative, in writing to Philips, that will manage and be responsible for Customer's selection and scheduling of new software version installations under this Schedule.
  - 5.5.3 **Technical Compatibility.** The Covered System that will receive the version or update must meet the specifications of the new software version. Customer shall provide the Covered System hardware or software necessary to meet such specifications.
  - 5.5.4 **Excluded Services.** Unless specifically included elsewhere in this Agreement/the quotation, software versions and updates do not include applications that were not purchased with the Covered System, including virus protection software, custom interface software, or software updates of third-party software (e.g., Citrix).
  - 5.5.5 **Minor Defects.** Philips shall have no responsibility to provide software versions or updates for minor

software defects that do not impact the intended use of the software or impact patient care.

5.5.6 Resale. Customer may not resell, transfer, or assign the right to such versions, updates, or fixes to any third party. All versions and updates provided to the Covered System under this Schedule are subject to the terms and conditions of this Schedule, the Agreement, and any license terms and conditions included in the purchase of the product from Philips or later provided to Customer by Philips.

5.5.7 Notice. Philips will notify Customer if a new version update or upgrade is available.

## 5.6 PerformanceBridge Focal Point

5.6.1 Focal Point. During the term of this subscription Agreement, Philips will provide Customer access to use PerformanceBridge Focal Point Licensed Software ("Focal Point"). Access to Focal Point is available to Customer and Philips support personnel working on-site and remotely. Philips will install Focal Point on virtual or physical hardware, pursuant to the system installation and reference guide. Customer will be entitled to all new software versions, updates, telephone and remote support during the term of the Agreement.

5.6.2 License Grant. The Licensed Software shall be used only on the product(s) covered under this Agreement. Each license hereunder is limited to one instance of Focal Point per Customer site/location included in the quotation, and each Focal Point instance is limited to 4,000 device/node connections. A device or node refers to an IP addressable network node, which is a configured component of a Philips Patient Monitoring System/Solution. If additional Focal Point instances are required, determined solely by Philips, they will be provided upon mutual agreement of both parties. If there is more than one site or location, Customer must purchase the appropriate software maintenance coverage for each additional site or location to receive access to the Focal Point license.

5.6.3 Administrator Account. Customer acknowledges that the Philips Administrator Account of the Licensed Software, and any related login credentials that Philips provides to Customer, shall not be used, and Customer agrees not to so use, for any reason. Instead, the Licensed Software's Philips Administrator Account functionality is for use only by Philips and its authorized service representatives.

5.6.4 Product Coverage. The Licensed Software shall be used only on the product(s) referenced in the quotation ("Products"). Customer may transfer the Licensed Software in connection with sale of the Product to a healthcare provider who accepts all of the terms and conditions of this License and Agreement, provided that Customer is not in breach or default of this License, this Agreement, or any payment obligation to Philips.

5.6.5 Modifications. If Customer modifies the Licensed Software in any manner, all warranties associated with the Licensed Software shall become null and void. This does not apply to patches or software updates provided by Philips to Customer. If Customer or any of its officers, employees, or agents should devise any revisions, enhancements, additions, modifications, or improvements in the Licensed Software, Customer shall disclose them to Philips, and Philips shall have a non-exclusive royalty-free license to use and to sub-license them.

5.6.6 The Licensed Software is licensed to Customer on the basis that (a) Customer shall maintain the configuration of the products as they were originally designed and manufactured and (b) the product includes only those subsystems and components certified by Philips. The Licensed Software may not perform as intended on systems modified by anyone other than Philips or its authorized agents, or on systems which include subsystems or components not certified by Philips. Philips does not assume any responsibility or liability with respect to unauthorized modification or substitution of subsystems or components.

5.6.7 Application Patches. From time-to-time, the Licensed Software may require the remote installation of certain application updates, upgrades, or enhancements to properly maintain the application in accordance with Philips' specifications ("Application Patches"). Working with Customer, Philips reserves the right to manage all Application Patches. These Application Patches will be sent securely from Philips' remote Health Suite Digital Platform (HSDP) to Customer's premise by means of Philips' IoT Hub Service Edge Gateway. If the IoT Hub Service Edge Gateway is not deployed on Customer's premise, then Philips will be prevented from remotely installing Application Patches to properly maintain the application in accordance with Philips' specifications.

5.6.8 OS Patches. Focal Point will periodically synchronize with a remote HSDP-based master Window Server Update Services (WSUS) server as defined within the Microsoft WSUS documentation. This synchronization is required for the Focal Point OS Patching feature to maintain an updated list of which Microsoft OS patches have been qualified by Philips and is required for the Focal Point OS Patching feature to function.

5.6.9 Processing of Personal Data. Other than as set out in Section 5.7 herein, in the event that Customer requests Philips to do so, Philips will process Personal Data only on instruction of Customer as set out in the Agreement and/or other communications made by Customer to Philips (where such instructions are consistent with the

terms of the Agreement), unless otherwise required by applicable law ("Instruction(s)"). Customer warrants (a) that its Instructions will comply with applicable law including in relation to the protection of Personal Data and (b) that its Instructions will not cause Philips to violate applicable law. "Personal Data" means the information relating to an identified (or identifiable) individual, and collected, received, generated or otherwise obtained or processed by Philips in relation to or in the context of the Agreement or the relationship with Customer.

- 5.6.10 **Instructions to Philips.** The Licensed Software will collect and aggregate machine-to-machine data which may include certain Personal Data (e.g., IP addresses) ("Machine Data"). Customer hereby instructs Philips to process Personal Data (to the extent Personal Data is included in the Machine Data) for or in relation to performing the Services to Customer and other obligations under this Agreement, and as necessary to comply with other reasonable instructions provided by Customer where such Instructions are consistent with the terms of this Agreement. Customer represents and warrants to Philips that, prior to activation of the Philips' remote access to Customer's IT network: (1) Customer has the right and the authority to provide the Personal Data to Philips for Philips' use of such data pursuant to this Agreement, including cross-border transfers; (2) Customer has provided any required notices and obtained any required consents from individuals as required by applicable law to collect and process their Personal Data (which may include medical and health data); (3) Customer is fully and solely responsible for the accuracy, legality and consistency of the Personal Data it provides to Philips, and (4) Customer's provision to Philips of the Customer Data and Philips' use of Personal Data pursuant to this Agreement will not violate any applicable law, or privacy policy.
- 5.6.11 **Inability to Provide Data.** Customer will notify Philips without undue delay if Customer becomes aware that Customer is unable to meet its obligations under this Section 5. In such cases, Philips will work with Customer in good faith to determine whether and how to deliver the Services.
- 5.6.12 **Protection of Data.** Philips will take appropriate commercially reasonable technical and organizational measures to protect the Personal Data, at a level appropriate to the risk, of accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access during the processing.
- 5.6.13 **Use of Machine Data.** Philips acknowledges and agrees that Customer owns all Machine Data. Customer hereby licenses the Machine Data to Philips for use, processing, and aggregation consistent with this Agreement. Philips' usage will be solely in a primary usage manner to deliver functionality and services to Customer, which includes but is not limited to the aggregation and processing of Machine Data to enable users of the License Software (including Philips) to see statistical and reporting information and to troubleshoot problems that may arise. Customer acknowledges that it can access and copy Machine Data at any time through the Licensed Software application, and that Customer may request in writing that Philips delete the Machine Data.

**5.7 District Service Manager.** During the term of the Agreement Philips will assign a District Service Manager familiar with Customer account, key stakeholders, and contract coverage to provide the following:

- 5.7.1 **Annual Meeting.** Philips will schedule and deliver a remote coverage and status review meeting annually, at a mutually agreeable date and time. The status meeting will focus on available entitlements and planning. The status review may outline all Covered System service issues resolved during the previous period and review any open or unresolved issues.
- 5.7.2 **Coordination.** Prior to delivering any new software version, Philips will coordinate with Customer assigned resource to identify and mitigate dependencies relative to the software upgrade and other service agreement entitlements.
- 5.7.3 **Planning.** The parties will develop a dependency mitigation plan to address resource needs, hardware needs, operating system requirements, interoperability, and other dependencies for the deployment of new software upgrade.

**5.8 Cybersecurity Assessment.** During the term of this Agreement, Philips will provide services to ensure regulatory compliance, risk minimization and vulnerability mitigation. The Services may include advice and recommendations, but Philips will not make any decisions on behalf of Client in connection with implementing such advice or recommendations.

## 5.9 Technical Services.

- 5.9.1 **Initial Implementation.** Philips will implement Focal Point upon subscription commencement. If the Antivirus Management Services add-on is purchased as part of the ISA Essential agreement, Philips will implement the service on the Covered Systems as defined in Schedule B.
- 5.9.2 **PIC iX Software Revision Implementation.** Philips will provide installation services (remote or onsite as necessary) for the PIC iX software upgrade that Customer is entitled to receive under this Agreement, at a time mutually agreed to by Philips and Customer, Monday through Friday between 8 AM and 5 PM local time excluding Philips holidays. For full version upgrade and update projects, Philips Project Manager,



FSE, Network Engineer, and Integration Engineer will provide remote or on-site consultative advisory services as needed.

**5.10 Clinical Implementation Services.** Philips will provide implementation services for new versions or updates that Customer is entitled to receive under this Agreement, at a time mutually agreed to by Philips and Customer. Scope, duration, and delivery methodology of the clinical support of installation and clinical education will vary by new version, update, or fix and will be defined by Philips at Philips' sole discretion.

- 5.10.1 Go-Live Support. Philips will provide on-site clinical go-live support during the implementation for new version upgrades and updates. Go-live support will be scheduled between 7:00 AM – 7:00 PM local time Monday through Friday excluding Philips recognized holidays, relative to the new software version. Customer may request additional go-live support, or go-live support outside of standard hours, at an additional cost.
- 5.10.2 Equipment Configuration. Configuration services will be scheduled between 7:00 AM – 7:00 PM Monday through Friday and are limited to the new software version implementation. Customer will provide access and use of their equipment. Configurations are based on current monitoring solution. If expert screen services are required, as determined solely by Philips, they are available at an additional cost.
- 5.10.3 User Acceptance Testing. Following implementation of a new software version or Equipment Configuration services. Philips and Customer will perform user acceptance testing. Philips will provide Customer with an electronic copy of the resultant configuration files and reports.
- 5.10.4 Scheduling. Customer must schedule all Clinical Implementation Services, except Online Education, at least eight (8) weeks prior to the desired date for Philips to deliver the applicable service. If Customer representative does not schedule the Clinical Implementation Services with Philips in accordance with this Schedule, then Philips shall not be obligated to perform such Clinical Services.
- 5.10.5 Travel Expenses. Unless otherwise stated in the quotation, Philips' travel expenses for all Clinical Implementation Services delivered at Customer site are included in the price described in the Agreement.

**5.11 Add-On Entitlements.** Customers may purchase additional entitlements a la carte, these add on entitlements will be clearly marked on the quotation if purchased. The description of those entitlements is found below in Add On entitlement sections.

**6. ADD ON ENTITLEMENTS-** The following entitlements may only be purchased individually, if elected these Add On entitlements shall appear on Customer's Quotation along with the associated fee:

- 6.7 **Onsite OS Patching.** Philips will provide on-site installation of validated Microsoft operating system patches available for the Philips PIC iX system(s) to four (4) times per contract year. IBE OS patching is included in this entitlement but executed remotely. Additionally, Philips will also provide up to two (2) on-site visits per contract year for emergency patch support, as determined by Philips.
- 6.8 **Antivirus Management Services.** Philips will provide a service to protect selected Philips medical products with a Philips validated antivirus solution to detect and respond to the occurrence of a cybersecurity event. Customer must choose between Essential or Plus:
  - 6.8.1 Essential: Customers' IT Security Operations Center will be immediately informed by email when a virus has been detected and can access a state-of-the-art management console to monitor all endpoint security alerts in an easy and unified way.
  - 6.8.2 Plus: The Philips Security Operation Center will monitor all your endpoints protected with this service. In case of virus detection, Philips will provide incident response and remediation actions in order to expedite the restoration of any capabilities or services that were impaired due to the cybersecurity incident.

## **7. TRUE-UP FOR SECTORS ADDED AFTER INITIAL QUOTATION**

- 7.7 **True Up Process.** Philips and Customer will review annually the Beds/Sectors covered by the Agreement to match the number of Bed/Sectors actually installed at Customer's site(s). Philips will automatically update customer invoice to match the current Beds/Sectors installed on the true-up date on a go forward basis. To effectuate this update, Philips shall issue a new quotation and Customer shall issue an updated purchase order covering any additional Beds/Sectors. Philips has no responsibility to service Beds/Sectors not listed on the then-current quotation.

## 8. CUSTOMER RESPONSIBILITIES

- 8.7 **System Administrator.** Customer shall designate an individual(s) to serve as Customer system administrator ("System Administrator") and an alternate, who will serve as Philips' primary support contact. The primary contact will act on its behalf to work with Philips and coordinate Customer's ISA ESSENTIAL entitlements during the Agreement. Customer will provide Philips such delegate's name, title, phone number, and e-mail address. These individuals should be familiar with all aspects of training provided by Philips, including end-user and system administrator training. In addition, the System Administrator shall maintain the integrity of the Covered System operation and ensuring that proper backup procedures are in place as outlined in the System Installation and Reference Guides.
- 8.8 **Remote Access.** Customer must provide necessary uninterrupted remote access, required information, and support for the Covered System to connect to Philips Remote Service ("PRS"). PRS is the basis for Services delivered under this Schedule. Customer waives all rights to services and service deliverables under this agreement unless PRS connectivity is enabled and maintained. This section shall supersede any conflicting provision of the Agreement including any requirement to use Customer VPAM or other remote connection prohibition.
- 8.9 **Security.** Customer is solely responsible for providing adequate security to prevent unauthorized Covered System access to Philips (or its third-party vendors) proprietary and confidential information.
- 8.10 **Software Version Levels.** Customer must maintain the Bed at a currently supported version to receive support under this Schedule.
- 8.11 **Hardware Compatibility.** Customer must procure, maintain, and replace all associated bedside monitoring hardware at its own expense through separate agreement, as well as all firmware, and middleware at the required Software Version levels. To receive Software Versions and Software Updates, Customer must maintain all associated hardware to the then-current specification for the Software Versions and Software Updates. If Philips releases new software which Customer is eligible to receive through this Agreement, and the Customer's existing monitoring devices are not compatible with the newly released software and Customer does not upgrade or replace the monitoring devices to meet the minimum specifications of the newly released software, then Philips will be under no obligation to upgrade or supply such new software or hardware regardless of whether Customer would otherwise be eligible under this Agreement to receive them.
- 8.12 **Data Reconstruction.** Customer shall follow the recommended back-up processes as outlined in the Covered System Installation or Reference Guide. Customer is responsible for the reconstruction, restoration, retrieval, or recovery of any lost or altered patient records, files, programs, or data. Philips is not responsible for the reconstruction, restoration, retrieval, or recovery of any lost or altered files, data, or programs.
- 8.13 **Intermediate Resolutions.** Customer shall implement any intermediate resolutions or workarounds as requested by Philips while Philips seeks a long-term resolution.

## 9. SERVICE LIMITATIONS

- 9.7 **Software Restoration.** If the software fails and the supported application software requires restoration, then Philips will reinstall the application software, database software, and operating system to the revision level that existed prior to the malfunction or failure and Philips will attempt to reinstall Customer-created data backup. If Customer-created data backup cannot be used to re-install any data to the Covered System, Customer will hold sole responsibility for the loss of data. Custom or third-party software, custom database configurations or reports, and Customer-written product interfaces are not included. If a Covered System failure is attributed to hardware not supported under the Agreement, Customer shall restore the software, operating system, and database software before Philips begins any software restoration efforts.
- 9.8 **Anti-Virus Statement.** Philips software is a computer-based medical product and, therefore, may be subject to attack by outside computer viruses. The software required to prevent attack by a computer virus must be constantly monitored and updated. Unless Antivirus Management Services add on has been purchased as part of the ISA ESSENTIAL agreement, Customer shall install and maintain anti-virus software in accordance with the Covered System Installation or Reference Guide. Philips shall use reasonable efforts to notify Customer if Philips becomes aware of any virus in the software licensed to Customer under this Agreement.
- 9.9 **Non-Philips Software Assistance.** Requests for assistance with hardware, operating systems, communications network, third-party software, printer configuration, etc., are outside the scope of this Agreement.

- 10. **END OF LIFE / END OF SUPPORT.** Philips follows strict procedures managing the lifecycle of its products. Such procedures define a minimum period, per equipment, during which phase Philips makes service available as described in this Agreement. This period for the Equipment(s) under this Agreement is indicated in the Quotation. After such period, Philips may determine that its ability to provide the Service is hindered due to unavailability of parts, trained personnel or outdated technology; or that the Equipment can no longer be maintained in an effective manner as determined by Philips.

Philips will timely and proactively notify Customer about the approaching of such dates. Customer hereby acknowledges that upon such notices, Philips may terminate this Agreement (or part thereof), remove such Equipment from the inventory list, and adjust the coverage of the Agreement, and provide Customer with a refund of any Customer pre-payments for periods and parts of Service not yet rendered, unless the Parties agree to

- 10.7 replace such Equipment on the inventory list of Equipment with another equipment purchased by Customer from Philips either as a new product or via an upgrade program offered by Philips to the Equipment; or
- 10.8 modify the terms of this Agreement with regard to the Service provided on the Equipment, taking into account the above hindering factors on Philips' side.

Such agreement of the Parties will be signed in writing and incorporated into this Agreement.

**11. EXCLUSIONS In addition to the Service Exclusions set forth in the Agreement, the following Service Exclusions apply:**

- 11.7 Any combining of the Covered System with a non-qualified device. A non-qualified device is:
  - 11.7.1 any product (hardware, firmware, software, or cabling) not supplied by Philips, whether used internal or external to Covered System without Philips' approval. Examples include, software patches, security fixes, and service packs from the operating system, web browser, or database software manufacturer(s);
  - 11.7.2 any product supplied by Philips that has been modified by Customer or any third party;
  - 11.7.3 any product maintained under this Agreement in which Customer does not allow Philips to incorporate engineering improvements; and
  - 11.7.4 any product that has reached its "End of Life". "End of Life" means software and or hardware equipment that has surpassed the published end of support life date by the original equipment manufacturer.
- 11.8 Operating system software issues that manifest themselves in non-performance of another installed application and affect use or performance of the Covered System.
- 11.9 If the Covered System covered by this Schedule is software only, then notwithstanding anything to the contrary in the Agreement or this Schedule, network, hardware and parts are not included in the Services.
- 11.10 Any network related problems.
- 11.11 The cost of Consumables, software media, and cassettes.
- 11.12 Networking hardware.

