

## Philips Standard Terms and Conditions of Sale (Rev. R.2)

The products and services listed in the quotation are offered by Philips Healthcare, a division of Philips North America LLC ("Philips") only under the terms and conditions described below (the "Terms and Conditions of Sale" or "Agreement").

### 1. Prices; Taxes

1.1 The purchase price stated in the quotation does not include applicable sales, excise, use, other taxes, or government surcharges in effect or later levied. Customer shall provide Philips with appropriate exemption certificate reasonably in advance of the date the product is available for delivery, otherwise, Philips shall invoice Customer for those taxes, as well as any government surcharges, and Customer shall pay those taxes in accordance with the terms of the invoice. Government surcharges are non-exempt under law. Customer is defined as a legal entity its affiliates and or subsidiaries who purchase product(s) and take title of the purchased product(s) from Philips.

### 2. Cancellation

2.1 Philips' cancellation policies are set forth in the applicable Product Specific Schedule attached to these Terms and Conditions of Sale.

### 3. Payment Terms

3.1 Unless otherwise specified in the quotation, Philips will invoice Customer, 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 applicable Product Specific Schedule attached to these Terms and Conditions of Sale.

3.2 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.

3.3 Orders are subject to Philips' on-going credit review and approval.

3.4 Customer shall pay interest on any amount not paid when due at the annual rate of twelve percent (12%) or at the maximum rate permitted by applicable law, whichever is lower. If Customer fails to pay any amount when due, in addition to any other rights or remedies available to Philips at law or in equity, Philips may discontinue the performance of services, discontinue the delivery of the product, or deduct the unpaid amount from any amounts otherwise owed to Customer by Philips under any agreement with Customer. In any action initiated to enforce the terms of the quotation following a Customer default or product cancellation under an order arising from the quotation, Philips shall be entitled to recover as part of its damages all costs and expenses, including reasonable attorneys' fees, in connection with such action.

3.5 Payments may be made by check, ACH or wire. Philips does not accept transaction fees for wire transfers.

3.6 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 Customer's elected payment method.

### 4. Trade - In

4.1 If Customer will be trading-in any equipment ("Trade-In"), then:

4.1.1 Customer represents and warrants that Customer has good and marketable title to the Trade-In as of the date of the Quotation and will have good and marketable title when Philips removes the Trade-In from Customer's site (the "Removal Date").

4.1.2 Removal of the Trade-In from Customer's site shall occur no later than the date Philips makes the new product available for first patient use, unless otherwise agreed in writing between Philips and the Customer. Title to the Trade-in shall pass from Customer to Philips on the Removal Date or at installation of the purchased system, whichever occurs first. After title to the Trade-In passes to Philips, Customer shall not use the Trade-In.

4.1.3 Notwithstanding anything to the contrary in a current applicable Business Associate Addendum ("BAA") between the parties, Customer represents and warrants that Customer has removed or de-identified all Protected Health Information ("PHI") from the Trade-In equipment 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 Trade-In.

4.1.4 Customer will ensure that the Trade-In is clean and sanitized, and that all potentially infected materials and biological fluids are removed prior to its de-installation and removal.

4.1.5 If (a) the condition of the Trade-In is not substantially the same when Philips removes the Trade-In (ordinary wear and tear excepted) as it was when Philips quoted the Trade-In value; or, (b) Customer delays the removal of the Trade-In, then Philips may reduce the price quoted for such Trade-In or cancel the Trade-In, and Customer will pay the adjustment amount within thirty (30) days from the date of invoice.

4.1.6 If Philips does not receive timely possession of the Trade-In, Philips will, at its option, either charge Customer the amount of the Trade-in allowance and cancel the trade-in, re-value the trade-in allowance accordingly, and/or charge Customer a rental fee of 10% of the trade-in allowance per month or partial month until the trade-in is available for removal. Customer will pay any invoiced allowance adjustment or rental fee within thirty (30) days from the invoice date.

4.1.7 If Customer does not allow Philips to remove the Trade-In, then Philips may invoice Customer for the Trade-In value plus any promotional dollars relating to the Trade-In. Customer will pay invoice within thirty (30) days from the invoice date.

4.1.8 Evidence that Customer intends to trade in an asset as part of the purchase or lease of any product(s) shall be in the form of, but not limited to: (a) receiving a trade in quote and/or authorization from Philips on the value of the asset to be traded in; (b) providing Philips with serial numbers of assets to be

traded in; and/or, (c) providing Philips with a de-installation date to remove an existing asset in order to install Philips quoted equipment.

- 4.1.9 Customer is responsible for all plumbing necessary to properly drain coolant from chiller system and cap the lines. Prior to the Removal Date, Customer shall remove all equipment that is not being de-installed from the room.

## 5. **Security Interest**

- 5.1 By signing the quotation or issuing a purchase order for the products described, Customer hereby grants to Philips a purchase money security interest in the products until all payments have been made. Philips may file a financing statement for such security interest and Customer shall sign any financing statements or other documents necessary to perfect Philips' security interests in the products. Where permitted by applicable law, Customer's signature on the quotation or on a purchase order issued as a result of the quotation gives Philips the right to sign on Customer's behalf and file any financing statement or other documents to perfect Philips' security interest in the product.

## 6. **Shipment and Risk of Loss**

- 6.1 Delivery terms are stated in the applicable Product Specific Schedule attached to these Terms and Conditions of Sale.
- 6.2 Philips shall deliver the Products in accordance with the CIP Incoterms set forth in the quotation. If Philips and Customer agree to any other terms of delivery, additional costs shall be the responsibility of the Customer. Title to any product (excluding software), and risk of loss shall pass to Customer upon delivery to the shipping carrier. However, Philips shall pay for the cost of freight and risk insurance (during transport to destination). Customer shall obtain and pay for insurance covering such risks at destination.

## 7. **Site Preparation and Installation**

- 7.1 **Site Access.** Customer shall provide Philips full and free access to the installation site and a suitable safe space for the storage of the products before installation. Customer shall ensure, at no charge to Philips, that there are no obstacles preventing Philips from moving the product from the entrance of the Customer's premises to the installation site.
- 7.2 **Site Preparation and Installation.**
- 7.2.1 **Customer Responsibility.** Customer shall be responsible, at its expense, for rigging, the removal of partitions or other obstacles, installation of safety switch or breaker, and restoration work. The products will be installed during normal working hours. Except where Philips has agreed in writing to provide construction services for a fee pursuant to a construction agreement and scope of work signed by Customer, Customer shall be responsible, at its expense, for the preparation of the installation site where the product will be installed including any required structural alterations. Customer shall provide any and all plumbing, carpentry work, conduit, wiring including communications and/or computer wiring, network equipment, power supply, surge suppression and power conditioning (except to the extent they are expressly included in the quotation), fire protection and environmental controls, ground fault and isolation system, and other fixtures and utilities required to properly attach, install, and use the product. Site preparation shall be in compliance with all applicable laws, including all safety, electrical, and building codes relevant to the product and its installation and use. The sufficiency of any installation site plans shall be the responsibility of Customer. Customer, at its expense, shall obtain all permits and licenses required by federal, state, or local authorities in connection with the installation and operation of the product, including any certificate of need and zoning variances.
- 7.2.2 Unless otherwise specified by Philips, Customer shall advise Philips of site conditions at or near the location where equipment is installed five (5) days prior to the mutually agreed upon delivery date. The update shall include but not limited to the following:
- 7.2.2.1 (i) **Hazardous Materials.** Asbestos and other hazardous materials that could adversely affect the installation or pose a health or safety risk to Philips' personnel, and Customer shall ensure that those conditions are corrected, and hazardous materials removed, and that the site is fully prepared and available to Philips before installation work begins. Customer represents and warrants that an asbestos survey of the facility has been performed to determine the presence, location, quantity and condition of asbestos containing materials (ACM) or presumed asbestos containing materials (PACM) at the facility; and the facility and/or work area does not contain any ACM or PACM or the facility and/or work area contains ACM or PACM, such material has been encapsulated or enclosed in accordance with applicable laws and the work will not disturb any such materials. (ii) **Construction.** All construction work in technical and operator room(s) is finished including but not limited to the responsibilities identified in 7.2.1.
- 7.2.3 **Delays.** If site preparation is not on schedule five (5) days prior to the mutually agreed upon delivery date or as otherwise specified by Philips, Philips and Customer will conduct an evaluation of the site and establish a revised installation schedule. In the event that installation is delayed by Customer within five (5) days prior to the mutually agreed upon delivery date or after the start of installation, Customer will be responsible for: (i) storage and fees for the preservation and life support of the equipment to ensure high quality and long life of system(s); and, (ii) Costs associated with rescheduling and coordination for all resources and third party providers, including travel costs for split delivery and installation directly related to the delay in installation. If during installation Philips discovers hazardous materials (i.e. asbestos, etc.) all installation activities will stop, and Customer will remove and dispose of the hazardous materials. Once the issue giving rise to the delay has been rectified and the site meets the criteria set forth in this Section 8, Philips and Customer will conduct an evaluation of the site and establish a new installation schedule.

