

PHILIPS HEALTHCARE
A division of Philips North America LLC
414 Union St, 2nd Floor
Nashville, TN 37219

PHILIPS

Quotation #: 1-2CJIL7G	Rev. 1	Effective From: 10/29/2020	To: 12/28/2020
Presented To:		Presented By:	
SOUTHERN CALIFORNIA HEART CENTER DBA SYNERGY IMAGING CENTER 506 W VALLEY BLVD STE 200 SAN GABRIEL, CA 91776-5716		Annie Yeung <i>Account Manager</i>	Tel: (310) 210-3683 Fax:
Alternate Address:		Bert Foreman <i>Regional Manager</i>	Tel: (310) 210-3683 Fax:
Date Printed: 24-Nov-20			

IMPORTANT NOTICE: Health care providers are reminded that if the transactions herein include or involve a loan or discount (including a rebate or other price reduction), they must fully and accurately report such loan or discount on cost reports or other applicable reports or claims for payment submitted under any federal or state health care program, including but not limited to Medicare and Medicaid, such as may be required by state or federal law, including but not limited to 42 CFR 1001.952(h).

Model	Months	Qty	Service Plan
101930 Affiniti 70 Ultrasound System	60	1	SVC0942 Philips RightFit Value Service Agreement
Home Office Use Only			
Site # 88817385	Start Date 1/12/2022	End Date 1/11/2027	

POINT OF SALE SERVICE CONTRACT SECTION

This quotation contains confidential and proprietary information of Philips Healthcare, a division of Philips North America LLC ("Philips") and is intended for use only by the customer whose name appears on this quotation. It may not be disclosed to third parties without the prior written consent of Philips.

Philips Ultrasound Customer Services has been Ranked #1 by Customers in the IMV ServiceTrak™ All Systems Survey for over 25 years. More than a quarter century!

Affiniti 70 Ultrasound System

Item #	Part #	Description
1	SVC0942	Philips RightFit Value Service Agreement

Thank you for the opportunity to provide this proposed Philips RightFit Service Agreement. Our Value Service Agreement offers you robust security, a hands-on relationship with Philips, and open communications.

LABOR:

- Labor and travel coverage for on-site service 8:00 am - 5:00 pm, Monday - Friday, excluding Philips published holidays.
- Preferential Scheduling of service calls for service contract customers.
- On-site Response. Philips service goal is to be on-site the next business day.
- Planned maintenance coverage from 8:00 am – 5:00 pm, Monday – Friday, excluding Philips published holidays. Coverage includes activities performed according to a schedule to review safety, image quality, calibrations, equipment cleaning, performance trials and any other planned service prescribed by Philips. Planned Maintenance Inspections will be performed per Philips manufacturing specifications (1 or 2 per year, depending on product). Some Philips Ultrasound systems (i.e. Philips Xperius), do not require Planned maintenance.
- Preferred rates for labor and travel. This includes reduced hourly rates for labor and travel for corrective or planned maintenance outside of Service Agreement coverage hours.

PARTS:

- Standard parts coverage. This provides coverage on parts (including transducers listed on this agreement that fail during the normal use) used to maintain and repair the equipment including both hardware and software items. This excludes TEE transducers.
- Transducer Accidental Damage Protection. Coverage at 50% off the Philips Service Exchange Program price for transducers listed on this agreement. This excludes TEE transducers.

LIFECYCLE:

- System software updates. This includes on-site or remote labor, travel and parts necessary to complete safety, performance and reliability modifications to existing equipment software or hardware.
- 35% discount on the purchase of eligible system upgrades, transducer upgrades and Clinical Education tuition purchased with the upgrade, excluding system platform exchanges.

CUSTOMER CARE SOLUTIONS CENTER:

- Unlimited Technical telephone support.
- Unlimited Clinical telephone support from 8:00 am - 5:00 pm, Monday – Friday.
- Remote Services. This supports remote system diagnostics and monitoring, including Remote Desktop and Remote Proactive Monitoring (requires connection to Philips Remote Services network). Philips equipment is connected via an Internet secure single point of access network to our Solutions Center as described in the Terms and Conditions Exhibit. Features may vary by equipment and software release level.

SOLUTION ENHANCEMENTS:

- Utilization Reports. This provides information on system utilization reports to help improve workflow. May not be available on all platforms.
- On-Board system diagnostics. This provides convenient access to diagnostic data located on the ultrasound system. May not be available on all platforms.

Service Plan: SVC0942 Philips RightFit Value Service Agreement
Quantity: 1

To commence at a time of system warranty expiration with the exception of In-Warranty Coverage and selected Supplement Items Plans

Select Payment Terms Desired:

Select Payments Plans
Choice:

	Single System Net	Total Net
<input checked="" type="checkbox"/> 60 Monthly Payments at	\$706	\$706
<input type="checkbox"/> 20 Quarterly Payments at	\$2,119	\$2,119
<input type="checkbox"/> 5 Yearly Payments at	\$8,475	\$8,475
<input type="checkbox"/> Single Payment at	\$42,375	\$42,375

* If no selection is made, the default choice will be monthly payments.

Prices above do not include any applicable sales taxes

The service agreement payment does not include optional equipment. If optional equipment is purchased please see attached Equipment Configuration Option Pricing (if available) or contact your Account Manager for amended service pricing.

Buying Group: VIZIENT SUPPLY LLC

Contract #: Multi Modality GB Q4 20

Addt'l Terms:

Each Quotation solution will reference a specific Buying Group/Contract Number representing an agreement containing discounts, fees and any specific terms and conditions which will apply to that single quoted solution. If no Buying Group/Contract Number is shown, Philips' Terms and Conditions of Sale will apply to the quoted solution.