**12. JOINT MARKETING PLAN.** Philips agrees to provide reasonable assistance to Customer in marketing the benefits of the Services in accordance with a joint marketing plan to be mutually developed within eighteen (18) months of the Effective Date. Philips and Customer agree that each respective marketing team will work collaboratively and gain joint approval prior to marketing the partnership.

**13. LICENSE AND WARRANTY FOR SOFTWARE LICENSED AS PART OF THIS AGREEMENT.** All software provided to Customer under this Agreement (specifically excluding all software which Customer has access to without this Agreement which remains subject to its original terms of purchase) is subject to the following license terms.

- 13.7 **License Grant.** Subject to any usage limitations for the Licensed Software set forth on the product description of the quotation, Philips grants to Customer a nonexclusive and non-transferable right and license to use the computer software package ("Licensed Software") in accordance with the terms of the quotation and the Agreement. The License shall continue for the duration of the ISA ESSENTIAL subscription term specified on the Quotation, except that Philips may terminate the License if Customer is in breach or default of this Agreement and/or the quotation. Customer shall return the Licensed Software and any authorized copies thereof to Philips immediately upon expiration or termination of this License.

The License does not include any right to use the Licensed Software for purposes other than the operation of the product. Customer may make one copy of the Licensed Software in machine-readable form solely for backup purposes. Philips reserves the right to charge for backup copies created by Philips. Except as otherwise provided under Section 24.1.6, Customer may not copy, reproduce, sell, assign, transfer, or sublicense the Licensed Software for any purpose without the prior written consent of Philips. Customer shall reproduce Philips' copyright notice or other identifying legends on such copies or reproductions. Customer will

not (and will not allow any third party to) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover the product or Licensed Software by any means whatsoever.

The License shall not affect the exclusive ownership by Philips of the Licensed Software or of any trademarks, copyrights, patents, trade secrets, or other intellectual property rights of Philips (or any of Philips' suppliers) relating to the Licensed Software.

Customer agrees that only authorized officers, employees, and agents of Customer will use the Licensed Software or have access to the Licensed Software (or to any part thereof), and that none of Customer's officers, employees, or agents will disclose the Licensed Software, or any portion thereof, or permit the Licensed Software, or any portion thereof, to be used by any person or entity other than those entities identified on the quotation. Customer acknowledges that certain of Philips' rights may be derived from license agreements with third parties, and Customer agrees to preserve the confidentiality of information provided by Philips under such third-party license agreements.

The Licensed Software shall be used only on the product(s)/sites. Beds referenced in the quotation.

## 14. **MODIFICATIONS**

- 14.7 If Customer modifies the Licensed Software in any manner, all warranties associated with the Licensed Software and the products shall become null and void. Customer installation of Philips issued patches or updates shall not be deemed to be modification. If Customer or any of its officers, employees, or agents should devise any revisions, enhancements, additions, modifications, or improvements in the Licensed Software, Customer shall disclose them to Philips, and Philips shall have a non-exclusive royalty-free license to use and to sub-license them.
- 14.8 The Licensed Software is licensed to Customer on the basis that (a) Customer shall maintain the configuration of the products as they were originally designed and manufactured and (b) the product includes only those subsystems and components certified by Philips. The Licensed Software may not perform as intended on systems modified by other than Philips or its authorized agents, or on systems which include subsystems or components not certified by Philips. Philips does not assume any responsibility or liability with respect to unauthorized modification or substitution of subsystems or components.

## 15. **WARRANTY**

- 15.7 Philips warrants the PIC iX Software shall materially comply with its the user documentation accompanying the PIC iX Software for a period of ninety (90) days from the date Philips makes such Software available to the Customer.
- 15.8 Philips' sole obligations and Customer's exclusive remedy under any product warranty are limited, at Philips' option, to the repair or the replacement of the PIC iX Software (or a portion thereof) within thirty (30) days after receipt of written notice of such material breach from Customer ("Product Warranty Cure Period") or, upon expiration of the Product Warranty Cure Period, to a refund of pre-paid subscription fees by the Customer, upon Customer's request. Any refund will be paid, to the Customer when all PIC iX Software is confirmed to be de-installed. Warranty service outside of normal working hours (i.e., 8:00 AM – 5:00 PM, Monday through Friday, excluding Philips' observed holidays), will be subject to payment by Customer at Philips' standard service rates.
- 15.9 This warranty is subject to the following conditions: the PIC iX Software: (a) is to be installed by authorized Philips representatives (or is to be installed in accordance with all Philips installation instructions by personnel trained by Philips); (b) is to be operated exclusively by duly qualified personnel in a safe and reasonable manner in accordance with Philips' written instructions and for the purpose for which the products were intended; and, (c) is to be maintained and in strict compliance with all recommended and scheduled maintenance instructions provided with the product and Customer is to notify Philips immediately if the product at any time fails to meet its printed performance specifications. Philips' obligations under any product warranty do not apply to any product defects resulting from improper or inadequate maintenance or calibration by the Customer or its agents; Customer or third party supplied interfaces, supplies, or software including without limitation loading of operating system patches to the Licensed Software and/or upgrades to anti-virus software running in connection with the Licensed Software without prior approval by Philips; use or operation of the product other than in accordance with Philips' applicable product specifications and written instructions; abuse, negligence, accident, loss, or damage in transit; improper site preparation; unauthorized maintenance or modifications to the product; or viruses or similar software interference resulting from connection of the product to a network. Philips does not provide a warranty for any third-party products furnished to Customer by Philips under the quotation; however, Philips shall use reasonable efforts to extend to Customer the third-party warranty for the product. The obligations of Philips described herein are Philips' only obligations and Customer's sole and exclusive remedy for a breach of a product warranty.
- 15.10 THE WARRANTIES SET FORTH HEREIN WITH RESPECT TO A PRODUCT (INCLUDING THE SOFTWARE PROVIDED WITH THE PRODUCT) ARE THE ONLY WARRANTIES MADE BY PHILIPS IN CONNECTION WITH THE PRODUCT, THE SOFTWARE, AND THE TRANSACTIONS CONTEMPLATED BY THE QUOTATION, AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, WHETHER

WRITTEN, ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Philips may use refurbished parts in the manufacture of the products, which are subject to the same quality control procedures and warranties as for new products.

**SCHEDULE A**  
**CYBERSECURITY ASSESSMENT TERMS AND CONDITIONS**

1. **SERVICES.** During the term of this Agreement, Philips will provide the services set forth in the statement of work attached to these terms and conditions (the “Services”) to the client listed on the SOW (“Client”) only under the terms and conditions described below. The Services may include advice and recommendations, but Philips will not make any decisions on behalf of Client in connection with implementing such advice or recommendations.
2. **EXCLUSIONS.** Unless expressly described in the SOW, the Services do not include:
  - (a) Training;
  - (b) Equipment, software, or licenses;
  - (c) Services outside the scope of the Services, unless documented in a written amendment to this Agreement and executed by Philips and Client; or
  - (d) An audit, compilation, or review of any kind of financial statement(s) or component thereof. Client will be responsible for any and all financial information provided to us during the course of this engagement and we will not examine, compile, or verify any such financial information nor will we express any opinion or other form of assurance on your financial statements.
3. **CLIENT RESPONSIBILITIES**
  - 3.1. Philips’ responsibility to provide the Services, meet any milestones, and provide deliverables described in the SOW is contingent on Client meeting its responsibilities described in this Section 3 in a timely and appropriate fashion, free of charge. If Client fails to meet such responsibilities or provide any items, then that may result in an increase in the fees or in delays or extensions of the milestones or deliverables described in the SOW. Client will provide:
    - 3.1.1. Access to all necessary Client employees, representatives or agents as needed to accomplish the objectives described in the SOW;
    - 3.1.2. Access to reports and materials (written and electronic) as needed to accomplish the objectives described in the SOW;
    - 3.1.3. Immediate written notification to Philips if Client knows that earlier provided information, reports or materials are incorrect or have changed such that any inaccuracy or change may impact Philips delivery of the Services in any way; and
    - 3.1.4. Access to standard office facilities for the Philips team, such as work space, standard office equipment (e.g. telephone, copiers), Internet access, and parking when necessary for Philips to be at the Client’s site on a full or part time basis and any tools or materials provided by Client that may be necessary to perform the Services or for the performance of tests at such Client locations as may be necessary to facilitate such performance.
  - 3.2. Client and Philips will jointly identify all healthcare and other regulatory and quality requirements applicable to the Services and specify them expressly in writing, and Client will obtain if required by law or otherwise, all necessary approvals of the relevant governmental or regulatory bodies to permit Philips to perform the Services for Client.
  - 3.3. Client will ensure any tools or materials provided by Client against risks of loss and damage to the health of Philips personnel and/or of Philips property, and retain all such risks
  - 3.4. If applicable, Client will provide, free of charge, Philips personnel with adequate safety and other training and familiarize them with local procedures and house rules of Client
  - 3.5. Unless expressly stated otherwise in the SOW, Client will provide written feedback in the form of a single, consolidated set of Client’s comments when responding to any Philips request for review of materials and information, within five (5) business days of Philips delivery of such materials or information; and
  - 3.6. Client will provide Philips with a Client representative, in writing, who will be responsible for providing the items described in this Section 3 and any other information, materials, or feedback requested by Philips in connection with the Services.
  - 3.7. Any tools or materials provided by Client shall comply with all applicable legal requirements relating to safety and hazardous materials.

**4. FEES, EXPENSES, INVOICING, PAYMENT, AND TAXES**

- 4.1. All fees and expenses in the Agreement (a) are in Euros or in the currency set forth in the Agreement, and (b)

do not include any applicable taxes now or hereafter enacted. Philips will add taxes to the price where Philips is required by law to pay or collect them and will be paid by Client together with the price.

- 4.2. The fees and expenses for the Services are described in the quote provided to Customer for the Services. If the SOW includes more than one deliverable (for example, multiple projects or software) and each such deliverable has a price associated with it, then (i) each such deliverable will be deemed to be a standalone item, (ii) Philips may invoice for each item as it is delivered, and (iii) Customer will pay for each item as it is invoiced.
- 4.3. Unless expressly stated otherwise in the SOW, in addition to the engagement fee, client shall reimburse Philips for all expenses actually incurred by Philips in performing the Services, including travel, lodging, meals, transportation, and other customary out-of-pocket expenses. If the SOW indicates that Client will pay Philips's expenses, then, at Client's request, Philips will furnish reasonable documentation supporting all such expenses.
- 4.4. Unless expressly stated otherwise in the SOW, all payments of invoices under this Agreement are due thirty (30) days from the date of Philips' invoice until the Agreement amount and all applicable taxes and interest are paid in full. Client will pay interest on any amount not paid when due at the lesser of 1.5% interest per month or the maximum rate permitted by applicable law. Client will not be obligated to pay any federal, state, or local tax imposed upon or measured by Philips' net income. Any other applicable tax will be invoiced to and payable by Client, along with the Agreement price in accordance with the payment terms set forth in this Agreement, unless Philips receives a tax exemption certificate from Client which is acceptable to the taxing authorities.
- 4.5. All payments to be made by Client under this Agreement or any other agreement between Client and Philips will be made without set-off, deduction or counterclaim.

## **5. EXCUSABLE DELAYS**

- 5.1. Philips is excused from performing any obligation and shall not be liable to Client for any compensation, reimbursement, or damages under this Agreement when Philips' delay or failure to perform is caused by events beyond Philips reasonable control including, but not limited to, acts of God, acts of third parties, acts of the other party, acts of any civil or military authority, fire, floods, war, civil war, insurrection, epidemics, pandemic, cyber-attack, act of terrorism, governmental regulations and/or similar acts, embargoes, export control sanctions or restrictions, labor disputes, acts of sabotage, riots, accidents, delays of carriers, default or force majeure of subcontractors or suppliers, non-availability of any permits, licenses and/or authorizations required, voluntary or mandatory compliance with any government act, regulation or request, shortage of labor, materials or manufacturing facilities, or information or materials being contaminated with blood or other potentially infectious material.

## **6. TERM; TERMINATION**

Unless otherwise terminated by a Party as provided in this Section 6, this Agreement will terminate when the Services are complete and the Client has paid Philips in full for such Services. Either Party may terminate this Agreement for any breach by the other Party of a material obligation under this Agreement that such other Party does not cure within thirty (30) days of receipt of written notice of such breach from the non-breaching party.

- 6.1. If Philips terminates this Agreement due to Client's breach, then Client shall pay Philips:
  - (a) All outstanding invoices for Services performed until the termination; and
  - (b) Costs incurred by Philips due to the early termination by Client, including but not limited to costs of manpower of Philips own and temporary or seconded staff allocated to the performance of the Agreement incurred by Philips during the period needed to reallocate such staff; and
  - (c) Twenty percent (20%) of the amount Client would have been invoiced for the remaining part of the Agreement had the Agreement been performed in full.
- 6.2. If Client terminates the Agreement due to Philips' breach, then Client shall pay Philips all outstanding invoices for Services performed until the termination.
- 6.3. Client's failure to pay any amount due under this Agreement within thirty (30) days of when payment is due constitutes a default of this Agreement and no additional notice is required. If such a default occurs, Philips may, at its option, (i) withhold performance under this Agreement and any or all of the other agreements until a reasonable time after the default has all defaults have been cured, (ii) declare all sums due and to become due to be immediately due and payable under this Agreement and any or all of the other agreements, (iii) commence collection activities for all sums due or to become due hereunder, including, but not limited to costs and expenses of collection, and reasonable attorney's fees, (iv) terminate this Agreement with 10 days' notice to Client, and (v) pursue any other remedies permitted by law.



**7. WARRANTY DISCLAIMER**

- 7.1. Philips' full contractual obligations to Client are only those described in this Agreement.
- 7.2. THIS IS A SERVICE ENGAGEMENT. PHILIPS WARRANTS THAT IT SHALL PERFORM THE SERVICES IN GOOD AND PROFESSIONAL MANNER. ANY RELATED INFORMATION OR DOCUMENTATION IS PROVIDED BY PHILIPS ON AN "AS IS" BASIS. PHILIPS PROVIDES NO OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, FOR THE SERVICES, AND NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO ANYTHING PROVIDED BY PHILIPS' SUBCONTRACTOR OR PHILIPS.

**8. LIMITATIONS OF REMEDIES AND DAMAGES**

- 8.1. Philips' total liability, if any, and Client's exclusive remedy with respect to the Services and Philips' performance hereunder is limited to an amount not to exceed the price stated herein for the Services that is the basis for the claim.
- 8.2. IN NO EVENT WILL PHILIPS BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES OR PROFITS, LOSS OF DATA OR GOODWILL, OR THE COST OF SUBSTITUTE SERVICES, WHETHER ARISING FROM BREACH OF THE TERMS IN THIS AGREEMENT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT. PHILIPS WILL HAVE NO LIABILITY FOR ANY ASSISTANCE PHILIPS PROVIDES THAT IS NOT REQUIRED UNDER THIS AGREEMENT.
- 8.3. Any claim must be notified to Philips in writing within ninety (90) business days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed in conflict with the preceding sentence are null and void.

**9. RETENTION OF TITLE**

- 9.1. Except for Philips' intellectual property, which shall remain Philips and/or its affiliates property at all times, Client explicitly accepts that Philips shall retain title to the deliverables described in the SOW until full payment has been received by Philips of all amounts due in accordance with the agreement between Client and Philips under which the deliverables are delivered to Client and Client agrees not to resell the deliverables and shall take all measures to protect the deliverables and to ensure that Philips title to the deliverables is in no way prejudiced. Risk of damage, loss or destruction of the deliverables shall pass to Client upon the delivery of the deliverables to Client in accordance with the ex-works delivery condition. Client shall insure the deliverables at its own expense for the time they remain Philips property. If Client fails to make any payments to Philips when due, Client shall, upon Philips first notice, return to Philips, at Client's risk and expense, any deliverables to which Philips has retained title as aforesaid.

**10. DELIVERABLES; PROPRIETARY MATERIALS**

- 10.1. As used in this Agreement: (i) "Technology" means works of authorship, materials, and information; (ii) "Philips Technology" means all Technology created prior to or independently of the performance of the Services, or created by Philips or its subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon; (iii) "Deliverables" includes all Technology that Philips or its subcontractors create for delivery to Client as a result of the Services; (iv) "Intellectual Property Rights" means patents, trademarks, copyrights (including derivative works), database rights, trade secrets, and any form of protection offered by law to Know-How and all registrations, applications, renewals, extensions, combinations, divisions, continuations or reissues of any of the foregoing or which otherwise arises or is enforceable under the laws of any jurisdiction or any bi-lateral or multi-lateral treaty regime; (v) "Know-How" means any and all technical information, concepts, approaches, methodologies, tools, data and documents of whatever nature, including, without limitation, any drawings, specifications, software, photographs, samples, models, processes, procedures, reports, generic industry information, correspondence, and other knowledge and experience; and (vi) "Philips Intellectual Property Rights" means Intellectual Property Rights of Philips.
- 10.2. Upon full payment to Philips, and subject to the terms and conditions contained in this Agreement, Philips hereby (i) assigns to Client all rights in and to the Deliverables, except to the extent they include any Philips Technology or Philips Intellectual Property Rights; and (ii) grants to Client a non-exclusive, non-transferable right to use, without the right to sub-license, for Client's internal business purposes under Philips Intellectual Property Rights, any Philips Technology included in the Deliverables in connection with its use of the Deliverables. Except for the foregoing license grant, Philips or its licensors retain all rights in and to all Philips Technology and Philips Intellectual Property Rights. Philips retains all rights, title and interest to Know-How possessed by Philips prior to, or acquired during, the performance of the Services.