- 7.2.4 Philips Responsibility. Unless additional professional services are purchased separately (including turnkey) and/or professional services are set forth in a statement of work or project implementation plan under the agreement for the product purchased hereunder upon delivery, Philips will unpack the product (if unpacking is required) and connect the product to a safety switch or breaker that has been installed by the Customer and calibrate and test the product.
- 7.3 PHILIPS MAKES NO WARRANTY AND ASSUMES NO LIABILITY FOR THE FITNESS OR ADEQUACY OF THE SITE IN WHICH THE PRODUCT IS TO BE INSTALLED OR USED. EXCEPT OTHERWISE PROHIBITED BY STATE LAW OR STATE CONSTITUTION, CUSTOMER SHALL INDEMNIFY DEFEND, AND HOLD HARMLESS PHILIPS AND ITS AFFILIATES AGAINST ANY COSTS, LOSSES, EXPENSES, PHYSICAL PROPERTY DAMAGE, AND/OR THIRD PARTY CLAIMS, INCLUDING SUBROGATION CLAIMS, COLLECTIVELY ALL THE FOREGOING ARISING FROM OR RELATING TO CUSTOMER'S SITE PREPARATION RESPONSIBILITIES.
- 7.4 Local Labor. If local labor conditions, including but not limited to a requirement to utilize union labor, require the use of non-Philips employees to participate in the installation of the product, then such participation of non-Philips employees shall be at Customer's expense. In such case, Philips will provide engineering supervision during the installation.
- 7.5 Remote Services Network ("RSN"). Customer will (a) provide Philips with a secure location at Customer's premises to store one Philips remote services network router and provide full and free access to this router, (or a Customer-owned router acceptable to Philips) for connection to the equipment and to Customer's network; or (b) provide Philips with outbound internet access over SSL; at all times during the warranty period provide full and free access to the equipment and the Customer network for Philips' use in remote servicing of the product, remote assistance to personnel that operate the products, updating the products software, transmitting automated status notifications from the product and regular uploading of products data files (such as but not limited to error logs and utilization data for improvement of Philips products and services and aggregation into services). Customer's failure to provide such access will constitute Customer's waiver of the scheduled planned maintenance service and will void support or warranty coverage of product malfunctions until such time as planned maintenance service is completed or RSN access is provided. Customer agrees to pay Philips at the prevailing demand service rates for all time spent by Philips' service personnel waiting for access to the products.
- 8. Product Warranty**
- 8.1 (a) If a separate product warranty prints as part of the quotation, that product warranty applies to your purchase and is incorporated herein; otherwise Section 8.2-8.7 shall apply unless the product is identified under 8.1 (b). (b) For Monitoring and Analytics (MA) & Therapeutic Care (TC) Portfolio, Emergency Care & Resuscitation Portfolio, (ECR) Capital and Monitoring and Analytics (MA) & Medical Supplies and Consumables (MS) Portfolio, the product warranty document can be found at: <http://www.usa.philips.com/healthcare/about/terms-conditions> or can be provided upon request.
- 8.2 Hardware/Systems. Philips warrants to Customer that the Philips equipment (including its operating software) will perform in substantial compliance with its performance specifications, in the documentation accompanying the products, for a period of twelve (12) months beginning upon availability for first patient use.
- 8.3 Stand-alone Licensed Software. For a period of ninety (90) days from the date Philips makes Stand-alone Licensed Software available for first patient use, such Stand-alone Licensed Software shall substantially conform to the technical user manual that ships with the Stand-alone Licensed Software. "Stand-alone Licensed Software" means sales of Licensed Software without a contemporaneous purchase of a server for the Licensed Software. If Philips is not the installer of the Stand-alone Licensed Software, the foregoing warranty period shall commence upon shipment.
- 8.4 If the start of the installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the product are available for delivery, the warranty period begins on the thirty-first (31<sup>st</sup>) day following that date.
- 8.5 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 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, to a refund of a portion of the purchase price paid by the Customer, upon Customer's request. Any refund will be paid, to the Customer when the product is returned to Philips. 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.
- 8.6 This warranty is subject to the following conditions: the product: (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 and in the applicable product-specific warranty document are Philips' only obligations and Customer's sole and exclusive remedy for a breach of a product warranty.

- 8.7 THE WARRANTIES SET FORTH HEREIN AND IN PHILIPS' WARRANTY DOCUMENT 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.

## **9. Philips Proprietary Service Materials**

- 9.1 Any Philips maintenance or service software and documentation provided with the product and/or located at Customer's premises is intended solely to assist Philips and its authorized agents to install and to test the products or to assist Philips and its authorized agents to maintain and to service the products under warranty or a separate support agreement with Customer. Customer agrees to restrict access to such software and documentation to Philips' employees and those of Philips' authorized agents only and to permit Philips to remove its Proprietary Service Materials upon request.

## **10. Intellectual Property Indemnification**

- 10.1 Philips shall indemnify, defend, and hold harmless Customer against any claim that a Philips product provided in the quotation infringes, misappropriates, or violates any third party intellectual property right, whether patent, copyright, trademark, or trade secret, provided that Customer: (a) provides Philips prompt written notice of the claim; (b) grants Philips full and complete information and assistance necessary for Philips to defend, settle, or avoid the claim; and (c) gives Philips sole control of the defense or settlement of the claim.

- 10.2 If (a) a Philips product is found or believed by Philips to infringe a valid patent or copyright; or, (b) Customer has been enjoined from using the Philips product pursuant to an injunction issued by a court of competent jurisdiction, Philips may, at its option: (i) procure the right for Customer to use the product; (ii) replace or modify the product to avoid infringement; or (iii) refund to Customer a portion of the product purchase price upon the return of the original product. Philips shall have no obligation for any claim of infringement arising from: Philips' compliance with Customer's designs, specifications, or instructions; Philips' use of technical information or technology supplied by Customer; modifications to the product by Customer or its agents; use of the product other than in accordance with the product specifications or applicable written product instructions; use of the product with any other product not sold by Philips to customer and the Philips product in and of itself is not infringing; if infringement would have been avoided by the use of a current unaltered release of the products, provided that, Philips makes such current unaltered release available to customer at no additional charge; or use of the Philips Product after Philips has advised Customer, in writing, to stop use of the Philips Product in view of the claimed infringement, provided that, this shall not be a replacement for the remedies set forth under 10.2(i)-(iii) above. The terms in this section state Philips' entire obligation and liability for claims of infringement, and Customer's sole remedy in the event of a claim of infringement.

## **11. Limitation of Liability**

- 11.1 THE TOTAL LIABILITY, IF ANY, OF PHILIPS AND ITS AFFILIATES FOR ALL DAMAGES AND BASED ON ALL CLAIMS, WHETHER ARISING OR RELATING TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING FROM A PRODUCT, LICENSED SOFTWARE, AND/OR SERVICE IS LIMITED TO THE PRICE PAID HEREUNDER FOR THE PRODUCT, LICENSED SOFTWARE, OR SERVICE GIVING RISE TO THE LIABILITY.

- 11.2 THIS LIMITATION SHALL NOT APPLY TO:

- 11.2.1 THIRD PARTY CLAIMS FOR DIRECT DAMAGES FOR BODILY INJURY OR DEATH TO THE EXTENT CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT;
- 11.2.2 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;
- 11.2.3 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 PHI;
- 11.2.4 FINES/PENALTIES LEVIED AGAINST CUSTOMER BY GOVERNMENT AGENCIES CITING PHILIPS' UNAUTHORIZED DISCLOSURE OF PHI AS THE BASIS OF THE FINE/PENALTY, ANY SUCH FINES OR PENALTIES SHALL CONSTITUTE DIRECT DAMAGES; and,
- 11.2.5 PHILIPS INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATION UNDER SECTION 10 OF THIS AGREEMENT.

## **12. Disclaimer**

- 12.1 IN NO EVENT SHALL PHILIPS OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES OR PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT.

### **13. Confidentiality**

13.1 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 customers, employees, and/or its patients, and the quotation and its terms, including the pricing terms under which Customer has agreed to purchase the products. 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 the quotation. The disclosing party maintains exclusive ownership of the confidential information which it discloses to the receiving party, and a receiving party shall be responsible for the breach of these confidentiality terms by any of its representatives or other person to whom it may disclose the confidential information. The obligation to maintain the confidentiality of such information shall not extend to information that (a) is or becomes generally available to the public without violation of these Terms and Conditions of Sale or any other obligation of confidentiality or (b) is lawfully obtained by the receiving Party from a third party without any breach of confidentiality or violation of law. Notwithstanding the foregoing, in the event that the receiving party is required by law to disclose any confidential information to a court, government department/ agency or regulatory body, the receiving party may so disclose, provided that it shall, to the extent permitted by applicable law, first inform the disclosing party of the request or requirement for disclosure to allow an opportunity for the disclosing party to apply for an order to prohibit or restrict such disclosure. Moreover, nothing set forth herein shall prohibit Customer from disclosing confidential information required by state or federal open records laws, to the extent disclosed in compliance with the rules and procedures applicable thereto, including notifying Philips and providing Philips an opportunity to argue certain information may be exempt as a trade secret, if applicable thereunder.

### **14. Compliance with Laws & Privacy**

14.1 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]).

14.2 In the course of providing project implementation related services and/or warranty services to Customer, hereunder, it may be necessary for Philips to have access to, view and/or download computer files from the products that might contain Personal Data. "Personal Data" means information about an identifiable individual and includes any information that is "personal information" or "personal health information" within the meaning of any applicable privacy law. Personal Data can include both personal health information (i.e. images, heart monitor data, and medical record number) and non-health information (i.e., date of birth, gender). Philips will process Personal Data only to the extent necessary to perform and/or fulfill its project implementation related service, warranty service and/or warranty obligations hereunder. Customer further acknowledges and agrees that all telephone conversations between Philips and Customer may, in Philips discretion, be recorded.

14.3 Business Associate Addendums/Agreements between Philips and Customer. Customer's most current business associate agreement ("BAA") duly executed with Philips and in effect at the time of Philips performance of the services shall apply and is incorporated into this Agreement. In the event terms expressly set forth in the BAA conflict with terms set forth in this Agreement, the terms set forth in the BAA shall govern in such instance. Otherwise, the terms expressly set forth herein shall apply.

14.4 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.

14.5 Product Safety and Other Complaints. Customer will report immediately to Philips any event of which Customer becomes aware that suggests that any services or products provided by Philips, for any reason: (a) may have caused or contributed to a death or serious injury, or (b) have malfunctioned where and such malfunctions would be likely to 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 services or products provided by Philips. Philips shall be solely responsible for submitting any filings or reports to any governmental authorities with respect to the Philips products and services provided by Philips hereunder, unless otherwise required by law.

### **15. Excluded Provider**

15.1 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 the products and services provided under these Terms and 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 services 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 and services not yet shipped or rendered prior to a date of exclusion.

**16. Omnibus Reconciliation Act (OMNI) Social Security (PL96-499, Public Law)**

16.1 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 services or products pursuant to these Terms and 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 Terms and 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 Terms and 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 services 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 these Terms and 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.

**17. General Terms**

The following additional terms shall be applicable to the purchase of a product:

- 17.1 Force Majeure. Each party shall be excused from performing its obligations (except for payment obligations) arising from any delay or default caused by events beyond its reasonable control including, but not limited to, acts of God, health pandemics, acts of any civil, military or government authority, fire, floods, war, embargoes, labor disputes, acts of sabotage, riots, accidents, delays of carriers, voluntary or mandatory compliance with any government act, regulation or mandatory direction, request. For clarity, Customer requests shall not be considered government' requests under this section 17.1.
- 17.2 Bankruptcy. If Customer becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, Philips may cancel any unfulfilled obligations, or suspend performance; however, Customer's financial obligations to Philips shall remain in effect.
- 17.3 Assignment. Customer may not assign any rights or obligations in connection with the transactions contemplated by the quotation without the prior written consent of Philips, which consent shall not be unreasonably withheld, and any attempted assignment without such consent shall be of no force or effect. Notwithstanding the foregoing, either party shall be entitled to assign this Agreement, without the prior consent of the other party, to a (i) purchaser of a sale of a substantial amount of their assets to which this Agreement relates or to a (ii) different affiliated legal entity of a party to this Agreement or their parent company to support an internal reorganization of the asserts of such party or such party's parent corporate legal entity; provided that, the assignee assumes all liabilities and obligations of the assignor and the assignor is not in breach of its payment obligations under this Agreement prior to such assignment.
- 17.4 Export Controls. Customer shall assume sole responsibility for obtaining any required export authorizations in connection with Customer's export of the products from the country of delivery. Customers located in the United States are not permitted to re-sell, rent, or in any other way distribute these products outside the United States, without Philips' prior written approval.
- 17.5 Governing Law. All transactions contemplated by the quotation shall be governed by the laws of the state where the equipment will be installed, without regard to that state's choice of law principles, and expressly excluding application of the Uniform Computer Information Transactions Act (UCITA), in any form. EACH PARTY, KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, FOR ITSELF, IT'S SUCCESSORS' AND ASSIGNS, WAIVES ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING WITH RESPECT TO THIS AGREEMENT OR ANY MATTER RELATED IN ANY WAY THERETO.
- 17.6 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.
- 17.7 Headings. The headings in the quotation are intended for convenience only and shall not be used to interpret the quotation the validity and enforceability of the remaining provisions shall not be affected or impaired and shall continue in full force and effect.

- 17.8 Notices. Notices or other communications shall be in writing, and shall 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 in the quotation.
- 17.9 Performance. The failure of Customer or of Philips at any time to require the performance of any obligation will not affect the right to require such performance at any time thereafter. Course of dealing, course of performance, course of conduct, prior dealings, usage of trade, community standards, industry standards, and customary standards and customary practice or interpretation in matters involving the sale, delivery, installation, use, or service of similar or dissimilar products or services shall not serve as references in interpreting the terms and conditions of the quotation.
- 17.10 Obligations. Customer's obligations are independent of any other obligations the Customer may have under any other agreement, contract, or account with Philips. Customer will not exercise any right of offset in connection with the terms and conditions in the quotation or in connection with any other agreement, contract, or account with Philips.
- 17.11 Additional Terms. Product Specific Schedules are incorporated herein as they apply to the equipment listed in the quotation and their additional terms shall apply solely to Customer's purchase of the products specified therein. If any terms set forth in a Product Specific Schedule conflict with terms set forth in these Terms and Conditions of Sale, the terms set forth in the Product Specific Schedule shall govern.

## **LICENSED SOFTWARE**

### **1. License Grant**

- 1.1 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 these Terms and Conditions of Sale. The License shall continue for as long as Customer continues to own the product, except that Philips may terminate the License if Customer is in breach or default of these Terms and Conditions of Sale 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.
- 1.2 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 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.
- 1.3 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.
- 1.4 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.
- 1.5 The Licensed Software shall be used only on the product(s) referenced in the quotation.
- 1.6 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; provided that Customer is not in breach or default of this License, the Terms and Conditions of Sale, or any payment obligation to Philips.