10.3. Except for Philips Technology, which shall remain Philips or its affiliates property at all times, Client explicitly accepts that Philips shall retain title to the Deliverables described in the SOW until Philips receives full payment of all amounts due in accordance with this Agreement, Client will not resell the Deliverables, and Client will take all measures to protect the Deliverables and to ensure that Philips title to the Deliverables is in no way prejudiced. If Client fails to make any payments to Philips when due, Client shall, upon notice from Philips and a reasonable opportunity to cure such failure, return to Philips, at Client's expense, any Deliverables to which Philips has retained title as aforesaid.

10.4. If Philips uses, delivers, or transmits to Client proprietary materials (including software and written documentation) in connection with the Services that have not been purchased by or licensed to Client, then (i) Client hereby consents to this use, delivery, transmission, and removal of all or any part of this property at any time, all without charge to Philips and (ii) Client's possession of this property or the presence of this property at the Client's site will not give Client any right or title to this property or any license or other right to decompile this property or provide access to any third party. Any access to or use of this property and any de-compilation of this property by anyone other than Philips' personnel is prohibited. Client will use all reasonable efforts to protect this property against damage or loss and to prevent any access to or use or de-compilation of this property contrary to this prohibition and to cause its employees and representatives to do the same. Client will immediately report to Philips any violation of this provision that Client becomes aware of.

## **11. CONFIDENTIALITY**

11.1. Each Party shall maintain as confidential any information furnished or disclosed to one party by the other Party, whether disclosed in writing or disclosed orally, relating to the business of the disclosing party, its clients or its patients, and this Agreement and its terms, including the pricing terms under which Client has agreed to purchase the Services. Each Party shall use the same degree of care to protect the confidentiality of the disclosed information as that party uses to protect the confidentiality of its own information, but in no event less than a reasonable amount of care. Each Party shall disclose such confidential information only to its employees having a need to know such information to perform the transactions contemplated by this Agreement. The obligation to maintain the confidentiality of such information shall not extend to information that (a) is or becomes part of the public domain without violation of this Agreement or any other obligation of confidentiality; (b) is known by the receiving Party prior to disclosure by the disclosing Party; (c) is lawfully obtained by the receiving Party from a third party without any breach of confidentiality or violation of law; (d) is furnished to others by the disclosing Party without restrictions similar to those herein contained as to the use or disclosure hereof; (e) is developed by the receiving Party completely independently of any such disclosure by the disclosing Party; or (f) is required to be disclosed by law or by court order, with prompt notice of such request by providing Party. In addition, (a) if our engagement becomes known to the public, Philips may cite the performance of these services to our clients and prospective clients as an indication of its experience and (b) Philips may keep an archival set of our working documents from the engagement, including working papers containing or reflecting confidential information, in accordance with our internal policies. The confidentiality period will extend for a period of five (5) years after the expiration date of this Agreement. Upon termination or expiration of this Agreement, Client will promptly return to Philips any confidential information received from Philips and any materials embodying or containing such confidential information.

## **12. NO PUBLICITY**

12.1. Client will not use Philips' name or logo or any adaptation thereof, for any advertising, trade or other purpose without Philips' prior written consent, which consent may be granted or withheld at Philips sole discretion. Client will not give interviews to the media or publish any articles both in connection with the Services, unless Client has obtained Philips' prior written approval for such interview or publication.

## **13. NON-EXCLUSIVITY**

13.1. Philips may (i) provide any services to any person or entity and (ii) develop for itself, or for others, any materials or processes including those that may be similar to those produced as a result of the Services, provided that, Philips complies with its obligations of confidentiality set forth in this Agreement.

## **14. INDEPENDENT CONTRACTOR**

14.1. Philips is Client's independent contractor. Philips' employees are under Philips' exclusive direction and control. Philips' subcontractor's employees are under Philips' subcontractor's exclusive direction and control. Nothing in this Agreement will be construed to designate Philips or any of Philips' employees or Philips' subcontractors or any of their employees as Client employees, agents, joint venturers, or partners. Client will indemnify, defend, and hold harmless Philips and its officers, directors, and employees from any claims for loss, cost, damages, expense or liability (including reasonable attorneys' fees) to the extent such claims result from Client's or Client's employees' act or omissions.

## **15. PRIVACY**

15.1. In the course of providing the Services to Client, Philips may need to have access to, view, or download computer files that might contain Personal Data. Personal Data includes information relating to an individual, from which that individual can be directly or indirectly identified. Personal Data can include both personal health information (e.g., images, heart monitor data, and medical record number) and non-health information (e.g., date of birth and gender). Philips will process Personal Data only to the extent necessary to fulfill its obligations under this Agreement.

#### **16. SUBCONTRACTS AND ASSIGNMENTS**

16.1. Philips may subcontract to contractors of Philips' choice any of Philips' Services obligations to Client or other activities performed by Philips under this Agreement. No such subcontract will release Philips from those obligations to Client. Client may not assign this Agreement or the responsibility for payments due under it without Philips' prior express written consent, which will not be unreasonably withheld.

#### **17. SURVIVAL, WAIVER, SEVERABILITY, NOTICE, CHOICE OF LAW**

17.1. Client's obligation to pay any money due to Philips under this Agreement survives expiration or termination of this Agreement. All of Philips' rights, privileges and remedies with respect to this Agreement will continue in full force and effect after the end of this Agreement. Either party's failure to enforce any provision of this Agreement is not a waiver of that provision or of such party's right to later enforce each and every provision. If any part of this Agreement is found to be invalid, the remaining part will be effective. Notices or other communications will be in writing, and will be deemed served if delivered personally, or if sent by facsimile transmission, by overnight mail or courier, or by certified mail, return receipt requested and addressed to the party at the address set forth on the face of this Agreement. The laws of the Netherlands will govern any interpretation of this Agreement and dispute between Philips and Client without regard to the principles of choice of law.

17.2. All disputes that have not been settled shall be submitted to the competent court in the Netherlands, without prejudice to the right of Philips to bring any action or proceedings against Client, including injunctive or other equitable relief, in any other court of competent jurisdiction.

#### **18. ENTIRE AGREEMENT**

18.1. This Agreement constitutes the entire understanding of the parties and supersedes all other agreements, written or oral, regarding its subject matter. No additional terms, conditions, consent, waiver, alteration, or modification will be binding unless in writing and signed by Philips' authorized representative and Client. Additional or different terms and conditions, whether stated in a purchase order or other document issued by Client, are specifically rejected and will not apply to the transactions contemplated by this Agreement. No prior proposals, statements, course of dealing, course of performance, usage of trade or industry standard will be part of this Agreement.

#### **19. AUTHORITY TO EXECUTE**

19.1. In executing this Agreement, the parties hereto acknowledge that they have read each of the terms and conditions hereof on behalf of their respective interests, that they know and understand the same, and that they have signed this Agreement as their own respective free acts and with the express authority to do so.

#### **20. COMPLIANCE WITH LAWS AND EXPORT CONTROL**

20.1. Client represents that, with respect to its performance under the agreement, it will comply with all applicable laws and regulations, including but not limited to those pertaining to Dutch export administration or the export or import controls or restrictions of other applicable jurisdictions.

20.2. If the delivery of a Deliverable or a service under the agreement is subject to the granting of an export or import license by a government and/or any governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import control laws or regulations, Philips may suspend its obligations and Client's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and Philips may even terminate the agreement, without incurring any liability towards Client. Furthermore, if an end-user statement is required, Philips shall inform Client immediately thereof and Client shall provide Philips with such document upon Philips first written request; if an import license is required, Client shall inform Philips immediately thereof and Client shall provide Philips with such document as soon as it is available. Client warrants that it will not deal with the services in violation of any applicable export or import control laws and regulations.

**SCHEDULE B**  
**ANTIVIRUS MANAGEMENT SERVICES TERMS AND CONDITIONS**

**1. SERVICE OVERVIEW**

1.1 The Patient Monitoring Antivirus Management Services is a managed subscription service that provides Philips patient monitoring Customers with the installation, configuration, and maintenance of a Philips-validated third-party endpoint protection platform "EPP" software solution (defined below), which is chargeable to Customer on a per-Sector basis for the Term specified on the Quotation ("Subscription Service(s)"). The Subscription Service is comprised of three (3) primary components:

- (a) A license to a third-party designed EPP;
- (b) A license to hosted web console provided by the EPP provider that enables the maintenance, policy configuration, and regular updates of the EPP; and
- (c) Various Philips services that enable the installation, maintenance, and use of the EPP and console, which vary based on the service level purchased by Customer.

**2. DEFINITIONS**

- 2.1 **"Authorized Users"** means the Customer employees designated by Customer to access and use the Console. Customer shall keep this list current so Philips can revoke/grant access as necessary. Authorized Users shall comply with the terms of use of the Console designated by the EPP provider.
- 2.2 **"EPP"** means the endpoint protection platform which is a third party designed end point protection software agent solution. Philips reserves the right to substitute the EPP with a like product upon validation of the substitute solution. It is the anticipation of the parties that the function and methodology used by EPP's will evolve over time.
- 2.3 **"EPP Console"** means the third party designed web-based console that provides Customer near real time data feedback from the EPP agent.
- 2.4 **"Covered Systems"** for the purpose of this Schedule means the location of the Hosts, including but not limited to the following: PIC iX Surveillance PC Workstations, PIC iX Patient Link PCs, PIC iX Enterprise Link PCs and Servers, PIC iX Enterprise Primary Servers, PIC iX Physio Servers, PIC iX Web Servers, PIC iX Mobility Servers, IntelliBridge Enterprise (IBE) Server, CareEvent Server, and Focal Point Server. The services provided to the Covered Systems under this Schedule are solely the Subscription Services explicitly set forth in this Schedule.
- 2.5 **"Hosts"** mean environments that host the Monitored Products. The Subscription Services are limited to the Hosts identified and tracked in the Console. Customer is responsible for ensuring that all intended systems are listed in the Console as Customer purchases and retires Philips products.
- 2.6 **"Monitored Products"** mean the Philips designed applications that are eligible for Subscription Services and limited to the following Philips software products: PIC iX, IntelliBridge Enterprise (IBE) Server, CareEvent, and Focal Point. This list is exclusive and specific, no products manufactured by parties other than Philips are covered by Subscription Services regardless of the seller, their purpose, or hosted location.
- 2.7 **"Philips Holidays"** mean the current list of Philips observed public holidays.
- 2.8 **"Quotation"** means the quotation containing the quantity of Sectors, subscription type and price.
- 2.9 **"Sector"** is the licensing schema for the PIC iX and IBE software. This licensing schema describes a license assignment on a central station wherein a patient and the related monitoring equipment have been assigned and is often used interchangeably with patients, as this is how an Authorized User experiences the Monitored Products.
- 2.10 **"Software License"** means the license as defined in Section 5 herein.
- 2.11 **"Statement of Work" or "SOW"** means the detailed statement of work which documents the installation and ongoing performance of the Subscription Services.
- 2.12 **"Term"** means the duration of the Subscription Services set forth on the Quotation. The Term of the Subscription is non-cancelable except as explicitly stated herein.

**3. SERVICES PROVIDED**

**3.1 EPP Agent.**

- (a) Subject to the terms of the Software License, Philips grants Customer a license to the EPP Agent for the designated number of Sectors on the Quotation for the duration of the Term.
- (b) Philips shall install and configure the EPP Agent on the Hosts specified in the SOW. Philips shall have no obligation to provide the Subscription Services for any Hosts not identified on the SOW and disclosed to Philips technical representatives responsible for this specific Agreement.
- (c) Philips shall configure the EPP pursuant to the validated configuration for each of the individual Monitored Products.
- (d) Covered Systems will synchronize with the Philips instance of the OEM cloud service which allows for the automatic update the EPP Agent.

### 3.2 EPP Console.

- (a) Subject to the terms of the Software License, Philips grants Customer a license to use the EPP Console, for the specified number of Authorized Users, solely for receiving the Subscription Services, for the Term.
- (b) Philips shall provide read-only access to the EPP Console enabling Customer to:
  - (i) See the inventory of Covered System and their location;
  - (ii) See the dashboard showing security events;
  - (iii) View the available data regarding Hosts on which the EPP Agent is installed.

### 3.3 Response and Remediation.

- (a) Essential: Customers purchasing Essential service level will have access to the EPP Console to view virus and malware alerts provided by the EPP Agent. Essential Customer's will be solely responsible for monitoring and responding to alerts and conducting remediation activities.
- (b) Plus: Customers purchasing Plus service level will receive notice from the EPP Agent and Philips Security Operations Center when the EPP Agent has provided an alert. In cases where a malware/virus has been detected on Monitored Products, Philips shall perform reimaging of the Host according to the procedure set forth in the SOW. De-installation and reimaging of the Host is the sole and exclusive remediation option for impacted Monitored Products. This process involves taking the Host and associated hardware out of use for the time needed for the reimaging process.

## 4. CUSTOMER RESPONSIBILITIES

- 4.1 **SOW.** Customer is responsible for performing its obligations identified in the SOW and timely cooperating with the reasonable requests of Philips as necessary to enable provision of the Subscription Services. This cooperation includes providing updated information on the Hosts and Customer contacts.
- 4.2 **Implementation.** Customer shall provide the resources and people necessary for Implementation and testing and work closely with the Philips project manager to develop the Implementation project schedule. Customer shall provide physical access to patient rooms, central station, hallways, and equipment rooms for the Implementation. Any delays by Customer will extend the Implementation timeline by an equal period. All of these activities shall happen on weekdays 8am-5pm local time, excluding Philips Holidays.
- 4.3 **Education.** Customer shall ensure all pertinent staff attend the required education for the Subscription Services both at Implementation and training for new employees hired post-Implementation (which is not included and will be billed separately).
- 4.4 **Security and Use.** Customer will immediately notify Philips of any unauthorized use or security breach of EPP Host, EPP Console, Subscription Services, or Documentation.
- 4.5 **User Information.** Customer is responsible for providing Philips with up-to-date system administrator and user information.
- 4.6 **Not Failsafe.** Customer acknowledges and agrees that the Subscription Services are not designed, tested, or intended to be failsafe and it is the obligation and sole responsibility of Customer to maintain adequate contingencies and procedures to ensure continuity of patient care in the event of virus or other threat to the security or integrity of Customer's patient care systems.
- 4.7 **EPP Remote Access.** Provide Philips/EPP provider with remote access to the EPP Agent, which functions as the communication mechanism between the Host(s) and the EPP Console in the manner and method designated by the EPP provider as necessary.
- 4.8 **PRS Connection.** Customer agrees to work with Philips to establish Philips Remote Services (PRS) connectivity, to the pertinent system components. This PRS connection is required to support product installation/configuration and remote solution supportability post-installation.
- 4.9 **EPP Policies.** Review and acknowledge the applicable EPP Agent policy configurations and report to Philips

any policies that are not compatible with Customer's IT or Covered System configuration.

- 4.10 **Root Cause Evaluation.** Perform root cause analysis and remediation for infections and threats emanating from inside Customer's network (other than the Monitored Products).
- 4.11 **Third Party Cooperation.** Secure the cooperation of any third parties needed to receive Subscription Services for the Term, whether these are within or outside Customer's organization (i.e., HIS/EMR vendors or subcontractors) and serve as the principal point of contact with all Customer-contracted third parties.
- 4.12 **Response and Remediation.** Customer shall maintain a 24/7 point of contact to coordinate with Philips to effectuate response and remediation activities, review email alerts, and address other urgent concerns. Customer understands and agrees that the Subscription Services can only work in conjunction with local resources and is not a fully automated remote solution.

## 5. LICENSE TO SOFTWARE

- 5.1 **Grant.** Subject to Customer's compliance with the terms and conditions of this Agreement, Philips grants Customer a limited, nonexclusive, and nontransferable license to access and use, for Customer's internal business purposes only, software included as part of the Subscription Services that Philips has either made remotely accessible to Customer or has deployed at Customer's premises ("**Licensed Software**").
- 5.2 **Limitations.** Customer's usage of the Licensed Software is limited to the number of Sectors stated on the Quotation. Customer may not: (a) license, sublicense, access, use, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make the Licensed Software available to any third party; (b) access or use the Licensed Software to build or support any products or services competitive with the Subscription Services; (c) attempt to gain unauthorized access to the Licensed Software, engage in any denial of service attacks, or otherwise cause immediate, material or ongoing harm to Philips, its provision of the Subscription Services, or to others; or (d) use the Subscription Services in a manner that violates applicable law or regulation, infringes on the rights of any person or entity, or violates these terms.
- 5.3 **U.S. Government Users.** The Licensed Software is considered "commercial computer software" and "commercial computer software documentation," under DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Licensed Software by the United States Government will be governed solely by these terms and is prohibited except to the extent expressly permitted by these terms.

## 6. SERVICE CHANGES AND SUSPENSION

- 6.1 **Identified Hosts.** Customer may reallocate instances of the EPP as Hosts are changed/retired as part of hardware changes by providing Philips with updated information so it may implement the Subscription Services on the new Hosts. Any new Hosts that have Monitored Software installed in a domain receiving Subscription Services must be added to the Subscription Services as Customer increases Covered Systems; Customer shall notify Philips of the new Covered Systems and, if requested, Customer will sign a new Quotation for the additional Covered Systems/Sectors.
- 6.2 **Functionality Change.** Customer acknowledges and agrees that the functionality, features, supplier, specifications, and Documentation of the Subscription Services are subject to change by Philips at any time, provided that Philips will not materially degrade the functionality of the Subscription Services and will provide reasonable advanced notice of any substantial changes.
- 6.3 **Discontinuation.** Philips may determine that the Subscription Services are obsolete, or "End of Life," and will not be maintained or supported. In such event, Philips may, with 180 days' prior written notice, terminate this Agreement and provide Customer with a refund of any pre-payments for periods of Subscription Services not yet rendered.
- 6.4 **Suspension.** In addition to any of its other rights or remedies Philips may, at its determination, suspend the Subscription Service where: (1) Customer has failed to perform any obligation under this Schedule where such breach is irremediable or, if the breach is remediable, fails to remedy such breach within thirty (30) days after being notified in writing to do so or (2) suspension is necessary to maintain security or integrity of the Subscription Services. Philips will not exercise this remedy without prior written notice to Customer, unless such prior written notice is not reasonably possible, for instance, with regard to the protection of the security of the Subscription Service.