### **2. Modifications**

- 2.1 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.
- 2.2 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.

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

Product Category	Products
Image Guided Therapy (IGT)	Interventional X-Ray (iXR)
	Mobile C-Arms (Surg)
	Philips Image Guided Therapy Corporation (IGTD) fka Volcano
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 product as follows:

1.1 For Imaging Systems Portfolio:

- 1.1.1 10% of the purchase price shall be due with Customer's submission of its purchase order.
- 1.1.2 70% of the purchase price shall be due on delivery of the major components of the product. Product installation will not begin until Customer has paid this portion of the purchase price.
- 1.1.3 20% of the purchase price shall be invoiced 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' published specifications.
- 1.1.4 Payment is due net thirty (30) days from Philips' invoice date.

1.2 If the start of the installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the product are available for delivery, the unpaid portion of the purchase price shall be due on the thirty-first (31<sup>st</sup>) day following such date.

**2. Cancellation**

2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.

**3. Delivery**

3.1 Philips will use reasonable efforts to ship the product to the Customer (a) by the mutually agreed upon shipment date; or (b) by the date stated in the quotation; or (c) as otherwise agreed in writing. Philips will ship the Product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00AM – 5:00 PM, in the time zone where the Customer is located. Philips may make partial shipments. Philips will pay shipping costs associated with Product shipment.

3.2 Prior to the shipment of any Product, Philips may change the construction or the design of the Product without notice to the Customer so long as the function, footprint, and performance of the Product are not substantially altered.

3.3 If Customer requests a delay in the date major components of the Product are available for delivery, then Philips will place the Product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees, transportation expenses, and related costs incurred by Philips.

**4. Leases.**

4.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than ninety (90) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement; (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 solutions on one quote, the solution with the longest period for converting the transaction to a lease shall prevail.

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

- 5.1 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.
- 5.2 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:
  - 5.2.1 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.
  - 5.2.2 Completed Helium Exhaust Pipe Verification Checklist (Provided by Local Philips Project Manager)
  - 5.2.3 Picture showing the area where the Helium Exhaust Pipe will discharge.
- 5.3 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.
- 5.4 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.

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

- 6.1 **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.
- 6.2 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)**

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

The following Schedule 1-A shall apply to Digital Computational Pathology Portfolio (DCP) only. The afore-referenced Schedule 1 shall not be applied to DCP.

**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).
- 1.7 Any other capitalized term used in this Schedule 1-A shall have the meaning ascribed to it in the main body of the Philips Standard Terms and 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.  
 If the start of installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the Product are available for delivery, the unpaid portion of the purchase price shall be due on the thirty-first (31<sup>st</sup>) day following such date.

**3. Cancellation**

- 3.1 The quotation is subject to change or withdrawal by Philips prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to Product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.

**4. Delivery**

- 4.1 Philips will use reasonable efforts to ship the Product to Customer: (a) by the estimated shipment date(s) set forth in the quotation or, if applicable, the SOW; or, (b) as otherwise agreed in writing. Philips will ship the Product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00 – 5:00 PM, in the time zone where the Customer is located. Philips may make, and

Customer agrees to accept, partial shipments. Philips will pay shipping costs associated with Product shipment.

- 4.2 Prior to the shipment of any Product, Philips may change the construction or the design of the Product without notice to the Customer so long as the function, footprint, and performance of the Product are not substantially altered.
  - 4.3 If Customer requests a delay in the date major components of the Product are available for delivery, then Philips will place the Product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees incurred from date of invoice.
5. **Leases.**
- 5.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than sixty (60) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement (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 solutions on one quote the solution with the longest period for converting the transaction to a lease shall prevail.

6. **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:

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 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.
- 6.7 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.

7. **Archive Requirement.**

- 7.1 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.

8. **Software Installation on Hardware or Infrastructure**

- 8.1 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 Update.

## 9. Storage Sizing

9.1 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 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.

## 10. Unauthorized Patches and Anti-Virus Updates

10.1 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.

## 11. Interfaces

11.1 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.

## 12. Frequent Data Backup/Disaster Recovery Responsibility

12.1 Philips is not responsible for: (1) the development or execution of a business continuity/disaster recovery plan; (2) providing a means for backing up data and images; or (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 11 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.

## 13. Statement of Work ("SOW")

13.1 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.

## 14. Applications Administration Requirement

14.1 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”)**

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**

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 as a 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.** An annual Subscription Fee is due from the Start Date, payable on a quarterly basis, in advance, according to the Service Description. 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 as a 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 as a 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 's 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 's reasonable control; (4) intentional shutdown for emergency intervention or security incidents; (5) Subscriber configuration changes; (6) Subscriber's failure to comply with Philips 's security and upgrade policies; (7) Internet or other connectivity between Subscriber's network and Subscription Service or Philips 's 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 as a 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 as a 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; and,
  - 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)**

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:
- 1.1.2 For Ultrasound Systems Portfolio:  
100% of the purchase price shall be due thirty (30) days from Philips' invoice date.
- 1.2 If the start of the installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the Product are available for delivery, the unpaid portion of the purchase price shall be due on the thirty-first (31<sup>st</sup>) day following such date.

**2. Cancellation**

- 2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to Product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.

**3. Delivery**

- 3.1 Philips will use reasonable efforts to ship the Product to the Customer (a) by the mutually agreed upon shipment date; or (b) by the date stated in the quotation; or (c) as otherwise agreed in writing. Philips will ship the Product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00AM – 5:00 PM, in the time zone where the Customer is located. Philips may make, and Customer agrees to accept, partial shipments. Philips will pay shipping costs associated with Product shipment.
- 3.2 Prior to the shipment of any Product, Philips may change the construction or the design of the Product without notice to the Customer so long as the function, footprint, and performance of the Product are not substantially altered.
- 3.3 If Customer requests a delay in the date major components of the Product are available for delivery, then Philips will place the Product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees incurred by Philips from date of invoice.

**4. Leases**

- 4.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than thirty (30) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement (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 solutions on one quote the solution with the longest period for converting the transaction to a lease shall prevail.

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

- 5.1 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.

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

- 6.1 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 patient safety. 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 (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, collectively (a) and (b) prior to validation testing and approval by Philips ("Unauthorized Updates"). 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.

## 7. Lumify

7.1 If your purchase includes a Lumify Ultrasound Solution or Bundle, then the following terms apply in addition to the Philips Standard Terms and Conditions of Sale:

### 7.1.1 Compatible Smart Devices.

7.1.1.1 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.

7.1.1.2 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.

7.1.1.3 Philips does not provide any maintenance or repair services for your smart devices. Philips does not provide anti-virus software for your smart device; you are responsible for purchasing anti-virus software or apps and for managing all virus issues in connection with your smart devices. The Lumify Ultrasound Solution does not include any security software for your smart devices. You are responsible for managing and maintaining firewalls or other appropriate security and privacy measures for data residing on your smart devices.

7.1.2 If you selected the Lumify: Outright Purchase, the following terms apply:

7.1.2.1 You will purchase at your own expense a smart device from the approved list published on the Lumify website, and you will install the Lumify SW App from the commercial play store on the smart device.

7.1.2.2 You acknowledge that the purchase of a Lumify Ultrasound Solution does not include the required smart device.

7.1.3 If you selected the Lumify System Bundle option, your shipment will include a compatible Android device with the Lumify app pre-installed and the following terms apply:

7.1.3.1 You authorize Philips to accept on your behalf the applicable end user license agreement, which can be found at:  
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.

7.1.3.2 You authorize Philips to perform basic setup steps and install Lumify SW on the tablet.

7.1.3.3 You agree to the limited replacement-only warranty coverage for the smart device as identified in the warranty agreement.

7.1.3.4 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.

7.2 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 you purchase and register the transducer with Philips.

7.3 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).

7.4 As part of the Lumify Ultrasound Solution, Philips periodically collects system log information; you agree to such collection when you purchase a Lumify Ultrasound Solution. See the Privacy Notice for more details.

## 8. Xtend Coverage

8.1 Services Provided. 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.

8.1.1 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.

8.1.2 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

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.

- 8.1.3 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.
- 8.2 Exclusions. Unless specifically included in the Quotation, the Coverage does not include:
  - 8.2.1 servicing a Covered System if contaminated with blood or other potentially infectious substances;
  - 8.2.2 any service necessary due to: a design, specification or instruction provided by Customer or Customer representative;
  - 8.2.3 the failure of anyone to comply with Philips' written instructions or recommendations;
  - 8.2.4 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;
  - 8.2.5 any alteration or improper storage, handling, use or maintenance of a Covered System by anyone other than Philips' subcontractor or Philips;
  - 8.2.6 damage caused by an external source, regardless of nature, unless caused by Philips or Philips' subcontractor;
  - 8.2.7 any removal or relocation of a Covered System; or
  - 8.2.8 neglect or misuse of a Covered System;
  - 8.2.9 any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors;
  - 8.2.10 any rigging or structural alteration incident to the Services;
  - 8.2.11 consumable items and supplies (such as biomedical laser tubes and patient used pads), cryogenes, Positron Emission Tomography (PET) calibration sources, film, batteries, cassettes;
  - 8.2.12 cosmetic repairs;
  - 8.2.13 the cost of factory reconditioning, rebuilds, or overhauls if repairs cannot maintain a Covered System in satisfactory operating condition;
  - 8.2.14 disposing hazardous, infectious, or biomedical waste or materials;
  - 8.2.15 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.
  - 8.2.16 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
  - 8.2.17 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.
- 8.3 Customer Responsibilities. During the term of the Coverage, Customer will:
  - 8.3.1 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;
  - 8.3.2 dispose of hazardous or biological waste generated;
  - 8.3.3 maintain operating environment within Philips' specifications for the Site (including temperature and humidity control, incoming power quality, incoming water quality, and fire protection system);
  - 8.3.4 use Covered Systems in accordance with the published manufacturer's operating instructions;
  - 8.3.5 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;
  - 8.3.6 provide a secure dedicated space within Customer's main facility and at each additional facility or location as necessary for the resident Philips staff;
  - 8.3.7 provide Philips with broadband internet or Wi-Fi access for business purposes;
  - 8.3.8 for any non-Philips system, provide Philips with the Covered System's service manuals;
  - 8.3.9 maintain all software licenses applicable to each Covered System;
  - 8.3.10 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");
  - 8.3.11 the RSN hardware remains Philips' property and is only provided during the term of the Coverage;
  - 8.3.12 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;

- 8.3.13 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,
  - 8.3.14 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.
  - 8.4 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.
  - 8.5 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.
  - 8.6 Documentation. Upon Customer's written request, Philips will provide repair and planned maintenance records for each Covered System.
  - 8.7 Term and Termination. The term of this Agreement shall be set forth in the Quotation and incorporated herein.
  - 8.8 This Agreement is non-cancelable and will remain in effect for the term specified in the Quotation.
  - 8.9 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.
  - 8.10 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.
  - 8.11 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.
  - 8.12 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.
  - 8.13 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.
  - 8.14 Philips Maximizer (Technology Upgrades PTU). If Maximizer is purchased under this Agreement, then Philips will upgrade the Covered System's software as follows:
    - 8.14.1 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.
    - 8.14.2 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
    - 8.14.2 are subject to the licensing terms and conditions included in the purchase of the Covered System from Philips.
- 9 Philips Maximizer Package**
- 9.1 Philips Maximizer. If Maximizer is purchased under this Agreement, then Philips will upgrade the Covered System's software as follows:
    - 9.1.1 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.
    - 9.1.2 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 9 are subject to the licensing terms and conditions included in the purchase of the Covered System from Philips.
  - 9.2 Clinical Education Training.
    - 9.2.1 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)).
    - 9.2.2 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.
    - 9.2.3 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.
    - 9.2.4 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.

- 9.2.5 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.
- 9.2.6 Payment Options.
  - 9.2.6.1 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.
  - 9.6.2 Direct Course Purchase. Customer may purchase individual courses at then current prices.
- 9.2.7 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.
- 9.2.8 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**

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.**

- "Account" means a Reacts User Account. A Reacts User Account includes the Account Information.
- "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.
- "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.
- "Subscription" means an access purchased by the Customer to the Software Services.
- "Usage Information" means the information associated with the Software Services.
- "User" means an individual accessing any of the Software Services.
- "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)**

Product Category	Products
Cardiology Informatics (CAI)	Image & Information Management System (Xcelera, Cardiology Enterprise Viewer)
	Hemodynamics (Xper IM, Xper Flex Cardio)
	IntelliSpace Cardiovascular (ISCV)
	EKG Information Management (TraceMasterVue, IntelliSpace ECG)
	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 10% of the purchase price shall be due with Customer's acceptance of the quotation.

2.1.2 70% of the purchase price shall be due on delivery of the major components of the Product. 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.

2.2 If the start of installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the Product are available for delivery the unpaid portion of the purchase price shall be due on the thirty-first (31<sup>st</sup>) day following such date.

**3. Cancellation**

3.1 The quotation is subject to change or withdrawal by Philips prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to Product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price; Orders are non-cancellable for Products is installed and accepted by Customer.

**4. Delivery**

4.1 Philips will use reasonable efforts to ship the Product to Customer: (a) by the mutually agreed upon shipment date; or (b) by the date stated in the quotation; or, (c) as otherwise agreed in writing.

4.2 Philips will ship the Product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00AM – 5:00 PM, in the time zone where the Customer is located. Philips may make, and Customer agrees to accept, partial shipments. Philips will pay shipping costs associated with Product shipment.

4.3 Prior to the shipment of any Product, Philips may change the construction or the design of the Product without notice to the Customer so long as the function, footprint, and performance of the Product are not substantially altered.

4.4 If Customer requests a delay in the date major components of the Product are available for delivery, then Philips will place the Product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees incurred from date of invoice.

**5. Installation**

5.1 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.

**6. Leases**

6.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than ninety (90) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement'; (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 solutions on one quote the solution with the longest period for converting the transaction to a lease shall prevail.

**7. Customer Room Preparation Responsibilities**

- 7.1 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:
- 7.1.1 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.
  - 7.1.2 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.
- 8. Archive Requirement**
- 8.1 Customer is required to have an archive for any Xcelera, Cardiology Enterprise Viewer, 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.
- 9. Certified Hardware**
- 9.1 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/HCTOCTN198/intellispace-cardiovascular?int\\_origin=2\\_HC\\_landing\\_na\\_us\\_en\\_clinical\\_informatics\\_cardiology\\_informatics\\_more](http://www.usa.philips.com/healthcare/product/HCTOCTN198/intellispace-cardiovascular?int_origin=2_HC_landing_na_us_en_clinical_informatics_cardiology_informatics_more)).
- 10. Storage Sizing**
- 10.1 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 Xcelera, Cardiology Enterprise Viewer solution, 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 Xcelera, Cardiology Enterprise Viewer, 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.
- 11. Unauthorized Patches and Anti-Virus Updates**
- 11.1 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 McAfee and Symantec's anti-virus software 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 and anti-virus search engine versions that have been validated by Philips as posted on the Philips service internet site.
- 12. Interfaces**
- 12.1 Xper IM, Xper Flex Cardio & Xcelera, HCIS, Cardiology Enterprise Viewer and IntelliSpace Cardiovascular (ISCV), and IntelliBridge Enterprise Licensed Software Interfaces (IBE). Philips' obligation to provide any Xper IM, Xper Flex Cardio IM, Xcelera, Cardiology Enterprise Viewer, or TraceMasterVue, Intellispace ECG, 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.
- 13. Customer Controlled Workflow Tools**

13.1 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 (i) from Customer's use of the Customer Controlled Workflow Tools or (ii) 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.

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

14.1 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 sold under Schedule 3. Philips is also not responsible for backing up the data in the CVIS core data database and any associated files. 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.

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

15.1 Professional services in connection with Xcelera, Xper, Cardiology Enterprise Viewer, IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE) shall be performed pursuant to a statement of work (SOW) which the parties will execute and attach to the applicable quotation, subject to the terms set forth in these Terms and conditions of Sale and the applicable quotation. Philips may reject orders for these Products without an SOW.