## 7. CONCLUSION OF SERVICES

- 7.1 Upon termination or expiration of the Term, for any reason: (a) Philips will discontinue provision of the Subscription Services, (b) Customer's entitlement to access and use any Licensed Software will end, and (c) Philips will de-install the Licensed Software. Philips is not obligated to retain any Customer information collected as part of the Subscription Services beyond the Term.



## 8. **DISCLAIMERS**

- 8.1 **Limitations.** NOTWITHSTANDING ANYTHING ELSE IN THE AGREEMENT, IN ADDITION TO ANY OTHER LIMITATIONS SET FORTH IN THE AGREEMENT, SUBSCRIPTION SERVICES ARE PROVIDED "AS-IS", "AS-AVAILABLE", WITHOUT WARRANTY, REPRESENTATION OR INDEMNITY OF ANY KIND, EXPRESS, IMPLIED, ORAL, WRITTEN, STATUTORY, OR OTHERWISE, INCLUDING: WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. PHILIPS MAKES NO WARRANTY OR REPRESENTATION THAT THE SUBSCRIPTION SERVICES: (A) WILL BE UNINTERRUPTED, COMPLETELY SECURE, ERROR-FREE, FAILSAFE, OR FREE OF VIRUSES; (B) WILL MEET CUSTOMER'S BUSINESS REQUIREMENTS OR OPERATE WITH CUSTOMER'S CURRENT SYSTEMS; (C) WILL COMPLY WITH ANY PARTICULAR LAW; OR (D) WILL PROVIDE COMPLETE PROTECTION TO CUSTOMER OR THE MONITORED PHILIPS PRODUCTS AGAINST ANY SECURITY THREATS OR VULNERABILITIES. CUSTOMER ACKNOWLEDGES NO DATA TRANSMISSION OVER THE INTERNET CAN BE GUARANTEED TO BE SECURE. PHILIPS DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY INTERCEPTION OR INTERRUPTION OF ANY COMMUNICATIONS THROUGH THE INTERNET, NETWORKS, OR SYSTEMS OUTSIDE PHILIPS' CONTROL. CUSTOMER IS RESPONSIBLE FOR MAINTAINING THE SECURITY OF ITS NETWORKS, SERVERS, APPLICATIONS, AND ACCESS CODES. SUBSCRIPTION SERVICES MAY BE SUBJECT TO LIMITATIONS, OUTAGES, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. PHILIPS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, LOSS OF CUSTOMER DATA, BUSINESS INTERRUPTION, OR DAMAGES RESULTING FROM THOSE PROBLEMS.
- 8.2 **WAIVER OF LIABILITY.** CUSTOMER UNDERSTANDS AND AGREES THAT THE LICENSED SOFTWARE IS NOT DEVELOPED BY PHILIPS AND PHILIPS DOES NOT MAKE ANY REPRESENTATION ABOUT THE FUNCTIONALITY OR EFFICACY OF THE LICENSED SOFTWARE. PHILIPS IS NOT RESPONSIBLE OR LIABLE FOR ANY DAMAGES WHATSOEVER CAUSED BY THE LICENSED SOFTWARE, ITS CONFIGURATION, OR ITS FAILURE TO DETECT VIRUSES OR MALICIOUS CODE.



**Schedule 12**  
**Interoperability Solutions Rev 22**

Product Category	Products
Data Management & Interoperability Solutions	HealthSuite Interoperability Solution

**1. Definitions**

The following terms used in this Schedule shall have the meaning set forth below. Capitalized terms used but not otherwise defined herein have the same meaning as set forth in the Philips Standard Terms and Conditions of Sale.

- 1.1 **Acceptance** means the date of the delivery of (parts of) the Licensed Software as described in the Quotation and as evidenced by Philips' notification of delivery to Customer. Alternatively, the Licensed Software will be deemed accepted upon Customer's continued use after a period of 30 days has expired after (each part of) the Licensed Software was delivered by Philips to Customer.
- 1.2 **Customer Content** means any information, in digital or other form, processed by Customer in relation to the Licensed Software, including but not limited to data, documents, emails and pictures, including Personal Data.
- 1.3 **Customer's System** means all Third Party Products and Services provided by Customer to run the Licensed Software, including (but not limited to) server hardware, operating system, web server, database and virus scanner.
- 1.4 **Deliverables** means materials, work-products and documentation provided and/or delivered as part of the Professional Services, such as a manual.
- 1.5 **Documentation** means the technical and functional specifications of the Licensed Software and user guides, manuals and other instructional materials provided by Philips to Customer relating to the operation and functions of the Licensed Software, as may be updated from time to time by Philips.
- 1.6 **Environment** means the part of Customer's System, which runs (part of) the actual Licensed Software, Third Party Products and Services, including but not limited to network connection, server hardware, operating system, web server, database and virus scanner.
- 1.7 **Fee(s)** means the fees payable by Customer for the use of the Licensed Software, Professional Services and/or Technical Support Services, all as set forth in the Quotation.
- 1.8 **Implementation** means the configuration and preparation of the Licensed Software for its use by Customer.
- 1.9 **Installation** means providing the Licensed Software to Customer in an Environment ready for use.
- 1.10 **Licensed Software** means the software (application(s)) provided by Philips to Customer, as described in the Documentation and the Quotation, including Updates and Upgrades as may be provided to Customer by Philips from time to time. Philips is not obliged to make available Updates and Upgrades, except where explicitly agreed between the parties.
- 1.11 **Maintenance** means the tracing or repairing of defects with respect to the Licensed Software made available from time to time at the discretion of Philips. The Quotation will indicate whether Customer has subscribed to Upgrades as part of the Maintenance.
- 1.12 **Professional Services** means the services ordered by Customer and provided by Philips pursuant to the Quotation and the attachment hereto (Philips Interoperability Maintenance and Support Terms and Conditions), which may include but not limited to Installation and Implementation and Training, excluding the provision of any Technical Support Services or Maintenance with respect to the Licensed Software.
- 1.13 **Technical Support Services** means the technical support services and Maintenance provided by Philips for the Licensed Software as described in and pursuant to the Quotation and the attachment hereto (Philips Interoperability Maintenance and Support Terms and Conditions).
- 1.14 **Third Party Products and Services** means any hardware, software, peripherals, network, content protected by copyrights or other equipment or services, other than the Licensed Software or Customer Content, that Customer has acquired or may acquire the right to use from a party other than Philips (irrespective of whether it is delivered by Philips).
- 1.15 **Training** means the instruction by Philips of the relevant employees of Customer (trainees) for the use of the Licensed Software.
- 1.16 **Update** means a new version of the Licensed Software consisting of technical and/or functional alterations that are

compatible with the previous release.

- 1.17 **Upgrade** means a major upgrade to the Licensed Software, i.e. an enhanced version of the Licensed Software which offers substantial additional functionality to the Licensed Software.
- 1.18 **User** means any person who is authorized by Customer to use the Licensed Software, for whom subscriptions to the Licensed Software have been purchased, and who have been supplied user identifications and passwords by Customer (or by Philips at Customer's request).

## 2 License

- 2.1 Subject to (i) Acceptance, (ii) full and timely payments of Fees and (iii) usage of the Licensed Software by Customer in compliance with the terms and conditions contained herein, Philips grants to Customer a limited, non-exclusive, non-transferable license, without the right to sublicense, to use the Licensed Software for the term set out in the Quotation, which license Customer accepts.
- 2.2 Customer agrees that its entering into the Agreement with Philips is neither contingent upon the delivery of any future functionality or features of the Licensed Software nor dependent upon any oral or written comments made by Philips with respect to future functionality or features of the Licensed Software. The Licensed Software and Documentation, are subject to change by Philips at any time, provided that Philips shall notify Customer in advance of any substantial changes.
- 2.3 Customer shall pay the Fees in time and use the Licensed Software solely as contemplated by the Agreement. Furthermore, Customer shall not and shall ensure Users not to:
  - (a) use the Licensed Software in a way prohibited by law, regulation, governmental order or decree or violating the rights of others;
  - (b) use the Licensed Software in any application or situation where failure of the Licensed Software could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage;
  - (c) sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Licensed Software available to any third party, other than to Users or as otherwise contemplated by the Quotation;
  - (d) send spam, malware or unsolicited messages in violation of applicable laws;
  - (e) send or store infringing, or otherwise unlawful material, including material that violates third party rights;
  - (f) interfere with or disrupt the integrity or performance of the Licensed Software or Customer Content contained therein;
  - (g) attempt to gain unauthorized access to the Licensed Software or any service, device, data, account or network or impair anyone else's use of it;
  - (h) modify, copy or create derivative works based on the Licensed Software;
  - (i) frame or mirror any content forming part of the Licensed Software;
  - (j) reverse engineer the Licensed Software;
  - (k) access the Licensed Software in order to (i) build a competitive product or service, and/or (ii) copy any ideas, features, functions or graphics of the Licensed Software;
  - (l) exceed the licensed use of the Licensed Software as described in the Quotation;

Customer shall reproduce on all media containing a copy of the Licensed Software all copyright notices, proprietary information notices and other legends and markings as were affixed to the original media.

## 3 Responsibilities of Parties

- 3.1 Philips shall deliver one copy of the Licensed Software to Customer.
- 3.2 Customer is responsible for (i) the relevant certificates, including (but not limited to) the ordering and activating of (for instance Transport Layer Security) certificates for websites (if applicable), (ii) renewing licenses for the use of the Licensed Software, (iii) insuring and making back-up copies of the Licensed Software and Customer Content (on database level) for archival, operational and security purposes, which will all be subject to the terms contained herein, (iv) maintenance of the database(s) of Customer, (v) Third Party Products and Services, (vi) creating and maintaining User accounts and (vii) Customer's System.
- 3.3 Customer must employ industry standard virus protection software and methods as well as firewall and other security protection, and is responsible for the consequences of any virus attack on, or security breach of, its operating system and the Licensed Software.
- 3.4 Customer is responsible for the hosting of the Licensed Software, unless the parties have expressly agreed otherwise.
- 3.5 Customer is responsible for acquiring and installing any Updates and/or Upgrades to the Licensed Software. If Philips agrees to provide installation of Updates and/or Upgrades, then Customer will provide reasonable cooperation with the installation of such Updates and/or Upgrades by Philips. Installations may require Customer to make additional changes

to Customer's System at its own cost. Customer (and not Philips) shall be fully responsible for any consequences of a decision not to install any Updates and Upgrades.

- 3.6 Customer is responsible for all activities that occur in User accounts and for Users' compliance with the Agreement (including this Schedule). Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content in the Licensed Software; (ii) use reasonable efforts to prevent unauthorized access to, or use of, the Licensed Software, and notify Philips promptly of any such unauthorized access or use and promptly furnish full details of such use or access, and cooperate with Philips in any litigation against third parties deemed necessary by Philips to protect its proprietary and contractual rights; and (iii) shall ensure the proper configuring, programming and operating of Customer's hardware, software, websites, content, telephone and internet connections to allow access to and use of the Licensed Software; and (iv) comply with all applicable laws in using the Licensed Software.
- 3.7 Customer is responsible for meeting the software, hardware and server requirements described by Philips in the Documentation, which requirements are subject to change by Philips at any time, provided that Philips shall notify Customer in advance of any substantial changes.
- 3.8 Customer acknowledges and agrees that Third Party Products and Services shall be subject to the terms and conditions of the third party supplier(s) exclusively. Customer shall comply with the applicable third party terms and conditions.
- 3.9 If Customer uses the Licensed Software (or permits workstation(s) or computing device(s)) to access or utilize the services or functionality of Third Party Products and Services (including Microsoft products or similar software), Customer should obtain appropriate license(s) directly from such third party supplier.

#### **4 Customer Indemnifications**

- 4.1 Customer shall indemnify Philips and each of its officers, directors, employees and agents against any loss, damage, liability or costs (including reasonable legal fees) incurred by any of them as a result of any claims made or brought against Philips or its affiliates, officers, directors, employees or agents by a third party arising out of or related to: (i) Customer's use of the Licensed Software in violation of the Agreement (including this Schedule); (ii) Customer's breach of any of its representations, warranties, undertakings or commitments in the Agreement or this Schedule; or (iii) Customer's negligence or willful misconduct. Philips shall promptly give written notice of the claim to Customer, give Customer sole control of the defense and settlement of the claim (provided that Customer may not settle or defend any such claim unless it unconditionally releases Philips of all liability) and provide Customer, at Customer's cost, all reasonable assistance in defending and settling any such claim.

#### **5 Audit Rights and License Management**

- 5.1 For the duration of term set out in the Quotation and for a period of 6 months thereafter (except where a longer period is required by law, then such longer period shall apply), Customer shall allow Philips to carry out audits, including (without limitation) remote and/or electronic audits, of Customer's use of the Licensed Software in order to verify compliance with the terms of this Agreement (including this Schedule).
- 5.2 The audit shall be conducted at Philips' expense, unless the results of such an audit establish that Customer's use of the Licensed Software is not in compliance with the terms of this Agreement in which case Customer shall bear the costs. If any audit by Philips shows any deficiency in the Fees paid to Philips, Customer shall promptly remit payment to Philips of the relevant amounts plus interest calculated in accordance with Section 3.4 of the General Terms of the Conditions of Sale.
- 5.3 The Licensed Software incorporates license management tools and technology to ensure Customer complies with the Agreement and to allow Philips to exercise self-help remedies in the event that (i) Customer breaches this Agreement which breach is irremediable or (where such breach is remediable) fails to remedy that breach within such 30 days after being notified in writing to do so, or (ii) any (security or privacy) incidents concerning the Licensed Software, including without limitation the ability of Philips to temporarily or permanently suspend Customer's use of the Licensed Software. Philips shall not exercise any such self-help remedies without prior written notice to Customer, unless such prior written notice is not reasonably possible for instance with regard to the protection of the security of the Licensed Software. Customer consents to such license management tools and technology and authorizes Philips to exercise any or all of the capabilities.

#### **6 Software warranty**

- 6.1 Philips warrants that (i) the Licensed Software shall perform materially in accordance with the Documentation during a period of 90 days from the date of Acceptance ("Warranty Period") and (ii) it owns or otherwise has sufficient rights in the Licensed Software to grant Customer the rights herein.
- 6.2 The warranty set out in 6.1-(i) shall only apply where: (a) Customer notifies Philips of any nonconformity discovered within the Warranty Period in writing within 10 days of discovery giving full details of such nonconformity; and (b)

Philips is able to reproduce the nonconformity. Upon receipt of such notice of nonconformity, Philips shall use commercially reasonable efforts to repair or replace the Licensed Software to make it perform in accordance with the Documentation. All corrections shall be made in accordance with Philips' Licensed Software correction procedures. Philips does not represent or warrant that all errors can be corrected. The Warranty Period shall not be extended due to corrections to the Licensed Software. If, after using commercially reasonable efforts, Philips is unable to replace or repair the Licensed Software, Customer may terminate this Schedule upon written notice to Philips and will receive a pro rata refund for paid for but unused Licensed Software and Technical Support Services. The foregoing are Customer's sole and exclusive remedies for breach of this warranty.

- 6.3 In the event of a breach of the warranty set out in 6.1 (ii), Philips shall use commercially reasonable efforts to secure the sufficient rights in or to replace the Licensed Software. If, after using commercially reasonable efforts, Philips is unable to replace the Licensed Software, Customer may terminate this Schedule upon written notice to Philips and will receive a pro rata refund for paid for but unused Licensed Software and Technical Support Services. The foregoing are Customer's sole and exclusive remedies for breach of this warranty.
- 6.4 The warranties set forth in this Schedule shall not apply if (i) the Licensed Software and the Updates have not been properly and timely installed by Customer and used at all times in accordance with the Documentation (ii) Customer (either itself or via a third party on its behalf) has modified the Licensed Software; (iii) Customer has combined the Licensed Software with other software or hardware that is not in accordance with the Documentation; or (iv) Customer did not provide prompt notice to Philips as set forth in 6.2.
- 6.5 None of the warranties set forth in this Schedule apply to any Third Party Products and Services. Warranties for Third Party Products and Services may (if any) be supplied directly to Customer by third party suppliers.
- 6.6 The warranties in Section 6.1(i) and (ii) are made to and for the benefit of Customer only. Except as specifically set forth in this Schedule, Philips makes no representations and warranties, express or implied, relating to the Licensed Software, including but not limited to any warranty that the Licensed Software will meet Customer's requirements, or will operate error free or uninterrupted. Philips specifically disclaims all implied warranties of merchantability, fitness for a particular purpose, non-infringement of third party rights or any warranties regarding the quality of Customer Content, except to the extent that any warranties implied by law cannot be validly waived.
- 6.7 Philips is not responsible for circumstances beyond its control, such as:
  - (a) non-Philips' supplied infrastructure, hardware, virtual machines, network (connectors), information, content, software, scripts, data, files, application programming, web servers or service, materials, equipment;
  - (b) acts or omissions of Customer or its agents;
  - (c) virus or hacker attacks;
  - (d) intentional shutdown for emergency intervention or security incidents;
  - (e) acts or omissions of a party other than Philips.
  - (f) Customer configuration changes;
  - (g) Customer's failure to comply with Philips' Documentation and security and upgrade policies;
  - (h) Customer's use in violation of the Agreement (including this Schedule).

## 7 Technical Support Services

- 7.1 Technical Support Services shall be provided by Philips to Customer according to the attachment hereto (Philips Interoperability Maintenance and Support Terms and Conditions).
- 7.2 When applicable, Customer shall provide Philips with the necessary remote access, required information and support to connect to Philips Remote Service (PRS) and enable Philips to remotely provide the Technical Support Services.
- 7.3 Philips is not obligated to provide any technical support services for Third Party Products and Services (regardless of whether obtained from Philips or another source), including (without limitation) Customer's networks or installation of networks.

## 8 Professional Services

- 8.1 Philips will provide Professional Services in accordance with the Quotation and the attachment hereto (Philips Interoperability Maintenance and Support Terms and Conditions), if Customer chooses to purchase such services and subject to Customer's full and timely payment of the Fees.

## 9 Limitation of Liability

- 9.1 The total aggregate liability of Philips, its employees, officers, and affiliates for all loss and damage whatsoever and howsoever arising related to this Schedule and the Agreement shall be limited to the total Fees paid by Customer during the 12 months immediately preceding the date on which the claim arose.

- 9.2 Customer understands and agrees that Philips is not engaged in the practice of medicine and that the Licensed Software is not a substitute for professional judgement of healthcare providers in diagnosing and treating patients. Customer shall indemnify Philips fully and shall hold Philips harmless against any losses or liability in connection with any claim arising due to Customer relying solely on the Licensed Software or its output for purposes of diagnosis or treatment.

## **10 Term and Termination**

- 10.1 Customer shall remove or allow Philips to remove the Licensed Software from its hardware and return the Licensed Software and any copies thereof, Documentation and confidential information to Philips at Customer's expense immediately upon the termination of this Schedule. Customer shall certify to Philips that it does not, directly or indirectly, wholly or partly, retain or possess Licensed Software, Documentation, confidential information or parts thereof.

## **11 Miscellaneous**

- 11.1 In connection with Licensed Software in which one or more third party suppliers retain rights, the provisions contained herein shall also be for the benefit of these third party supplier(s). Customer agrees to indemnify Philips for any claim by third party supplier(s) which arises out of Customer's breach of the Agreement (including this Schedule).
- 11.2 The Licensed Software may contain support for programs written in Java. Java technology is not fault-tolerant and is not designed, manufactured or intended for use or resale as online control equipment in hazardous environments requiring fail-safe performance.

**Attachment to Schedule 12 – Interoperability Solutions  
Philips Interoperability Maintenance and Support Terms and Conditions**

**1. Definitions:**

Any capitalized term used in these Philips Interoperability Maintenance and Support Terms and Conditions (“**Interoperability Service Terms**”) shall have the meaning ascribed to them below or as defined in Schedule 12 – Interoperability Solutions (the “**Schedule**”).

- 1.1 **Additional Service days:** shall mean Service days that are purchased by the Customer to cover additional Professional Services, change requests / technical training and or Updates/Upgrades performed by the Philips service team.
- 1.2 **Coverage Hours:** means those hours when the Customer is able to access the Services and as further defined in the Service Level Exhibit attached hereto.
- 1.3 **Customer User Support:** shall mean the initial support provided by the Customer’s personnel to address any Incident experienced by Customer’s Users.
- 1.4 **Customer Site:** means the Customer location where the Services will be performed by Philips;
- 1.5 **Designated Hardware:** means hardware that is either owned and procured by the customer or procured and delivered by Philips for the implementation of software services.
- 1.6 **Extended Coverage Hours:** unless otherwise specified in these Interoperability Service Terms, shall mean the time during which the Customer may access specified Services for Priority 1 and Priority 2 Incidents on a twenty-four hour, seven days’ per week basis.
- 1.7 **Incident:** shall mean Software errors, failures, faults, User problems or requests for User assistance relating to the Licensed Software.
- 1.8 **Intellectual Property:** means any property, tangible or intangible, that may be subject to Intellectual Property Rights, including without limitation, ideas, algorithms, concepts, techniques, processes, procedures, methodologies, plans, systems, research, information, documentation, data, specifications, requirements, designs, programs, inventions, technologies, software (including its source code), tools, products knowledge, know-how, including without limitation, trade secrets, and other materials or things.
- 1.9 **Intellectual Property Rights:** means: (a) any and all proprietary rights anywhere in the world provided under: (i) patent law; (ii) copyright law, including moral rights; (iii) trademark law; (iv) design patent or industrial design law; (v) semiconductor chip or mask work law; (vi) trade secret law; (vii) privacy law; or (viii) any other statutory provision or common law principle applicable to these Interoperability Service Terms which may provide a right in either: (A) Intellectual Property; or (B) the expression or use of Intellectual Property; and (b) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing.
- 1.10 **Key User:** shall mean a Customer representative selected by the Customer who is able and capable of giving instruction and training in the use of the Licensed Software to existing and new Users.
- 1.11 **Non-Qualified Device:** shall mean (i) any product (hardware, firmware or software) utilized in connection with the Licensed Software without Philips’ approval or recommendation; (ii) any Licensed Software supplied by Philips which has been modified by the Customer or any third party; and (iii) any Licensed Software maintained under these Interoperability Service Terms in which the Customer does not allow Philips to incorporate fixes and Updates;
- 1.12 **Office Hours:** means 9:00 am to 5:30 pm Customer local time;
- 1.13 **Philips:** means Philips and its affiliates.
- 1.14 **Resolution Time:** shall mean the approximate amount of time between when the Customer first creates an Incident report and when Philips has restored the last functional back-up as described in Section 2.6 of these Interoperability Service Terms.
- 1.15 **Response Time:** shall mean the approximate amount of time between when the Customer first creates an Incident report and when Philips has acknowledged the Incident report.
- 1.16 **Services:** means the Technical Support Services and Professional Services purchased by Customer from Philips hereunder which are described in the Quotation(s) and these Interoperability Service Terms.
- 1.17 **Service Levels:** shall mean the expected Response and Resolution Times to Incidents as defined in the Service Level Exhibit.
- 1.18 **Software Administrator:** shall mean the person responsible for the day to day operation of the Licensed Software.



1.19 **Standard Coverage Hours:** unless otherwise specified by Philips in the Services Agreement, shall mean 9 am – 5:30 pm Customer time.

1.20 **Weekdays:** means Monday through Friday, but excludes Philips recognized holidays.

## 2. Customer Responsibilities.

2.1 **Customer User Support.** The Customer is responsible for providing Customer User support and shall provide local support personnel, processes and structure to accommodate and resolve any initial User technical issue or problem. If the Customer is unable to resolve the User's technical problem, then the Customer shall notify Philips as further set out below, and will co-operate with Philips to resolve the Incident. Customer User Support may include, without limitation:

- a) providing initial Software support to the Customer's own Users for the purpose of providing advice and assistance in respect of the Licensed Software and its use;
- b) providing Customer User with support on Licensed Software during the Coverage Hours (as specified in the Service Level Exhibit which is attached to and forms an integral part of this attachment);
- c) collecting User's diagnostics as requested by Philips to assist Philips in providing Services;
- d) coordinating User support requirements with Philips and working directly with Users on all matters pertaining to the Customer User requirements;
- e) interacting directly with Users, including responding to technical questions (of the nature and type which should be answerable by a technical support person who is familiar with the Licensed Software including, but not limited to issue assessment in respect of hardware, servers, network and training) and which could include tasks such as power check, configuration check, and network check.

2.2 **Project management.** The Customer shall appoint a point of contact for Philips and a service manager who will: (a) provide prior notice and instruct Users with regard to planned Upgrades and the associated unavailability of the Licensed Software (scheduled downtime); (b) ensure that Philips has necessary access to the Customer's site and network, as applicable; (c) provide to Philips any necessary support such as, but not limited to, IP addresses and network protocols; and (d) be responsible for organizing any necessary training, in coordination with Philips, for new or existing installations.

2.3 **Key Users.** The Customer is responsible for selecting one (1) or more Key Users. The Key User is responsible for providing User training when there are new Upgrades and/or Updates. Unless otherwise agreed in writing by the parties, Philips will provide one (1) Key User with initial User training. Thereafter, the Customer must ensure that any Key User the Customer appoints is appropriately trained to meet the Key User's responsibilities under this attachment and the Schedule.

2.4 **Customer's System.** Philips may provide the Customer with recommended specifications for the Customer's System, however, the Customer is solely responsible for ensuring that the Customer's System is suitable for the proper use and functioning of the Licensed Software. If required by Philips, the Customer will maintain the Customer's System at the required revision levels or specifications as specified by Philips. Philips reserves the right to make changes to the revisions levels from time to time and Customer agrees that such changes may require Customer to make changes to its Customer's System at its own cost. The Customer is responsible for maintaining the Customer's System and archive media in good working order and for following suitable system management protocols and practices. These Customer responsibilities may include, but are not limited to: checking system alerts, solving system alerts, disk and media defragmentation, managing system security, managing system environment, system back-up, managing master data in the system, managing the authorization rights in the system, organizing the training for new users, organizing the training for users after Upgrades, co-ordination of User support, review of User and Key User requests, and managing the communication of such requests to the software vendor. The Customer shall not install additional software on the Customer's System.

2.5 **Audit on Customer's System.** Prior to commencement of any Upgrade, a Customer's System and operating environment audit will be carried out by Philips in order to confirm that the Customer's System and the environment in which it operates are maintained at a level at which the Upgrade can be carried out. Should this audit indicate that the Customer's System and/or the operating environment are maintained at an insufficient level, then the Upgrade will be postponed until such time as the Customer brings the Customer's System and/or operating environment up to a level deemed satisfactory by Philips, and the Customer's System is audited again by Philips at the Customer's expense.

2.6 **Data reconstruction.** The Customer is responsible for devising and following its own back-up processes with regard to Customer content. The Customer shall be solely responsible for the reconstruction, restoration, retrieval or recovery of any lost or altered patient records, files, programs, any data, or programs. In no event shall Philips have any responsibility or liability with respect to the foregoing. Customer and Philips may agree in writing that Philips shall provide services on a commercially reasonable basis to reconstruct data. Any such services shall be subject to availability, and will be documented in an amendment to this Schedule which will specify the additional fees (which will be confirmed by Philips to Customer) and any other additional terms that the parties may agree upon in writing.

2.7 **Network Access.** In order to receive Services, the Customer must provide Philips with access to its network through one of the following options: (1) Remote Access. The Customer may elect to provide Philips with twenty four (24) hour, seven (7) days' per week, (24x7) direct VPN remote network access to the Designated Hardware, the required information and



support to enable Philips to remotely provide Technical Support Services for the Licensed Software. If this option is selected, the Customer must provide Philips with administrator access to all Third Party Products and Services installed on the Designated Hardware. The Customer will allow Philips to install and manage a Customer Premises Equipment/Virtual Private Network ("CPE/VPN") device for secure access to Designated Hardware; (2) Coordinated Remote Access. The Customer may elect to provide Philips with direct VPN remote network access to the Designated Hardware, the required information and support to enable Philips to remotely provide Technical Support Services for the Licensed Software in coordination and with a Customer designated representative. If this option is selected, Philips does not provide any guaranteed Service response or resolution times, as access to the Customer network will be dependent on the Customer's availability; or (3) On-Site Network Access. Customer may elect to provide Philips with access to its network through on-site Services only. If this option is selected, Philips does not provide any guaranteed Service response or resolution times, as access to the Customer's network will be dependent on the Customer and Philips's personnel availability. If either Remote Access or Coordinated Remote Access are selected by the Customer, the Customer will (i) provide Philips with a secure location at the Customer's premises to store one Philips remote services network router (or a Customer-owned router acceptable to Philips at the Customer's option) for connection to the equipment and to the Customer's network; and (ii) at all times provide Philips with full and free access to the router and a dedicated broadband Internet access node, including but not limited to public and private interface access, suitable for connection to the Customer's network for Philips use in remote servicing of the Licensed Software, such as providing Technical Support Services, updating the Licensed Software, uploading software error logs and utilization data, transmitting automated status notifications from the Licensed Software to Philips, and performing real-time screen sharing with the Customer's personnel. The type of Customer network access selected for each Customer Site is set out in **Exhibit 1** of these Interoperability Service Terms. The Customer must ensure that Philips is not required to request its accounts to be enabled each time Philips needs to connect to the Licensed Software and/or Designated Hardware so as to be able to investigate and fix Incidents. If for whatever reason VPN access is not available for a Customer who has selected either the Remote Access or Coordinated Remote Access option, then any resulting on-site activities will be billed to the Customer at the then-current Philips fees. Any up-time guarantees, Resolution Time, or Response Time, will be invalidated in that case.

- 2.8 **Customer Site.** If Philips is providing on-site Services, the Customer must ensure that the Customer Site is safe and free and from any hazards, hazardous or infectious substances, and meets all applicable laws and safety standards. Philips will not be required to perform Services at a Customer Site that Philips reasonably deems to be unsafe or unsuitable and will invoice the Customer its standard minimum rate for fees plus any costs it incurs (for example, travel related expenses) in attending at any Customer Site where Philips determines it cannot perform Services.
- 2.9 **Anti-Virus Statement.** The Designated Hardware and related software is a computer-based medical product and is, therefore, subject to attack by computer viruses. The Customer shall be solely responsible to install, monitor and upgrade software required to prevent any attack by a computer virus. Any additional costs, including for software installation, incurred by Philips caused by a lack of adequate anti-virus control and/or protection from the Customer, shall be invoiced to and paid by the Customer to Philips.

### 3. Services.

#### 3.1 Technical Support Services Scope: Technical Support Services consist of:

- a) notification to the Customer in writing of Philips recommended Upgrades and Updates (such notices being referred to as "**Release Notes**") and the provision thereof to the Customer, for which Customer shall provide all necessary and useful support upon the first request of Philips, including cooperation with scheduling and site access. Philips accepts no responsibility or liability in respect of the Licensed Software or Services if the Customer has not carried out all other relevant recommendations contained in other Release Notes received by the Customer;
- b) investigation and identification, where possible and after Customer fulfils its Customer User Support obligations, of suspected Incidents associated with the Licensed Software reported by the Customer;
- c) Where Philips deems appropriate, supply of temporary software work around or software patches to overcome specific Incidents reported by the Customer;
- d) technical information given by telephone to the Customer through Philips technical support team in relation to the Licensed Software. Such information will include:
  - i. general information on system operation and housekeeping;
  - ii. information and support in relation to the Customer undertaking database integrity checks and general information on fix of data corruption identified;
  - iii. if requested, and where Philips deems reasonably possible, information on database recovery with the Customer to take the required actions;
  - iv. working with the Customer in relation to identification of software/data corruption following power failure/fluctuation, hardware or communications problems, and information on fix of corruption identified; and
  - v. advisory support associated with Upgrades or changes.
- e) Application support via telephone for Customer through Philips technical support team in relation to the Licensed Software.
- f) In the event that telephone assistance and/or remote problem resolution is deemed not sufficient by Philips or has not been purchased under this attachment to restore Licensed Software performance, Philips will provide on-site support service at the Customer facility at Philips's discretion during Coverage Hours at the then-current Philips Fees or as otherwise provided under this attachment or the Schedule if Customer has purchased On-Site Network access support.

#### 3.2 Services Accessibility. Services under these Interoperability Service Terms are available during Coverage Hours and in accordance with the Response Times specified in **Exhibit 1**.

**4. Technical Support Service Exclusions.** The Technical Support Services provided by Philips shall not extend to the following items (nor consequences thereof):

- a) any Incident caused by the incorrect operation of the Licensed Software by anyone other than Philips, including the Customer, its employees, contractors, agents, or other representatives, or by an error in data supplied by the Customer;
- b) any fault within the Licensed Software resulting from alterations howsoever made by the Customer or any third party to existing Licensed Software and/or Designated Hardware upon which the Licensed Software is dependent, referred to as the "Operating Environment", without the prior written approval of Philips. For the sake of clarity, alterations to the Operating Environment include (but are not limited to) the installation, upgrade or reconfiguration of the following:
  - i. Philips designated database/applications server;
  - ii. Customer's workstations upon which the Licensed Software is running;
  - iii. any Third Party Products and Services to which the Software interfaces;
  - iv. any network infrastructure components that the Licensed Software depends upon for communication and transportation;
  - v. any other hardware change, which causes a fault in the Licensed Software;
  - vi. the operating systems residing on the database/applications server and Customer's workstations including changes to network identification;
  - vii. the DBMS installed on Philips designated database/applications server;
  - viii. any other action from Third Party Products and Services that causes a fault in the Licensed Software;
  - ix. any fault caused by Third Party Products and Services or anything else not supplied or recommended to the Customer by Philips;
  - x. any combining of the Licensed Software with a Non-Qualified Device.
- c) operating system software issues that manifest themselves in non-performance of another installed application and affect use or performance of the Licensed Software;
- d) network related problems that arise as direct or indirect result of network configuration changes or network settings that may be required as part of the Upgrade; and
- e) custom services as defined in **Exhibit 1** (if any).

**5.** Philips' obligations under the Service Level Exhibit attached hereto as **Exhibit 1** only apply on the Philips production environment and not on test / acceptance environments. Resolution times are only valid in case the Customer complies with the back-up policies and process as described in Section 1.6 (Data Reconstruction) hereof.

**6. Professional Services.** If Customer has purchased Professional Services under this Schedule, then subject to the Customer meeting its payment obligations hereunder, Philips will provide Professional Services in accordance with each applicable Quotation, this attachment and the Schedule. The Professional Services may include advice and recommendations. However, Customer (and not Philips) shall at all times be responsible for any decisions based upon such advice or recommendations. Customer acknowledges and agrees that Customer is solely responsible for independently verifying the results of any services of a consultative nature and for Customer's reliance thereon.

**6.1 Professional Service Exclusions.** Unless expressly described in the Quotation, the Professional Services do not include:

- a) equipment, software, or licenses; and
- b) services outside the scope of the Professional Services, as set forth in the Quotation.

**6.2** Philips's responsibility to provide the Professional Services, to meet the milestones (if any), and to provide Deliverables is contingent on Customer meeting its responsibilities described below in a timely and appropriate fashion, at Customer's sole expense. If Customer fails to meet such responsibilities, it may result in an increase in the Fees, or in delays or extensions of the agreed milestones or Deliverables. Customer will provide:

- a) access to Customer's employees, representatives and/or agents required to accomplish the objectives;
- b) access to relevant information and materials (written and electronic) as needed to accomplish the objectives;
- c) immediate written notification to Philips if Customer knows that earlier provided information or materials are incorrect or have changed in such a way that any inaccuracy or change may impact Philips's delivery of the Professional Services in any way;
- d) access to standard office facilities, such as work space, standard office equipment (e.g. telephone, copiers), Internet access, and parking when necessary for Philips to be at the Customer's site to perform the Professional Services;

- e) written information to Philips identifying all healthcare and other regulatory and quality requirements applicable to the Professional Services, and Customer will obtain all required approvals of the relevant governmental or regulatory bodies to permit Philips to perform the Professional Services for Customer;
- f) Philips personnel with adequate safety and other training and familiarize them with local procedures and rules of Customer;
- g) written feedback promptly upon Philips's request; and
- h) Philips with a Customer representative, in writing, who will be responsible for providing the items described in this Section 5.2 and any other information, materials, or feedback requested by Philips in connection with the Professional Services.