**16. Support Services**

16.1 During the applicable product warranty period, Philips shall provide, at no charge to Customer, Philips' then-current in-warranty service for the products. Customer shall use Philips Remote Service (PRS) service to enable Philips to access the system to perform its support obligations.

16.2 Warranty exclusions set forth in Section 8.6 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.

**17. Systems Administration Requirement**

17.1 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.

**Schedule 3**  
**Cardiac Informatics Portfolio (CAI)**

Product Category	Products
Cardiology Informatics (CAI)	Image & Information Management System (Xcelera, Cardiology Enterprise Viewer)
	Hemodynamics (Xper IM, Xper Flex Cardio)
	IntelliSpace Cardiovascular (ISCV)
	EKG Information Management (TraceMasterVue, IntelliSpace ECG)
	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 10% of the purchase price shall be due with Customer's acceptance of the quotation.

2.1.2 70% of the purchase price shall be due on delivery of the major components of the Product. 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.

2.2 If the start of installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the Product are available for delivery the unpaid portion of the purchase price shall be due on the thirty-first (31<sup>st</sup>) day following such date.

**3. Cancellation**

3.1 The quotation is subject to change or withdrawal by Philips prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to Product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price; Orders are non-cancellable for Products is installed and accepted by Customer.

**4. Delivery**

4.1 Philips will use reasonable efforts to ship the Product to Customer: (a) by the mutually agreed upon shipment date; or (b) by the date stated in the quotation; or, (c) as otherwise agreed in writing.

4.2 Philips will ship the Product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00AM – 5:00 PM, in the time zone where the Customer is located. Philips may make, and Customer agrees to accept, partial shipments. Philips will pay shipping costs associated with Product shipment.

4.3 Prior to the shipment of any Product, Philips may change the construction or the design of the Product without notice to the Customer so long as the function, footprint, and performance of the Product are not substantially altered.

4.4 If Customer requests a delay in the date major components of the Product are available for delivery, then Philips will place the Product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees incurred from date of invoice.

**5. Installation**

5.1 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.

**6. Leases**

6.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than ninety (90) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement'; (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 solutions on one quote the solution with the longest period for converting the transaction to a lease shall prevail.

**7. Customer Room Preparation Responsibilities**

- 7.1 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:
- 7.1.1 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.
  - 7.1.2 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.
- 8. Archive Requirement**
- 8.1 Customer is required to have an archive for any Xcelera, Cardiology Enterprise Viewer, 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.
- 9. Certified Hardware**
- 9.1 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/intellispace-cardiovascular?int\\_origin=2\\_HC\\_landing\\_na\\_us\\_en\\_clinical\\_informatics\\_cardiology\\_informatics\\_more](http://www.usa.philips.com/healthcare/product/HCNOCTN198/intellispace-cardiovascular?int_origin=2_HC_landing_na_us_en_clinical_informatics_cardiology_informatics_more)).
- 10. Storage Sizing**
- 10.1 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 Xcelera, Cardiology Enterprise Viewer solution, 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 Xcelera, Cardiology Enterprise Viewer, 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.
- 11. Unauthorized Patches and Anti-Virus Updates**
- 11.1 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 McAfee and Symantec's anti-virus software 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 and anti-virus search engine versions that have been validated by Philips as posted on the Philips service internet site.
- 12. Interfaces**
- 12.1 Xper IM, Xper Flex Cardio & Xcelera, HCIS, Cardiology Enterprise Viewer and IntelliSpace Cardiovascular (ISCV), and IntelliBridge Enterprise Licensed Software Interfaces (IBE). Philips' obligation to provide any Xper IM, Xper Flex Cardio IM, Xcelera, Cardiology Enterprise Viewer, or TraceMasterVue, Intellispace ECG, 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.
- 13. Customer Controlled Workflow Tools**

13.1 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 (i) from Customer's use of the Customer Controlled Workflow Tools or (ii) 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.

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

14.1 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 sold under Schedule 3. Philips is also not responsible for backing up the data in the CVIS core data database and any associated files. 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.

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

15.1 Professional services in connection with Xcelera, Xper, Cardiology Enterprise Viewer, IntelliSpace Cardiovascular (ISCV), or IntelliBridge Enterprise Licensed Software (IBE) shall be performed pursuant to a statement of work (SOW) which the parties will execute and attach to the applicable quotation, subject to the terms set forth in these Terms and conditions of Sale and the applicable quotation. Philips may reject orders for these Products without an SOW.

**16. Support Services**

16.1 During the applicable product warranty period, Philips shall provide, at no charge to Customer, Philips' then-current in-warranty service for the products. Customer shall use Philips Remote Service (PRS) service to enable Philips to access the system to perform its support obligations.

16.2 Warranty exclusions set forth in Section 8.6 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.

**17. Systems Administration Requirement**

17.1 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.

**18. Migration**

18.1 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).

18.2 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.

18.3 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. Philips shall have no responsibility under the

18.4 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 and Analytics (MA) & Hospital Respiratory Care (HRC) Portfolio**

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

**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.

**2. Cancellation**

2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.

**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 For Monitoring and Analytics (MA) & Therapeutic Care (TC) Portfolio:

3.1.1.1 100% 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. Orders**

4.1 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

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

- 4.2.1 Philips Healthcare eStore:(<http://www.philips.com/newhealthcarestore>.);
- 4.2.2 Phone: 800-225-0230;
- 4.2.3 Email; [medical\\_supplies@philips.com](mailto:medical_supplies@philips.com); and
- 4.2.4 Fax: 800-227-7843

## **5. Return Policy**

- 5.1 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.
  - 5.1.1 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.
- 5.2 Returns after sixty (60) days of shipment shall be subject to a restocking charge.
- 5.3 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.

## **6. Delivery**

- 6.1 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 agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order. If 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.

## **7. Leases**

- 7.1 If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than thirty (30) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all of these Terms and 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 this agreement (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 solutions on one quote the solution with the longest period for converting the transaction to a lease shall prevail.

## **8. Installation**

- 8.1 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 (31<sup>st</sup>) day after delivery.

## **9. Philips IntelliVue Products**

- 9.1 The following applies in the event Customer elects to use the Philips IntelliVue Information Center on its general network versus dedicating a separate IntelliVue Clinical Network to support the communication between the Philips IntelliVue Information Center and the Philips IntelliVue bedside Vital Signs Patient Care Monitors:
- 9.2 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.

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

The following additional terms shall apply:

- 10.1 Anti-Virus.
  - 10.1.1 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.
  - 10.1.2 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.
- 10.2 Prior Validation of Operating System (OS) Updates and/or Upgrades.
  - 10.2.1 Operating System patches introduced by Original Equipment Manufacturers (OEM) can impact the performance of the application resulting in a risk to Patient Safety.
  - 10.2.2 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 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 OB TraceVue prior to running an OS Modification through the third party validation tool for IntelliSpace Perinatal.

- 10.2.3 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.
- 10.2.4 It is the customers' responsibility to deploy applicable, validated updates at their discretion. <http://www.usa.philips.com/healthcare/about/customer-support/product-security>.
- 10.2.5 See "Security for Clinical Networks" for additional security related information.
- 10.3 Interfaces.
  - 10.3.1 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.
- 10.4 Frequent Data Backup/Disaster Recovery Responsibility.
  - 10.4.1 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.
- 10.5 Statement of Work.
  - 10.5.1 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.

## **11. Support Services**

- 11.1 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.
- 11.2 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.
- 11.3 Warranty exclusions set forth in Section 8.6 of Philips Standard Terms and Conditions of Sale also apply to Support Services. 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.

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

- 12.1 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.
- 12.2 Customer Responsibilities:
  - 12.2.1 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.
  - 12.2.2 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.

- 12.3 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.
- 12.4 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.

**13. Statement of Work**

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

**14. Sleep and Respiratory Care Products**

- 14.1 Preparation of Site/Installation/Training:
  - 14.1.1 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.
  - 14.1.2 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.
  - 14.1.3 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.
  - 14.1.4 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**

Product Category	Products
Emergency Care & Resuscitation (ECR)	AEDs
	ALS Monitor/Defibrillators
Tempus LS	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. **Cancellation**
  - 2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.
  
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: 100% of the purchase price shall be due thirty (30) days from Philips' invoice date.
  
4. **Delivery**
  - 4.1 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.
  
5. **Installation**
  - 5.1 Deployment and installation are Customer's responsibility.
  
6. **Operating Software License**
  - 6.1 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 and Analytics (MA) &**  
**Medical Consumables and Sensors (MCS) Portfolio**

Product Category		Products Consumables and Sensors (non-serialized)
Patient Care	Medical Consumables and Sensors (MCS)	Accessories
		ECG Cables and Lead sets
		ECG Electrodes
		Fetal Measurements
		Gas Measurements
		NIBP Cuffs
		Paper
		SpO2
		Temperature
	Newborn Solutions	Jaundice
		Calming and Soothing
		Therapy Support

**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. Cancellation**

2.1 Quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.

**3. Payment Terms**

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

**4. Orders**

4.1 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.

4.2 Orders for Medical Consumables and Sensors are accepted through:

4.2.1 Philips [eStore](https://www.patientcare.shop.philips.com/): ( <https://www.patientcare.shop.philips.com/>);

4.2.2 Phone: 800-225-0230, Option1;

4.2.3 Email: [medical\\_supplies@philips.com](mailto:medical_supplies@philips.com); and

4.2.4 Fax: 1-800-947-3299

**5. Return Policy**

5.1 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.

5.1.1 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.

5.2 Returns after sixty (60) days of shipment shall be subject to a 15% restocking charge.

5.3 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**  
**EDI Software and Services Solutions**

Product Category	Products
Enterprise Diagnostic Imaging (EDI)	Philips MyVue
	Philips Vue Reporting
	Philips Vue Work
	Philips Vue Motion
	Philips Vue PACS
	Philips Vue Explorer (WFM)
	Philips Vue Beyond
	Philips Vue VNA
	Philips Vue Advanced Visualization Modules
	Philips Vue Orchestrator

Section 4 (Trade-In), Section 5 (Security Interest) and Section 7 (Site Preparation and Installation) of the Philips standard terms and conditions of Sale do not apply to this Schedule.

**The following additional terms shall apply to sale of Licensed Software Products (“EDI Software and Services Solutions”) under this Schedule:**

**1. License Term & Limitations**

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 Definitions.**

1.1.1 “License Commencement Date” shall mean the date that Philips makes the EDI 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. Acceptance of all EDI Software and Services Solutions shall occur upon the License Commencement Date. Customer shall promptly sign the Philips Medical Device Installation Record (“MDIR”) form, if requested, 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.

1.1.2 “Quotation” shall mean the Philips quote affixed to this schedule signed by the Customer for the Philips EDI 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.

1.1.3 “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 EDI Software and Services Solution. A statement of work shall be required for all EDI Software and Services Solutions and such document shall address in general terms all interfacing and professional services delivery project scope requirements, at minimum.

1.2 Term License Model with Separate Maintenance and Support Purchase Option. Under this sale model, each EDI Software and Services Solution license shall commence upon the License Commencement Date (as defined in Section 1.1 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 Schedules A and B 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 EDI 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 Schedules A and Schedule B, 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.

1.3 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 Schedules A and Schedule B, as applicable, affixed to this schedule for the entire Subscription License Term for one annual fee (“EDI Software and Services Solutions Subscription Option”). Thereafter, the then current EDI 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.

1.4 Products Warranties for all sales models 1.2-1.3. The warranties set forth in Section 8.3 and Section 8.5-8.7 in the baseline Agreement shall apply to sales of the EDI Software and Services Solutions purchased under Section 1.2-1.3 of this Schedule.



## **6. Server Hardware**

- 6.1 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 EDI Software and Services Solutions, including any updates or upgrades provided by Philips under Section 1.2-1.3, shall be Customer's obligation and not included in a purchase of EDI Software and Services Solution.
- 6.2 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 EDI 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.
- 6.3 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 Schedules A or B.

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

- 7.1 Customer Client Device Types. EDI 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, EDI Software and Services Solutions are not designed nor recommended for mobile device use. Philips shall not be responsible for issues arising therefrom.
- 7.2 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.
- 7.3 Data Archiving. Customer is required to have an archive for all EDI 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.
- 7.4 Storage Sizing 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 EDI 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 (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 Software Solutions, which includes monitoring the storage archive device for its utilization levels and planning any necessary storage changes as Customer's requirements change.
- 7.5 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 EDI 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 EDI Software and Services Solutions, or an archive, on a daily basis at minimum.
- 7.6 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 EDI 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 and anti-virus search engine versions that have been validated by Philips as posted on the Philips service internet site.

- 7.7 Systems Administration Requirement. Customer, at all times, shall have a designated systems administrator that has completed systems administration training for the version of the EDI Software and Services Solutions running at Customer's site. Systems administration training is set forth in the Quotation.
  - 7.8 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.
8. **Data Usage**
- 8.1 Philips may use de-identified information to improve the EDI 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 EDI 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 EDI Software and Services Solutions.

## Schedule A

### Annual Maintenance and Support for EDI Software and Service Solutions other than PACS

#### 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 EDI Software and Services Solutions to perform Services. Customer shall provide Philips remote access to the EDI Software and Services Solution.
- 1.3 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.
- 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 EDI 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 EDI 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 EDI 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 EDI 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 EDI Software and Services Solutions.

#### 3. Software Versions and Updates

- 3.1 If a new software version or update is available for the EDI Software and Services Solutions, and the requirements of the Agreement are satisfied, then Philips will upgrade the EDI Software and Services Solutions application software during the term of the Agreement as follows:
  - 3.1.1 Philips will provide new software versions and updates of software for the licensed EDI Software and Services Solutions applications originally purchased by Customer. 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 is not included. Hardware updates and replacement are not included.
  - 3.1.2. Functionality. Customer is entitled to Updates and Upgrades for the EDI Software and Services Solutions applications Philips makes generally commercially available to customers having maintenance and support on the same EDI 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 "Updates" means fixes or corrections for Software bugs to enable the Software to perform in accordance with its Documentation which is typically designated by a change in the third number in the series. Software Update is made generally available to its customer that are under a service or maintenance agreement without charge. Updates do not include new products, modules or extensions for which Philips elects to charge separately.
  - 3.1.4 "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 are typically designated by a change in the first or second number in the series. Software Upgrades are made generally available to its customer that are under a service maintenance agreement without charge provided however, Customer will be charged for professional services fees and other fees as a result of a change to the Server Hardware associated with the Upgrades. 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.
  - 3.1.5 Hardware updates and replacement. Software versions, updates and fixes may require hardware updates or replacement. 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.

- 3.2 To receive a new software version:
  - 3.2.1 Customer must be in compliance with all terms and conditions of this Exhibit and the Agreement, including the availability of PRS capability and access to the EDI Software and Services Solutions 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 EDI Software and Services Solutions that will receive the version or update must meet the specifications of the new software version. Customer shall provide the EDI 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 EDI 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.
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 EDI 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 EDI 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. **Hardware Support Coverage**
  - 6.1 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:
    - 6.1.1 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.
  - 6.2 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

### **Annual Maintenance and Support for PACS 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 EDI Software and Services Solutions to perform Services. Customer shall provide Philips remote access to the EDI Software and Services Solutions.
- 1.3 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.
- 1.4 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**

Philips supports DICOM and HL7 communication to and from the EDI 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 If the EDI 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 Professional Services fees.
- 2.2 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 EDI Software and Services Solutions that involve 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 EDI 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 a EDI Software and Services Solutions.