**7. Software Restoration.** If Philips provides any Upgrade under this attachment, then the following terms apply. Should a Upgrade fail, such that the supported application software requires restoration, the Customer will restore a functional backup (image) that has been taken from the Licensed Software prior to the Upgrade. The backup will consist of the application software, database software and operating system to the revision level that existed prior to the malfunction or failure. Custom or Third Party Products and Services, custom database configurations or reports, and Customer-written product interfaces are not included in the software restoration provided by Philips.

**8. Downtime during Upgrade installation.** Philips will use commercially reasonable efforts to keep downtime of the Licensed Software during installation of any Upgrade to a minimum; however, the Customer acknowledges that such downtime cannot be avoided and there may be significant downtime on Upgrades. Philips shall inform the Customer when Upgrade installation will take place and what the expected downtime will be to help enable the Customer to adjust its work-planning accordingly. Philips does not provide any guarantee that the estimate of expected downtime will be accurate and does not accept any liability whatsoever as a result of or connected to any downtime, and Customer releases Philips from any such liability.

## **9. Incident Reporting, Management and Resolution.**

**9.1 Incident Reporting.** In case of an Incident, the Customer's Key User is responsible for referring each such Incident to Philips' support team as follows:

- a) by email to a special account that will be monitored by Philips' support team. The email account (iSiteCare@philips.com) will be provided to the Customer by Philips. The Customer should provide Philips with as much relevant information as possible, such as the patient file affected, the module and screen being accessed at the time, the action being undertaken, any error message displayed, the frequency, implications and urgency of the Incident. A support engineer will call back if further clarification is required; or
- b) By logging their incident directly into the Philips Interoperability Solutions Incident Management System ("IMS"), currently available at: <https://supportInteroperabilitySolutions.topdesk.net> (Philips will advise the Customer in the event the IMS website changes); and
- c) In the case of Priority 1 or 2 Incidents only, the Customer must telephone Philips's support team on the designated telephone number (+1 877-328-2808). All Priority 1 or 2 Incidents referred by telephone must also be followed up by email to Philips' support team.
- d) Incidents must only be reported to Philips' support team by the Key Users of the Customer.

**9.2 Logging.** Philips shall log all Incidents on the Incident reporting system used by Philips' support team, shall issue a unique Incident code number for each such Incident, and shall notify the Customer's Key User with an estimated time to fix, or arrival on-site (where appropriate).

**9.3 Priority Level Classification.** Once an Incident which requires remedial action has been reported to Philips by the Customer, Philips and the Customer shall then confer to determine the Priority Level which should be assigned to such Incident using the following Priority Level classification scheme:

### **9.4 Priority Definitions**

- i. Priority 1 (Critical need) – Critical need.
- ii. Priority 2 (System down) – Central (Licensed Software or application) servers down.
- iii. Priority 3 (System restricted) – The Incident causes workflow problems for the Customer or they cannot perform standard functions for the delivery of patient care.
- iv. Priority 4 (Intermittent problem) – Occasionally occurring or appearing Incidents.
- v. Priority 5 (Scheduled activity) – No work outage – schedule tasks with Customers consent.

Notwithstanding any other provision of the Schedule, Philips has final authority in determining the priority category of all Incidents and in determining the priority of response of Priority 1 through Priority 5 Incidents.

**9.5 Incident Management Approach.** Philips shall manage the reported Incidents using the following approach:

- i. working with the Customer to understand the Incident and defining the Incident;
- ii. understanding the impact of the Incident on the Customer's operation;

- iii. understanding the Customer's needs and expectations;
- iv. communication on a regular basis;
- v. ensuring that the Customer understands its responsibilities;
- vi. agreeing to criteria for Incident resolution.

Unless the Customer has selected the On-Site Network Access option outlined above, Philips shall primarily provide Services over telephone and e-mail using remote connectivity to the Designated Hardware. Philips shall keep all Incident files open until such time as Philips notifies the User who initiated the Incident that the Incident has been resolved. Philips shall continually monitor and evaluate all open Incident files. Notwithstanding any other provision of this Schedule, Philips has final authority in determining whether an Incident has been resolved.

**9.6 Response & Resolution Times.** Philips will use commercially reasonable efforts to respond to and resolve all Customer Incidents within the Response and Resolution Times set out in **Exhibit 1**.

**9.7 Customer User Support.** The above procedures shall only be instigated by Philips after trouble shooting procedures are performed by the Customer as described in Section 1. Customer shall have technically qualified personnel available during Coverage Hours to assist in resolving Incidents, where necessary.

**10. Software Upgrades.** Unless otherwise specified in the Quotation(s), the Customer is entitled to receive commercially available Upgrades as determined by Philips from time to time during the Term. Unless the Customer has purchased Upgrade installation Services, the Customer is responsible for installing Upgrades. The following terms and conditions apply to any such Upgrades:

**10.1 Upgrade Installation performed by Customer.** Upgrade installation files and packages shall be supplied by Philips to the Customer free of additional charge under the terms of the Schedule. Upgrades will be accompanied by Release Notes and user manuals. No Installation and/or other upgrade activities are included under the Schedule. The Customer is responsible for the planning, Installation and implementation of the Upgrade. Philips is available to provide remote Technical Support Services in case of Priority 1 or 2 Incidents which arise after or during the Upgrade. If the Customer requests that the Services be performed on-site, then Philips will perform the Services on-site subject to availability and to additional Fees which Philips will communicate to the Customer.

**10.2 Upgrade Installation performed by Philips.** If the Customer has purchased Additional Service Days, Philips will provide the Installation of the Upgrade(s) remotely, with the installation method to be chosen by Philips at its sole discretion. The following Services are covered under the Upgrade installation coverage: project management and Installation of Licensed Software. Professional Services deemed necessary for the Upgrade, such as workflow assessment/consultation, technical/clinical/application training, network consulting and customization may be purchased separately as Additional Service Days from Philips if available. If the Customer requests that the Services be performed on-site, then Philips will perform the Services on-site subject to availability and to additional Fees which Philips will communicate to the Customer.

**10.3 Scheduled Software Installation Coverage.** Upgrade installation performed by Philips will be performed during Weekday Office Hours, however Philips will make commercially reasonable efforts to accommodate Customer requests to perform Upgrade installation outside of Weekday Office Hours.

**10.4 Notice of Upgrades.** Once a Upgrade is available, the Customer accepts sole responsibility for any consequences of delaying or failing to complete (or to allow Philips to complete, if applicable) the Upgrade implementation. Without limiting the generality of the foregoing, the Customer acknowledges that its delay or failure to implement available Upgrades may result in (without limitation) non-compliance with new datasets, bug-fixes which cannot be applied, and other technical issues. and Philips shall have no liability or responsibility in connection with the foregoing. Philips only supports (a) current release of the Licensed Software; (b) the immediate three (3) prior releases of the Licensed Software (the "N-3" version). Notwithstanding the foregoing, Philips will use commercially reasonable efforts to provide the Customer with Technical Support Services for Licensed Software during the term for a maximum of twelve (12) months' from the date that Customer is notified that a Upgrade is available, however Philips is unable to guarantee Technical Support Services will be available for non-current Licensed Software, including without limitation bug fixes and Licensed Software troubleshooting. Customer agrees and acknowledges that Services for non-current Licensed Software versions may be subject to additional Fees.

## **11. Releases and Exclusions from Services.**

**11.1 Release from responsibility.** If Customer fails to comply with any of its obligations under this Interoperability Service Terms attachment and the Schedule, then the Customer expressly releases Philips from its obligation to perform the Services and from any liability in connection therewith, including without limitation in any of the circumstances listed below:

- a) Any failure of the Customer to maintain all items of hardware and software necessary for the proper functioning of the Licensed Software (including without limitation where the Customer does not maintain the server properly and this leads to any Incident in the Licensed Software);
- b) Any unauthorized changes made to the Licensed Software or any changes to the operating environment made without notification to and consent of Philips;
- c) Any failure of the Customer to provide Philips with communications access to enable Philips to support the Licensed Software;
- d) Any failure of the Customer to report Incidents to Philips;
- e) Any failure of the Customer to upgrade the Licensed Software to a supported version.
- f) Any of the Customer to pay Fees to Philips when due;

- g) Any failure of the Customer to ensure that those contacting Philips with support issues have undergone full training on the Licensed Software by Philips authorized staff or by the Key User.

## 12. Fees, Taxes, & Payment.

- 12.1 **Fees.** Fees for Services under this attachment are specified in the applicable Quotation(s). Fees are exclusive of applicable taxes which will be invoiced to and paid by the Customer. All currency amounts are stated in US dollars.
- 12.2 **Invoices & Payment Terms.** Philips shall invoice the Fees and applicable taxes, and Customer shall pay the Fees and applicable taxes as follows: (a) Annual Technical Support Service Fees. Fees for Technical Support Services will be invoiced to the Customer annually for each year of the term. Customer shall pay each Annual Technical Support Service Fee to Philips within (30) days' of the date of the applicable Philips invoice. Unless otherwise specified by Philips under the applicable Quotation: (i) if the Customer agrees to a renewal term for Services under this attachment at least six (6) months' in advance of the expiration of any then-current term by issuing Philips a confirming purchase order, then Philips will hold the then-current Annual Technical Support Service Fee firm during the applicable renewal term. (ii) In all other cases, the Annual Technical Support Service Fee is subject to increase after the initial term is completed, in which case Philips will notify the Customer in writing in advance of the applicable renewal term, with any such increase to be effective from the commencement of the applicable renewal term. (b) Professional Services. Unless otherwise specified in the applicable Quotation, Fees for Professional Services will be invoiced to the Customer upon receipt of a confirming Customer purchase order. Unless otherwise stated in the applicable Quotation, Professional Service Fees are due and payable within thirty (30) days of the date of the applicable invoice.
- 12.3 **Professional Services Fees.** The following additional terms apply to Fees for Professional Services. (a) Deliverables. In the event that a Quotation provides Deliverables are to be invoiced upon delivery by Philips, and there is more than one (1) Deliverable in the Quotation (for example, multiple projects), then (i) each such Deliverable will be deemed to be a stand-alone item, (ii) Philips may invoice for each item as it is delivered, and (iii) Customer will pay for each item as it is invoiced. (b) Hourly Rates. In the event that a Quotation provides for an hourly rate for Professional Services Fees, Philips will invoice Customer for actual hours spent performing any Professional Services. Such invoice may exceed the total estimated amount as set out in the Quotation. If Philips foresees that the estimated amount of hours will be exceeded by more than 10%, it will use commercially reasonable efforts to inform the Customer thereof. In addition to the Fees, Customer shall reimburse Philips for all expenses actually incurred by Philips in performing the Professional Services, including travel, lodging, meals, transportation, and other customary out-of-pocket expenses. At Customer's request, Philips will furnish reasonable documentation supporting all such expenses. In the event that the Services under this attachment are terminated before the end of the term, any Professional Service Fees invoiced to and paid for by the Customer are non-refundable, and any Fees for Professional Services which have been performed by Philips as of the termination date will be invoiced to and paid for by the Customer to Philips.
- 12.4 **Suspension of Services.** In the event that Customer does not pay the Fees or any portion thereof, when due, Philips may, in addition to any of its other available remedies, immediately suspend Customer's and each of its Users' right to receive the Services under this attachment.
13. **Intellectual Property.** Customer acknowledges and agrees that, as between Customer and Philips or its licensors, Philips owns all worldwide right, title and interest, including all Intellectual Property Rights, in and to: (i) the Services; (ii) Licensed Software; (iii) Deliverables; and (iv) any modifications, enhancements, Upgrades, Updates or customization to the Licensed Software or any user documentation. Customer does not acquire any rights, title or ownership interests of any kind whatsoever, express or implied, in any of the foregoing or in any other Philips Intellectual Property other than the licenses granted herein.
14. **Order of Precedence.** With respect to the Licensed Software and Services, in the event of any conflicts between the terms of these Interoperability Service Terms, the Schedule, the Philips Standard Terms and Conditions of Sale, and any other Schedules, Exhibits or the Quotation, these Interoperability Service Terms shall govern, followed by the Schedule, followed by the Philips Standard Terms and Conditions of Sale and then the terms of any Quotation, unless expressly stated otherwise in any of the foregoing.

**EXHIBIT 1 –SERVICE LEVELS EXHIBIT  
SERVICE LEVEL SUMMARY**

<b>Support Services</b>	Telephone / Remote Support	✓
	Standard Coverage Hours	As defined above
	Extended Coverage Hours (24/7)*	✓
<b>Software Services</b>	Updates & Upgrades performed by Customer	✓
	Updates & Upgrades performed by Philips	Can be purchased as Additional Service Days
	Response times** Priority 1&2 Incidents	30 minutes
	Response times** Priority 3,4, &5	2 hours
	Priority 1 Incident Resolution time** –from the time the Incident report is received by Level 3 support	72 hours
	Priority 2 Incident Resolution time **– from the time the Incident report is received by Level 3 support	120 hours
	Priority 3 Resolution time** from the time the problem report is received by support	Commercially reasonable efforts to have issue resolved as soon as reasonably practicable
	On-Site/Remote training	Can be purchased as Additional Service Days.
<b>Professional Services</b>	Release notes & Planning	✓
	Other Professional Services	Can be purchased as Additional Service Days.
Customer Site Network Access Selected	(Remote; Coordinated Remote; On-Site (see Section 3.6 for details) )	Coordinated Remote Access

\* Priority 1 and 2 will be addressed 24 x 7 (High priority incidents) and others during standard Coverage Hours

\*\* Response times and Resolution times are only available for Customers who have provided Remote Network Access.



**Schedule 13**  
**Radiology Operation Command Center (ROCC) Schedule**

Product Category	Products/ Licensed Software (defined as below)
Enterprise Informatics (EI)	Radiology Operation Command Center (ROCC)

Section 5 (Lease and Trade-In) of the Philips standard terms and conditions of sale does not apply to this Schedule.

The following additional terms shall apply to sale of Licensed Software under this Schedule:

**1. Definitions.**

Notwithstanding anything contrary in Philips standard terms and conditions of sale, the following license terms and restrictions shall apply and govern in the event of conflict with terms expressly set forth in the Philips standard terms and conditions of sale:

- 1.1 "Acceptance" of Licensed Software shall occur upon the License Commencement Date. Customer shall promptly sign the Philips' Customer Acceptance Form, at such time. All fees for licenses commence at the same time and, in the event of multiple sites, all licenses and fees start upon the License Commencement Date for the first site, unless otherwise provided on a Quotation. If Customer does not sign the Philips' Customer Acceptance Form within five (5) days of the completion of testing and implementation, Customer shall then be deemed to have accepted the Licensed Software as of the end of the acceptance testing period. In any event, Customer shall be deemed to have accepted the Licensed Software upon use thereof.
- 1.2 "Quotation" shall mean the Philips quote affixed to this schedule signed by the Customer for the Philips Licensed Software. Each Quotation shall list all the fees and any license limitations applicable to customers purchase of licenses, maintenance and support, professional services, including all installation, migration, interfacing tasks set forth on a Statement of Work. All Licenses fees, maintenance fees, subscriptions fees and professional services fees, as applicable, shall be payable per the payment terms in the Quotation.
- 1.3 "Statement of Work" shall mean the Philips statement of work signed by the Customer and Philips at time the Customer places its order to purchase EI Software and Services Solution, if applicable. A statement of work shall be required for Licensed Software and such document shall address in general terms all interfacing and professional services delivery project scope requirements, at minimum.
- 1.4 "Updates" means fixes or corrections for Software bugs to enable the Software to substantially perform in accordance with its Documentation which is typically designated by a change in the third number in the series (always can be found to the right of the decimal point). Software Update is made generally available to its customer that are under a service or maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Updates do not include new products, modules or extensions for which Philips elects to charge separately.
- 1.5 "Upgrades" means a new version or release of software that contains new features and enhancements to functionality and may include a change to the platform. A new version and release, under this definition, are typically designated by a change in the first or second number in the series (which can always be found to the left of the decimal point). Software Upgrades are made generally available to its customer that are under a service maintenance agreement or subscription term, subject to any limitations set forth in the applicable Quotations or Agreement schedule. Customer will be charged for professional services fees and other fees as a result of a change associated with the Upgrades, as detailed in the Quotation. Notwithstanding the foregoing, Upgrades do not include new products, platform, modules or extensions for which Philips elects to charge separately; provided however, such Upgrades has a substantial change from the previous major version with respect to product feature(s) or underlying technology. New optional licensable software may be available for additional software and services fees and shall not include Software changes with a version change in the first or second number in the series.

**2. Term and Termination.**

- 2.1 The term of this Agreement shall be set forth in the quote(s) attached hereto and incorporated herein ("Service Term").
- 2.2 Termination. Customer may terminate this Agreement upon 60 days written notice to Philips specifically describing a material breach or default of this Agreement by Philips, provided however that Philips may avoid such termination by curing the condition of breach or default within such 60 days' notice period. Philips may terminate this Agreement, if Customer defaults in the performance of any of its obligations under this Agreement, and fails to remedy the same within thirty (30) days of a written notice; as described in section 3.1 (Billing).
- 2.3 Termination Fees. The Service Term is non-cancellable for their full term set forth in the Quotation. Accordingly, In the event customer provides written termination notice other than Philips' uncured material breach or is in material breach of its obligations arising therefrom and Philips terminates the Agreement for such models, Customer shall promptly pay Philips all charges for the Licensed Software provided through the date of termination plus a "Termination Charge" equal to the fees that Philips would have been entitled to receive for the balance of the Term for such licenses, maintenance and support



purchased, and/or subscription period. The parties agree that all fees were negotiated based upon Customer's commitment to the full Term. Philips' damages in the event that the Term is terminated early would be difficult or impossible to ascertain. The Termination Charge is intended, therefore, to establish liquidated damages in the event of termination and is not intended as a penalty.

### 3. **Billing based on Customer Delays, Offset & Pricing.**

- 3.1 Billing. Customer shall pay Philips invoices per the payment terms set forth in the Quotation or within thirty (30) days of Philips' invoice date.
- 3.2 Offset. Payment obligations for the fee set forth on a Quotation for each Licensed Software are independent fee obligations not subject to offset.
- 3.3 Philips reserves the right to adjust customer list pricing and (or) net pricing, during the Term of the agreement, in accordance with the Consumer Price Index published by the United States Department of Labor in its website at <http://www.bls.gov/cpi>. Such adjustment in pricing requires thirty (30) day written notice, will not be retroactive, cannot start before first year of contract and will not exceed more than five percent (5%) change annually.

### 4. **Pricing Harmonization.**

- 4.1 In an effort to simplify and harmonize Philips product portfolio pricing structure, Philips may, no more than once during the term of the agreement, unilaterally adjust the price list and discount schedule for products under this Agreement, with no impact to the current net price.
- 4.2 Philips will:
  - 4.2.1 Provide 30 days' written notice prior to fixing the net price of the product(s) sold under the agreement for 12 months (the "Lock Period") at the net price (the "Lock Price") of the product(s) in effect at the time of Customer's receipt of the written notice.
  - 4.2.2 Provide an updated agreement price file showing the new list price and new discount, which together will not change the Lock Price set at the beginning of the Lock Period.
- 4.3 Upon termination of the Lock Period, the net price of the product(s) will be maintained in the manner defined in the agreement.

### 5. **Cancellation.**

- 5.1 The term set forth on the Quotation ("Term") is non-cancellable before the expiration date of the Term. Each Quotation will commence on its respective effective date and thereafter will remain in effect forth entire Term stated therein.

### 6. **Statement of Work.**

- 6.1 A Statement of Work, if required as defined in the product schedules, must be signed in writing by both parties and submitted with Customer's purchase order. Philips may reject orders in the absence of the Statement of Work.

### 7. **Third Party Management.**

- 7.1 If Customer has contracted with a third party service management organization, asset management company, maintenance management company, technology management company, maintenance insurance organization or the like ("Third Party Organization") for purposes of centralized billing and management of services provided to Customer, at Customer's written request, Philips will route invoices for payment of services rendered by Philips to such Third Party Organization and accept payment from them on Customer's behalf. Notwithstanding the above, the services provided by Philips are subject solely to the terms and conditions set forth in this Agreement. Customer guarantees the payment of all monies due or that may become due under this Agreement in spite of any collateral arrangements Customer may have with such Third Party Organization or any payments Customer has made to the Third Party Organization. Philips has no contractual relationship for the Services rendered to Customer except as set forth herein. To the extent that the parts and services Philips provides are not covered by Customer's arrangement with such Third Party Organization, Customer shall promptly pay for such parts and services on demand.

### 8. **Warranty.**

- 8.1 Philips warrants to Customer that the Licensed Software provided in connection with the Service will operate in all material respects as described in the then-current Documentation for the Service Term. Philips further warrants to Customer that it will provide the Service in a professional manner consistent with industry standards.
- 8.2 PHILIPS DOES NOT GUARANTEE THAT THE SOFTWARE WILL PERFORM ERROR-FREE OR, EXCEPT IF EXPLICITLY STATED IN A SCHEDULE S UNINTERRUPTED. PHILIPS DOES NOT GUARANTEE THAT IT WILL CORRECT ALL PROGRAMMING ERRORS. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE WARRANTIES ARE EXCLUSIVE. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS,

INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

- 8.3 CUSTOMER'S EXCLUSIVE REMEDY AND PHILIPS' ENTIRE LIABILITY FOR A BREACH OF THESE WARRANTIES IS: (A) THE CORRECTION OF PROGRAM ERRORS THAT CAUSE BREACH OF THE WARRANTY OR (B) REPERFORMANCE OF THE DEFICIENT SERVICES.
- 8.4 These warranties are subject to the following conditions: the Software (a) is installed by authorized Philips representatives (or is to be installed in accordance with all Philips installation instructions by personnel trained by Philips), (b) is operated exclusively by duly qualified personnel in a safe and reasonable manner in accordance with Philips' written instructions and for the purpose for which the Software was intended, (c) is maintained in strict compliance with all recommended and scheduled maintenance instructions provided with the Software; and Customer notifies Philips immediately in the event the Software at any time fails to satisfy the warranty. Philips' obligations under any product warranty do not apply to any product defects resulting from improper or inadequate maintenance or calibration by the Customer or its agents; Customer or third party supplied interfaces, supplies, or software including without limitation loading of operating system patches to the Software and/or upgrades to anti-virus software (except DAT file changes) running in connection with the Software without prior validation approval by Philips; use or operation of the Software other than in accordance with Philips' applicable product specifications and written instructions; abuse, negligence, accident, loss, or damage in transit; improper site preparation; unauthorized maintenance or modifications to the Software; or viruses or similar software interference resulting from connection of the Software to a network. Philips does not provide a warranty or support services for any Third Party Products furnished to Customer by Philips; however, Philips shall use reasonable efforts to extend to Customer the third party warranty, if any, for the Third Party Products and Customer shall look solely to the Third Party Products vendor for support services for the Third Party Products.

**Schedule 13-A**  
**Terms and Conditions for Clinical and Technical Education Training**

1. **Training Coverage.** Philips will provide the clinical and technical education and product applications training ("Training") that Customer has selected from the Philips' course catalog(s) ("Course Catalog(s)").
2. **Exclusions.** Training does not include (a) maintenance or diagnostic related technical training or (b) clinical applications training on hardware or software not installed or provided by Philips.
3. **Scheduling.** Training must be scheduled at least eight (8) weeks in advance except for on-line training. Changes to scheduled Training must be received in writing by Philips at least two (2) weeks prior to scheduled delivery.
4. **Attendance.** Philips will train the number of Customer employees ("Trainee(s)") for the course specified in the Quotation, when space is available. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips's safety checklist prior to receiving Training.
5. **Course Location.** Training may be conducted at Philips' training facilities, Customer location(s) described in this Agreement ("Site(s)"), through on-line or remote training, or at a third-party location determined by Philips.
6. **Payment Options**
  - 6.1. **Education Credit.** If Customer purchased education credit, the initial account balance is specified in the Quotation. As Customer requests training services, the account balance will be reduced by the days for the requested course per attendee. If the account balance is exhausted, Customer may add funds/days to the balance account, or request and pays training service at Philips' then current published list price for the training. The Customer is only entitled to use the days which the Customer has accumulated overtime. The education credit expires in the end of the calendar year or as indicated in the Quotation, or in case of termination of this Agreement, and no credit for any remaining account balance is carried forward or eligible for refund.
  - 6.2. **Direct Course Purchase.** Customer may purchase individual courses at Philips' then current published prices.
7. **Travel.** Philips' travel expenses for all Training delivered at Customer Site are included in the price described in the applicable Course Catalog(s). Unless otherwise indicated in the Course Catalog(s), all travel and living expenses incurred by the Trainee(s) are Customer's responsibility.
8. **WARRANTY DISCLAIMER.** PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE THE SYSTEM.

**Schedule 13-B**  
**Additional Radiology Operations Command Center ("ROCC") Terms and Conditions**

**1. Definitions**

- 1.1 "Customer Device" means a Customer owned and managed computer, virtual machine, workstation, terminal, or other electronic device used to access the Hardware or Software. Customer is responsible for all elements of usage and maintenance of Customer Device(s), including but not limited to security, anti-virus, User Authentication, patching, updates, upgrades, and networking. Upon request Philips can provide compatibility documentation and specifications of Customer Device integration with the ROCC Services.
- 1.2 "Command Center" refers to the Command Center Site location which connects the Command Center displays to the ROCC Enabled Devices as well as the elements of the ROCC Services which are located at the Command Center.
- 1.3 "Command Center Seat" refers to the entitlement issued to Customer for each Command Center Seat and the Hardware associated with such Seat Subscription. The Quotation will specify the number of Command Center Seat subscription issued to Customer.
- 1.4 "Customer Site" means a physical address where Philips deploys Hardware and Software to support the Services.
- 1.5 "End User" means an issued, individual user credential to any element of the ROCC Services. Customer is responsible for ensuring End User's compliance with the terms of the Agreement and the End User License Agreement (EULA) and is liable for an End User's breach thereof.
- 1.6 "First Use" means the date that Customer utilizes the Service to connect any ROCC Enabled Device imaging system to the Command Center for any commercial activity. Customer shall acknowledge and sign Company's final acceptance document (Customer User Acceptance Form) within five (5) business days of First Use. Such signature shall not be unreasonably withheld. Use of the Service more than fifteen (15) business days following First Use shall be deemed final acceptance.
- 1.7 "Hardware" means the Hardware defined in Section 2.2.1.
- 1.8 "Quotation" means the document specifying the specific ROCC Services ordered by Customer and setting forth the Subscription limitations and fees for the ROCC Services. The Quotation is incorporated into this Exhibit by this reference, in the event of a conflict between the terms of the Quotation or this Exhibit the Quotation shall control.
- 1.9 "ROCC Enabled Device(s)" means a Customer imaging acquisition system, which is compatible with the ROCC Services, and has been connected to the Command Center via the ROCC Services. Customer may inquire at the time of addition if an imaging system is compatible, if such system has not been previously verified to be compatible Philips will attempt to connect the imaging device, and if it is found to not function with the ROCC Services, the Record of First Customer Use will not be executed and Customer shall incur no charge for such system. Philips makes no representation that any imaging system will be compatible with the ROCC Services. Philips does not provide any additional services whatsoever to the ROCC Enabled Devices via this Exhibit. Any maintenance or other Services for ROCC Enabled Devices are procured through separate Agreement. Philips makes no representation whatsoever regarding the effect of Customers use of the ROCC Services on any contractual arrangement Customer may have with third party Original Equipment Manufacturer (OEM) or biomed maintenance service provider.
- 1.10 "ROCC Client Device" means a Philips provided desktop with touchscreen for Technologists to access the ROCC application at their point of care locations and this provides connectivity to ROCC Enabled Devices.

**2. Service**

Commencing on the Effective Date and subject to the limitations below, Philips will provide the ROCC Services listed on the applicable quotation(s). The ROCC Service is a secure vendor-agnostic collaboration platform that enables virtual imaging scanner access. The ROCC Service connects remote expert Radiology users (lead technologists, radiologists, physicians, imaging supervisors), hereafter referred to as Expert User, with a Technologist User that is operating a ROCC Enabled Device. This solution offers virtual real-time operational support/guidance for the technologist at the scanner console using a combination of both hardware connected to the ROCC Enabled Devices as well as software components that reside both on premise in the customer's environment and on the cloud infrastructure.

**2.1 ROCC Services include the following features:**

- 2.1.1 Collaboration platform that offers real-time audio video communication between users that also enables the Expert User to guide and provide real-time "over the shoulder support" to the Technologist User working at the scanner console.

- 2.1.2 Virtual scanner access which extends the technologist's modality console to the remote Expert User thereby enabling the Expert User to view and edit the scanner console with customer defined role-based user access controls.
- 2.1.3 Multi-vendor support which enables Customers with compatible Philips and non-Philips imaging acquisition devices alike (MR and CT scanners) to benefit from the same solution.
- 2.1.4 Telepresence tool that eliminates barriers to collaboration and communication between Expert Users and Technologist Users via its in-facility Command Center Seat(s) and mobile device configurations (through the ROCC web-based viewer using internet connection).
- 2.1.5 Access to audit trails of user actions on the ROCC's virtual collaboration platform provided upon request.
- 2.1.6 A required, but user-friendly, authorization process on the ROCC platform to enable the Technologist User to grant and end remote edit access to his/her scanner console for each edit session.
- 2.1.7 Access to remote scanner console monitors at the Command Center Seat that matches the aspect ratio and resolution of the monitors in the scanner console room.
- 2.1.8 Secure user access control with role-based permissions, as designated by the customer, for specific functions that focuses on user specific workflows.
- 2.1.9 The ROCC web application and other customer informatics applications can be run on the same Command Center workstation (Customer Device). This allows for other applications such as the RIS, protocol handbook, and scheduling application (if separate from the RIS) to be run in parallel.
- 2.1.10 A Philips-provided ROCC Client Device at each Technologist User imaging scanner console desk that is connected to the ROCC Software. The ROCC Client Device and a speaker is the Technologist User's interface into the ROCC platform for communications and collaboration.
- 2.1.11 ROCC helps to virtually access the scanner and enables customer users to remotely review and modify acquisition protocols.

## 2.2 ROCC Components

- 2.2.1 Hardware. Philips will provide Customer with Hardware (not including ROCC Enabled Device or Customer Devices) during the Service Term as Service equipment. Philips maintains all rights, title and interest in and to the Hardware. Customer agrees to keep the Hardware free and clear from all claims, liens, and encumbrances and will not assign, sublet, or grant a security interest in the Hardware. Customer, shall, at Customer's expense, maintain insurance against all risks of damage to and loss of the Hardware other than that caused by Philips or Philips' agents. If Hardware is damaged or destroyed (excluding normal wear) Philips shall charge Customer, the then current list price for the Hardware. Philips shall upgrade or replace the Hardware as necessary during the Service Term to ensure the Service is functioning according to specifications or if required to support an Update of the Software. Customer may not modify, relocate, or install third-party software on the Hardware without Philips' prior written consent. Philips will attempt to reasonably accommodate any Customer requests to relocate Hardware. Hardware relocation services will be provided at Philips' then-current time and materials rates plus travel and expenses.
- 2.2.2 ROCC Software. The ROCC is a Software platform composed of three modules listed below which are determined by the role of the End User. ROCC Software is hosted on a 3<sup>rd</sup> party cloud platform managed by Philips. The modules are as follows:
  - 2.2.2.1 Technologist Module. The Technologist Module is a web-based software application that runs on a ROCC client device in a browser. This provides audio-video communication and gives the Technologist User the ability to grant/revoke edit remote access to the ROCC Enabled Devices from the remote Expert User.
  - 2.2.2.2 Expert User Module. The Expert User Module is a web-based software application that runs on a Chrome browser on the Customer Device workstation at the Command Center that is used by the Expert User. This provides audio-video communication, and also controls the duplication of the screens at the Command Center location and keyboard and mouse controls at the ROCC Enabled Devices. Expert Users may view remote imaging scanner consoles either with a notification to the Technologist User or via Incognito Mode to support supervisory functions without a view notification to users. As a sub-category, a Protocol Manager role is supported which grants specially customer-designated users the ability to edit protocols remotely without a Technologist User's approval.
  - 2.2.2.3 Administrative Module. An admin page that has the ability to add/delete/edit users and their access settings and profiles.

- 2.2.3 ROCC web-based viewer. The ROCC web-based viewer is a web application that runs in Expert User Module which allows End Users to connect to the ROCC Services via internet from Customer-owned End User Devices located outside of Customer locations such as laptops. Customer must comply with Terms and Conditions of the Expert User Module.
- 2.2.4 Serviceability. Serviceability is a suite of software tools hosted in a Philips managed Microsoft Azure Cloud Active Directory domain environment and Philips HealthSuite Digital Platform (HSDP) that manages the device deployment, compliance, proactive monitoring and remote support of the Hardware and Software components which comprise the ROCC Services. Functions include software patching, and security of the Philips managed components of the ROCC Services. Serviceability also provides analytics on Customer usage patterns and collects log files. Customer does not have access to Serviceability.

### 3. Implementation and Acceptance

- 3.1 **Implementation Plan.** Within 10 business days of execution of the SOW Customer shall fill out and return to Philips the Customer on-boarding sheet that contains information about the ROCC Enabled Devices, staff to be connected to the ROCC/roles/desired access levels, and physical location of Customer Sites.
- 3.2 **Customer Implementation Tasks.** As set forth in the Statement of Work (SOW), but not more than ninety (90) days following execution of the SOW, Customer shall complete the following implementation tasks:
  - 3.2.1 Provide workstation with necessary hardware and software specs for each command center seat.
  - 3.2.2 Provide physical power outlets, allow permission for doing pre-deployment walk-throughs, and in some cases help with pre-deployment walk-throughs through remote support from Philips.
  - 3.2.3 Provide secure internet access over LAN for ROCC Command Center and ROCC Clients Devices.
  - 3.2.4 Create firewall Access control lists/rules for solution defined static IP addresses and network ports specified in the IT specifications technical document
  - 3.2.5 The parties will then meet at Customer location (or virtually meet) to create a detailed plan laying out timelines for physical installation of the ROCC Services. At such meeting Customer will provide physical access to Philips for the proposed Command Center location and the location of each ROCC Enabled Device. Customer will ensure attendance of all required Customer personnel including the designated Customer System Administrator and Customer biomed staff.
  - 3.2.6 Provide physical access to the quoted and planned ROCC Enabled Device(s), and permission for Philips to connect workstation display (GPU output - DVI, DP, HDMI, VGA) splitter devices and USB HID connection (USB keyboard/mouse) to imaging consoles. Connection of these devices will not modify the operations of the ROCC Enabled Device in any way. Philips will not modify any software configuration on any OEM imaging scanner console.
  - 3.2.7 Provide imaging consoles computers that allow for more than one mouse connection to be simultaneously connected and identified. Otherwise ROCC edit control feature will not work. Philips is not responsible for changing any software configuration on the ROCC Enabled Device. Any required changes will be responsibility of the customer.
- 3.3 **Training Entitlement.** When a customer quotation includes a training entitlement to the application, all training included in the Quotation is made available during the Implementation process and must be requested and used by Customer no later than twelve (12) calendar months of the execution of the commencement of the Annual Subscription Fee. Thereafter, Philips shall have no further obligation to deliver such training. This training has no cash value and is not substitutable for other products or services.