#### **3. Software Versions and Updates**

- 3.1 If a new software version or update is available for the EDI Software and Services Solutions, and the requirements of the Agreement are satisfied, then Philips will upgrade the EDI Software and Services Solutions application software during the term of the Agreement for a Professional Services fee as follows:
  - 3.1.1 Philips will provide new software versions and updates of software for the licensed EDI Software and Services Solutions applications originally purchased by Customer. 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 is not included. Hardware updates and replacement are not included.
    - 3.1.2 Functionality. Customer is entitled to updates and upgrades for the EDI Software and Services Solutions applications Philips makes generally commercially available to customers having maintenance and support on the same EDI 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 "Updates" means fixes or corrections for Software bugs to enable the Software to perform in accordance with its Documentation which is typically designated by a change in the third number in the series. Software Update is made generally available to its customer that are under a service or maintenance agreement without charge. Updates do not include new products, modules, or extensions for which Philips elects to charge separately.
    - 3.1.4 "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 are typically designated by a change in the first or second number in the series. Software Upgrades are made generally available to its customer that are under a service maintenance agreement without charge provided however, Customer will be charged for professional services fees and other fees as a result of a change to the Server Hardware associated with the Upgrades. 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.
    - 3.1.5 Hardware updates and replacement. Software versions, updates and fixes may require hardware updates or replacement. 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.
  - 3.1.1.1 Philips will provide new software versions and updates of software for the licensed EDI Software and Services Solutions applications originally purchased by Customer. 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 is not included. Hardware updates and replacement are not included.
    - 3.1.2 Functionality. Customer is entitled to updates and upgrades for the EDI Software and Services Solutions applications Philips makes generally commercially available to customers having maintenance and support on the same EDI 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 "Updates" means fixes or corrections for Software bugs to enable the Software to perform in accordance with its Documentation which is typically designated by a change in the third number in the series. Software Update is made generally available to its customer that are under a service or maintenance agreement without charge. Updates do not include new products, modules, or extensions for which Philips elects to charge separately.
    - 3.1.4 "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 are typically designated by a change in the first or second number in the series. Software Upgrades are made generally available to its customer that are under a service maintenance agreement without charge provided however, Customer will be charged for professional services fees and other fees as a result of a change to the Server Hardware associated with the Upgrades. 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.
    - 3.1.5 Hardware updates and replacement. Software versions, updates and fixes may require hardware updates or replacement. 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.
- 3.2 To receive a new software version:
  - 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 Exhibit and the Agreement, including the availability of PRS capability and access to the EDI 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 EDI Software and Services Solutions that will receive the version or update must meet the specifications of the new software version. Customer shall provide the EDI 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 EDI 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.

#### **4. Annual Review**

4.1 If applicable, Philips and Customer will annually review the EDI 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.

#### **5. Customer Requirements**

5.1 **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.

5.2 **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.

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.

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.

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.

5.3 **Modalities.** Each Customer modality connected to the EDI 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 EDI Software and Services Solutions and the EDI 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.

5.4 **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.

#### **6. Customer Support**

##### **6.1 Customer Support**

6.1.1 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.
- 6.1.2 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.
  - 6.1.3 Philips will provide Customer with Customer-requested IP address changes, native DICOM connections, technical Training and other non-warranty support and services upon request at Philips' then published rates.
- 6.2 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:
- 6.2.1 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;
  - 6.2.2 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;
  - 6.2.3 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;
  - 6.2.4 Environmental conditions, moisture or water, excessive radiation, improper servicing or fire;
  - 6.2.5 Electrical problems caused by power surges, lightning or Customer's wiring or electrical supply;
  - 6.2.6 Network issues, problems caused by Customer's other vendors, or issues related to or caused by non-Philips' equipment, hardware or software.
  - 6.2.7 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.
- 6.3 Supported Release. Philips supports the current product release and one prior product release (a "Supported Release"). A prior product release is the most recent product release with a lower release number than the current product release. Philips' service level commitments, including the uptime performance warranty, will not apply if Customer is not using a Supported Release.
7. **Hardware Support Coverage**
- 7.1 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:
    - 7.1.1 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.
  - 7.2 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 8**  
**MRI Coil and Disease Management Solutions Portfolio**

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. **Cancellation**
  - 2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels and order prior to product shipment, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable for Products shipped.
  
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.
    - 3.6.1.1 Support Services. If any, shall be invoiced and paid as set forth on the quotation.
  
4. **Shipment**
  - 4.1 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.
  
5. **Delivery**
  - 5.1 Philips DS North America, LLC will make reasonable efforts to meet Customer's delivery requirements. If Philips DS North America, LLC is unable to meet Customer's delivery requirements, alternative arrangements may be agreed. In the absence of such agreement, Customer's sole remedy is to cancel the order. If Customer requests a major delay in the date of delivery of the product, Philips DS North America, LLC may attempt to arrange re-delivery within a reasonable time or may terminate the order.
  
6. **Return Policy**
  - 6.1 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.
  - 6.2 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.
  - 6.3 Returns after sixty (60) days of shipment shall be subject to a restocking charge.
  - 6.4 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.

7. **Installation**

7.1 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 (31<sup>st</sup>) day after delivery.

8. **Product Warranty**

8.1 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

8.2 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.

8.3 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**  
**EOI**

**Non Diagnostic Enterprise Operational Informatics (EOI) Software Solutions**

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

Section 4 (Trade-In), Section 5 (Security Interest) and Section 7 (Site Preparation and Installation) of the Philips standard terms and conditions of sale do not apply to this Schedule.

**1. Payment Terms**

1.1 Philips will invoice Customer and Customer will pay such invoice based on the date of the invoice for each product as specified in the quotation.

**2. Cancellation**

2.1 The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to installation, Customer shall pay a cancellation charge of fifteen percent (15%) of the net order price. Orders are non-cancellable once the product is installed.

**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:

- 3.1.1 "License Commencement Date" shall mean the date that Philips makes the EOI Software Solution(s) available to Customer for first use consistent with the usage rights and restrictions under the terms of this Agreement, upon completion of its installation on the Customer server provided by Customer as part of the Customer Provided Hardware and Network Infrastructure.
- 3.1.2 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 3.1.5-3.1.7, and 4-7 of this Schedule. Furthermore, in addition to the warranty set forth in Section 3.1.4, Philips shall provide the maintenance and support services set forth in Schedule 9-A affixed to this Agreement for such warranty period only. Customer's purchase of maintenance and support services post warranty period are optional. However, 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.
- 3.1.3 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 9-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.
- 3.1.4 Products Warranties. The warranties set forth in Section 8.3 and Section 8.5-8.7 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.
- 3.1.5 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.
- 3.1.6 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 Solution Licensed Software for such events.
- 3.1.7 Subject to fulfillment of any payment obligations by Customer arising from the use of the EOI Solution Licensed Software, 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.

**4. Billing based on Customer Delays.**

4.1 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. Customer shall pay such invoices per the payment terms of the Agreement.

## **5. Philips Ownership in the EOI Software Solutions.**

- 5.1 The Licenses granted under these Philips Additional Terms and Conditions of Sale for all EOI Software Solutions offered under Sections 3.1.2-3.1.3 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 3.1.2-3.1.3), Philips retains all rights, title, and interest to all intellectual property in or arising from the Licensed Software.

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

- 6.1 A Statement of Work identifying the License criteria (as indicated above in Section 3.1.5), 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 6. 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.
- 6.2 In the case of PerformanceBridge, a 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.

## **7. Customer Provided Hardware/Customer Managed IT Support Structure.**

- 7.1 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.
- 7.2 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.

**Schedule 9-A**  
**Annual Maintenance and Support for the EOI Software 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 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 ("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.
- 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 inquires 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 new software versions and updates of software for the licensed EOI Solution applications originally purchased by Customer. 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 is not included. Hardware updates and replacement are not included.
    - 3.1.1 **Functionality.** Customer is entitled to updates and upgrades for the EOI Software Solution applications Philips makes generally commercially available to customers having maintenance and support on the same EOI Solution application with the same software version and purchased options, original purchased by Customer, except for professional services fee with respect to upgrades. Customer acknowledges that certain functionality in current and previous software versions may not be available in future new software versions.
    - 3.1.2 **Hardware updates and replacement.** Software versions, updates and fixes may require hardware updates or replacement. 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.
  - 3.2 To receive a new software version:
    - 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 PRS 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 version or update must meet the specifications of the new software version. Customer shall provide the EOI Software Solution hardware or software necessary to meet such specifications.
- \*\*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.