### 4. Software Upgrades, Updates and Fixes. If a software or firmware update or fix (i) is available for any Software element of the Services (ii) is included in the Agreement, and (iii) the requirements of the Agreement are satisfied, then Philips will update the applicable Software during the Service Term, at Philips sole discretion, at mutually agreeable time, as follows:

- 4.1 **Software Updates.** Philips will provide software updates consisting of revisions to software for existing applications. Third party software including, but not limited to operating system licenses, database software licenses, Customer access licenses, anti-virus for Customer Devices, is not included. Customer has no right to updates and upgrades that are released before the start date of the Agreement. Philips shall have no responsibility to provide software upgrades, updates or fixes for minor software defects.

4.2 **Upgrades.** Customer may purchase new, separately licensed functionality, applications, custom interface software, operating system software or options for the Service separately after the start date of the Agreement. This may include implementation costs for professional services to enable Customer to utilize capability included in a future update made generally available to Customers purchasing the Service. Customer acknowledges that certain functionality in current and previous software versions may not be available in upgrades.

4.3 **Update/Upgrade Requirements.** To receive an update or upgrade:

4.3.1 Customer must be in compliance with all terms and conditions of this Exhibit and the Agreement, including the availability of Serviceability and access to the Hardware and Software by Philips personnel;

4.3.2 Customer must identify one Customer representative, in writing to Philips, who will manage and be responsible for Customer's selection and scheduling of updates and upgrades installation under this Exhibit;

4.3.3 Any customer supplied Hardware or Software of the Service must meet the specifications of the update or upgrade. Customer shall provide such hardware and/or software necessary to meet such specification.

4.4 **Transfer.** Customer may not resell, transfer, or assign the right to such upgrades, updates, or fixes to any third party. All upgrades, updates, and fixes provided to the System under this Exhibit are subject to the terms and conditions of this Exhibit, the Agreement, and any license terms and conditions later provided to Customer.

4.5 **Installation.** Update or upgrade installation and support of the installation shall take place during standard onsite response hours, Monday through Friday between 8:00 AM and 5:00 PM local time, excluding Philips observed holidays. If Customer requires additional installation support or clinical services, then Philips will provide such installation or services to Customer at Philips then current labor and material rates.

5. **Support.** Commencing on the effective date and subject to the limitations below, Philips will provide support for Services listed on the quotation(s) as follows:

5.1 **Telephone and Remote support.** Telephone and remote support coverage for the ROCC Services is included with all Quotations issued under this exhibit. ROCC Applications telephone and remote Support coverage is available Monday through Friday between 8:00 AM and 8:00 PM eastern time, excluding Philips observed holidays.

5.2 **Remote Access & Diagnostics.** Philips may remotely access the ROCC at the Customer site to perform Services. Customer shall provide Philips remote access to the ROCC and use the Philips directed method and devices to access support.

5.3 **On-Site Labor and Travel.** Philips primary method for software services is telephone and Philips Remote Services. Philips may provide on-site software support services to resolve hardware and software issues that cannot be resolved through Philips' primary resolution method. On-site services which require a Field Service Engineer is 2 business days (depending on travel), Monday through Friday, excluding Philips recognized holidays, 8:00 AM to 5:00 PM local time, and provides for labor and travel necessary for the delivery of corrective Services. Philips will provide the labor and travel necessary for the delivery of corrective maintenance Services during on-site Service coverage hours.

5.4 **Intermediate Resolutions.** Customer shall implement any intermediate resolutions or workarounds as requested by Philips while Philips seeks a long-term resolution.

5.5 **Planned Maintenance.** If planned maintenance Service is included in the Quotation, Philips will provide Customer a planned maintenance schedule. Philips will provide such planned maintenance during the service coverage hours at a mutually agreed upon time. Customer will make the Hardware and Software available in accordance with this Exhibit. Philips will provide planned maintenance on the Philips-provided hardware and software at scheduled intervals.

5.6 **Other Products and Services.** All Services and support issued under this Exhibit and the Quotation are for ROCC Services only.

5.6.1 Any other bio-med, clinical, or other service or support provided by Philips is explicitly excluded from this Exhibit.

5.7 **Subcontractors.** Notwithstanding any other prohibition in the Agreement Customer acknowledges and agrees that the ROCC Services utilizes subcontractors and cannot be provided without this permission.

## 6. **Education and Training**

6.1. **Additional Education and Training.** Philips will provide additional applications training ("Training") at request of the customer at then current prices. Training does not include (a) maintenance or diagnostic related technical training or (b) applications training on hardware or software not installed or provided by Philips. Instructions for Use as printed material will be provided upon installation of the application.



- 6.2. **Scheduling.** Initial application End User Training must be scheduled at least eight (8) weeks in advance. Changes to scheduled Training must be received in writing by Philips at least two (2) weeks prior to scheduled delivery. Requests for additional training can be accommodated by a notification to the CDM (Customer Delivery Manager)
- 6.3. **Attendance.** Philips will train the number of Customer employees ("Trainee(s)") for the course specified in the quotation, when space is available. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips safety checklist prior to receiving Training.
- 6.4. **Course Location.** Training may be conducted at Philips' training facilities, the Customer location(s) described in this Agreement ("Customer Site(s)"), through on-line or remote training, or at a third-party location determined by Philips.
- 6.5. **Travel.** Philips' travel expenses for all Training delivered at the Customer Site are included in the price described in the quote for additional clinical training. Unless otherwise indicated in the Course Catalog(s), all travel and living expenses incurred by the Trainee(s) are the Customer's responsibility.
- 6.6. **Warranty Disclaimer.** PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE ANY COMPONENT OF THE SERVICE.

## 7. Customer Responsibilities

- 7.1. **System Administrator.** The Customer shall designate an individual(s) to serve as its system administrator ("System Administrator") and an alternate, who will serve as Philips' primary support contacts. These individuals should be familiar with all aspects of training provided by Philips, including end-user and system administrator training. System Administrator shall also be responsible for facilitating communication to Customer's biomedical service engineering.
- 7.2. **Site Access and Remote access.** Customer must provide physical and remote access to all elements of the ROCC Services. Including access to the ROCC Enabled Device(s) and console host computer. As well as necessary remote access, required information, and support for the ROCC Services to connect to Serviceability. Serviceability is the basis for Services delivered under this Exhibit including remote troubleshooting, software upgrades, patching, mobile device monitoring. Customer waives all rights to Services and Service deliverables under this agreement unless Serviceability connectivity is enabled and maintained. This includes but is not limited to Customer providing: (i) secure internet access over LAN for the Customer Device, ROCC Client Device (ii) Enable access to the firewall for certain static IP addresses specified in the technical document; (iii) Customer provided route for internet connectivity via Microsoft Azure Cloud.
- 7.3. **Security.** Customer is solely responsible for providing adequate security to prevent unauthorized access to the Customer managed components of the ROCC Services, including the Command Center Hardware and Customer networks. These Customer managed components include software and, therefore, may be subject to cyber-attack. Customer shall be responsible to provide a secure environment for ROCC Services to be running uninterrupted, including from cyber-attack. Customer is also solely responsible for providing adequate security to prevent unauthorized physical access to components of the ROCC services including the ROCC Client Device as well as removal of Customer's End Users (for e.g., ex-employees) who no longer need access to the ROCC Services.
- 7.4. **Software/Hardware version levels.** Customer must maintain the Customer Devices and ROCC Enabled devices at a currently supported version, build, software configuration, hardware, firmware, and middleware to receive Services under this Exhibit. Any upgrades or changes to ROCC Enabled devices which may impact ROCC Services functionality should be reported to ROCC Support promptly in order for an ECB – Engineering Change Board to review the proposed upgrades. To receive software updates and upgrades, the Customer must maintain all associated hardware to the then-current specification for the software updates or upgrades.
- 7.5. **Network Access.** Customer is responsible for local area networks (LANs), wide area networks (WANs), network interface cards and cross-connect access. Customer shall provide Philips with 24x7 direct internet-based access to the ROCC Client Devices via the specific ports and protocols listed in the technical specification document. This remote network access to the Customer Devices, ROCC Client Devices to enable Philips to monitor, maintain, upgrade and support the ROCC solution. The Customer shall allow the ROCC services to send alert messages to Philips for proactive monitoring. The Customer will work with Philips to establish the remote access and enable the required access to support the ROCC services. Customer shall also provide internet access to Philips employees onsite.
- 7.6. **Minimum Network Requirements.** Customer shall provide at a minimum of 15mbps of available bandwidth per each connected ROCC Enabled device and 25mbps of available bandwidth per each physical command center seat. Available bandwidth refers to bandwidth available for ROCC to communicate between the ROCC Enabled Device and Command Center seat. Philips does not guarantee network performance on the ROCC web-based viewer. DSL, cable modem, satellite and other non-commercial-grade technologies should not be used due to service requirement for high-latency. Issues

including delays between Command Center seat and ROCC Enabled Device, and application responsiveness issues (pauses, halting) may be experienced when the ROCC is used on a network that does not meet the Minimum Network Requirements. Customer shall notify Philips of any planned VPN connection, network outages or configuration changes that impact Philips remote monitoring or servicing the Hardware. Philips shall not be liable for remote support availability issues or other service delays caused by Customer's failure to permit remote access. Philips is not responsible for troubleshooting or correcting any network related problems not caused by Hardware supplied by Philips.

- 7.7. **Internet Requirements.** Customer must provide an internet and intranet connections with sufficient bandwidth for ROCC Client devices to access the cloud services that ROCC uses.
- 7.8. **User Authentication.** Customer agrees to use Philips HealthSuite Digital Platforms logins (created as part of the onboarding activities) for users to access ROCC Services when there is no cloud based Identity provider (IDP) such as AzureAD, Okta, and GoogleIDP available with the Customer and Customer also agrees to enable their cloud-based IDP (if available) to authenticate (Single-Sign-On) Customer End User(s) or user(s) from ROCC applications.
- 7.9. **User Account Management.** Customer is responsible for creating, maintaining, and managing its End User(s) or user(s) accounts for Customer's End User(s) employee(s) or user(s) within a given service or system, including but not limited to tasks such as creating new accounts, resetting passwords, assigning access levels, and deactivating or revoking access to the system.
- 7.10. **Liabilities for Misuse.** If End User(s) or user(s) within Customer's organization misuse the service or system or engage in unauthorized activities then Customer is responsible and may be held liable for any resulting consequences.
- 7.11. **Hardware Operating Environment.** Customer shall provide, without charge, an adequate operating environment for the Hardware during the Term that meets generally accepted industry standards for the operation of computer equipment, including without limitation power and air conditioning. In the event that multiple server racks are required to support the Software Services Customer shall provide, without charge, contiguous rack space at Customer's site.
- 7.12. **Customer Devices.** Customer shall procure, maintain and upgrade all Customer Devices. Customer Devices must meet the minimum requirements set forth in the then current Documentation. Minimum requirements for Customer Devices may change during the Term. Customer is solely responsible for determining whether Customer Device displays are of diagnostic quality and for maintaining the displays in accordance with the manufacturer's specifications.
- 7.13. **Intermediate Resolutions.** Customer shall implement Philips recommended intermediate resolutions or workarounds as requested while Philips seeks a long-term resolution.
- 7.14. **Required Documentation.** Customer shall provide Philips with the service manuals for any non-Philips hardware or software that is required for performance of the ROCC Services.

## 8. **Service Limitations**

- 8.1. **Software Restoration.** If the software fails and the supported application software requires restoration, then Philips will reinstall the application software, database software, and operating environment to the current revision level that existed prior to the malfunction or failure. Custom or third-party software, custom database configurations or reports, and Customer-written product interfaces are not included. If a system failure is attributed to hardware not supported under the Agreement, the Customer shall restore the software, operating system, and database software before Philips begins any software restoration efforts.
- 8.2. **Ancillary Assistance.** Requests for assistance with hardware, operating systems, communications/networking equipment, third party software which are provided specifically as part of the ROCC Services articulated in this Exhibit are outside the scope of this Agreement. However, if Customer's request, then Philips may provide assistance on a time and materials basis, at Philips then-current time and materials rates, as available.
- 8.3. **Intended Use.** ROCC is not intended for primary patient diagnosis. ROCC is classified as a non-medical device and per usage instructions Philips recommends the presence of licensed and/or registered MR/CT technologists at patient side as per applicable national and/or local regulatory requirements. Philips does not make any recommendations with respect to direct patient care practices with the use of this solution as that is at the customer's sole discretion. Disinfection of the Philips-provided Technologist User tablet (ROCC Client) should comply with applicable manufacturer and CDC recommendations.
- 8.4. **Combination/Modification.** Any combining of the Services components with a non-qualified device is prohibited. A non-qualified device is: Any product (hardware, firmware, software, or cabling) not supplied by Philips, whether used internal or external to ROCC component without Philips' approval. Examples include, software patches, security fixes, and service packs from the operating system, web browser, or database software manufacturer(s); Any product supplied by Philips that has been modified by the Customer or any third party;

- 8.5. **Third-party.** Customer is responsible for any and all third-party bio-medical or other service provider who may interact with ROCC Enabled Devices, including ensuring that the ROCC Enabled Device is not disturbed during any break fix or routine maintenance. Disruption caused by any third Party and resulting service is not included in the ROCC Service and may incur additional fees. Philips makes no representation regarding the impact of ROCC utilization on any third-party contractual commitment of Customer, Customer represents that it has obtained all necessary permissions to enter into this Agreement and connect the associated hardware and software. Customer is free to supply console video splitters devices manufactured by approved OEM suppliers in place of Philips provided items, Customer is responsible for obtaining any permission required by OEM for warranty or contractual purposes.

## 9. Data

- 9.1. **Customer Patient PHI.** While Philips may have incidental access to Customer patient Protected Health Information ("PHI") and Personally Identifiable Information ("PII") while providing the ROCC Services, subject to the Business Associate Agreement, Philips shall only access and use such information for the benefit of Customer in providing ROCC Services for the duration of the Agreement.
- 9.2. **Access to Necessary Information.** Philips shall have the right to access any other customer information necessary to successfully deliver the ROCC Services. Inability to access such critical information for these Services would relieve Philips from an obligation to provide such Services hereunder.
- 9.3. **Data Usage.** In addition to using Customer data to provide the ROCC Services to Customer, Philips shall have the right to collect the following information and use the following in perpetuity: (i) log data generated by the ROCC Services (ii) usage information (iii) ROCC Enabled Device console information and AI generated log files associated therewith, for the purposes of (i) enhancing the Services and general product research and development (ii) Software trend analysis (iii) technical maintenance of the Software and Service delivery. Log data does not include: (i) patient PHI (ii) any images of patients (iii) the image stream of ROCC Enabled Devices.
- 9.4. **Data Movement:** Data transfer between the ROCC client device and a command center can occur through peer-to-peer communication or by utilizing a cloud-hosted media server. The entire process is secured through end-to-end encryption, ensuring both security and real-time data exchange, without storing data on the cloud-based media server.

## 10. Billing

- 10.1 **Implementation Fee.** Implementation fee shall be billed upon execution of the quotation.
- 10.2 **Subscription Service Fee.** Philips shall have the right to commence Subscription Service billing on the earlier of (i) First Use, as demonstrated by Customer signature on the Customer Acceptance Form. Annual Subscription Fees will be billed in advance in four (4) quarterly periods.
- 10.3 **Additional Fees.** All Fees are solely for use of the Services associated with the number of connected ROCC Enabled Devices and corresponding allowance for End Users, command centers, and ROCC web-based client subscription included in the Quotation. Any Services not originally purchased through means including but not limited to merger, acquisition, new service offering or new business agreement, or otherwise ("Add On Services") not listed in the Quotation are subject to payment of additional fees. Customer shall notify Philips immediately and will request and execute an additional Quotation. Should Customer need Add On Services Customer shall sign a new Quotation.

## 11. Conclusion of Services

- 11.1. **Return Condition.** Customer will ensure that all Hardware is clean and sanitized and that all potentially infected materials and biological fluids are removed prior to its de-installation and removal.
- 11.2. **Data Removal.** Notwithstanding anything to the contrary in any underlying agreement (such as BAA) between the parties, Customer represents and warrants that Customer has removed or de-identified all Customer data including Protected Health Information ("PHI") from the Hardware as of the date the equipment is removed and will otherwise comply with all applicable privacy laws. To the extent Customer has not done so, Customer agrees to reimburse Philips for any out-of-pocket costs Philips incurs to remove or de-identify PHI from the Hardware.
- 11.3. **Data Return.** No PHI or clinical data is stored by Philips in providing the ROCC Services, nor is such data storage an intended usage of the Services. The nature of ROCC Services are such that Customer retention of Data generated by use of ROCC Services after the conclusions is not anticipated. As such Philips will not provide Customer Audit Log data back to Customer at the conclusion of Services, unless the customer explicitly places a request to get the data.

- 11.4. **Failure to Return.** If Philips does not receive possession of the Hardware within 30 days of contract term end, Philips will, at its option, either charge Customer the amount of the replacement cost of the Hardware/or charge Customer a rental fee of 10% of the Hardware replacement cost per month or partial month until the Hardware is returned.

## Customer Acceptance Form



### PHILIPS North America Market (NAM) RWS – Radiology Workflow Suite CUSTOMER ACCEPTANCE FORM

Customer Name	
Customer Street Address	
Customer City, State, Zip	

Site / Department Name(s)	Existing or Net New	Site ID(s) if applicable

List all sites if there is more than one site

- 1.) Please check the relevant box for each RWS solution component purchased
- 2.) Please provide the Contract # \_\_\_\_\_

Radiology Operations Command Center (ROCC)	
Patient Navigation Manager (PNM)	
Oncology Informatics and Genomics (OIG)	
EOI PerformanceBridge (PB)	

- 3.) Please sign for your organization. By signing below, the customer representative certifies that the system and equipment delivered per the Contract
  - I. has been received by the Customer
  - II. has been activated for Customer use

System Acceptance Date: \_\_\_\_\_

Philips Representative \_\_\_\_\_ (Print Name) \_\_\_\_\_ (Title)

\_\_\_\_\_  
(Signature) \_\_\_\_\_ (Date)

Customer Representative

\_\_\_\_\_  
(Print Name) \_\_\_\_\_ (Title)

\_\_\_\_\_  
(Signature) \_\_\_\_\_ (Date)



Customer Acceptance Form – this form valid through 12/31/2022  
11-08-2021