Each equipment system listed on purchase order/orders represents a separate and distinct financial transaction. We understand and agree that each transaction is to be individually billed and paid.

For services performed outside the contract hours of coverage, Philips will request a Purchase Order before dispatching a Field Service Engineer.

Our facility does not issue formal purchase orders. We authorize payments 'in lieu of a Purchase Order' for the equipment as described in Philips Healthcare Service Agreement. Initiated: YK

Our facility does issue formal purchase orders, however, due to our business/system limitations, we cannot issue a formal purchase order until _____ days prior to warranty expiration. Initiated: _____

Customer Agreement as Quoted

Upon customer signing and acceptance by an authorized Philips representative, this document constitutes a contract and customer agrees to be bound by all terms hereof which include IMPORTANT LIMITATIONS OF LIABILITY.

BY: X

Customer Signature

Stanley Lee

Printed Name

STANLEY LEE

Title

MED DIRECTOR

Date

11-25-2020

For Headquarters Use Only

Philips by its acceptance thereof, agrees to provide maintenance services for the equipment above in accordance with all terms.

Andrew McPherson

Electronically signed by Andrew McPherson
Reason: I have reviewed and approve this
document.
Date: Jun 26, 2023 11:33 CDT

Signature

SME Order Processing

Title

Date

26-Jun-2023

Affiniti 70 Ultrasound System

NOTE:

Philips approved B&W printers and static probes used on this system are covered as part of this agreement

- Coverage for consumables excluded with the exception of battery coverage for the CX50, CX30, Sparq and VISIQ (remote service only on VISIQ).

Service Agreement Terms and Conditions

PHILIPS HEALTHCARE
SERVICE AGREEMENT TERMS AND CONDITIONS (REV Q)

1. SERVICES PROVIDED

1.1 The services listed in the quotation and/or Attachment A (the "Services") are offered by Philips Healthcare a division of Philips North America LLC ("Philips") only under the terms and conditions described below, and on any exhibits and attachments, each of which are hereby incorporated (the "Agreement").

2. EXCLUSIONS

The Services do not include:

2.1 Servicing or replacing components of the system other than those systems or components listed in the quote, attachments and exhibits, as applicable (the "Covered System")

that is at the listed system location ("Site");

2.2 Servicing Covered System if contaminated with blood or other potentially infectious substances;

2.3 Any service necessary due to:

- (i) a design, specification or instruction provided by Customer or Customer representative;
- (ii) the failure of anyone to comply with Philips' written instructions or recommendations;
- (iii) any combining of the Covered System with other manufacturers product or software other than those recommended by Philips;
- (iv) any alteration or improper storage, handling, use or maintenance of the Covered System by anyone other than Philips' subcontractor or Philips;
- (v) damage caused by an external source, regardless of nature;
- (vi) any removal or relocation of the Covered System; or
- (vii) neglect or misuse of the Covered System;

2.4 Any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors.

2.5 Batteries are not included in coverage for any purpose, system, or modality, including, but not limited to, Biomedical Equipment or uninterruptible power supply (UPS) systems of any size or type.

3. CUSTOMER RESPONSIBILITIES

During the term of this Agreement, Customer will:

3.1 Ensure that the Site is maintained in a clean and sanitary condition; and that the Covered System, product or part is decontaminated prior to service, shipping or trade-in as per the published manufacturer's operating instructions

3.2 Dispose of hazardous biological waste generated;

3.3 Maintain operating environment within Philips specifications for the Site including temperature and humidity control, incoming power quality (including but not limited to voltage spikes, brownouts and outages), incoming water quality, and fire protection system;

3.3.1 For customers choosing not to use a Philips approved UPS, Philips reserves the right to insert a power monitor at any time during the contracted period to collect power quality statistics. Should results show that power quality negatively impacted system performance and resulted in additional Philips cost to maintain the system, Philips reserves the right to bill for service events related to poor power quality.

3.4 Use the Covered System in accordance with the published manufacturer's operating instructions.

4. SYSTEM AND BIOMEDICAL EQUIPMENT AVAILABILITY

4.1 System Availability. If Customer schedules service and the Covered System is not available at the agreed upon time, then Philips may cancel the service or charge the Customer at Philips then current labor and travel rate for all time spent by Philips service personnel waiting for access to the Covered System.

4.2. Biomedical Equipment Availability. In order to achieve contracted planned maintenance (PM) compliance, Customer agrees to make the Biomedical Equipment available for PM service during normal business hours (Monday through Friday, 8am to 5pm, excluding Philips recognized holidays) starting 2 weeks before the month in which PM's are due and ending on the last day of the actual month in which PMs are due. If the Biomedical Equipment is unavailable during the month in which PM's are due and this results in Philips having to perform service, of more than 25% of the PM volume due that month, in the last week of the month that PM's are due, Philips will charge the Customer at Philips then current labor rates (and travel, if required) for all overtime incurred as a result of the Biomedical Equipment not being available. For the purposes of this Agreement, Biomedical Equipment means clinical equipment that is mobile and not in a fixed location. It does not include diagnostic imaging equipment that is non-mobile. In addition, this subsection 4.2 do not apply to services provided under Exhibits 9, 9-A and 10.

5. PAYMENT

5.1 All payments under this Agreement are due thirty (30) days from the date of Philips' invoice until the Agreement amount and all applicable taxes and interest are paid in full.

5.1.1 Customer will pay interest on any amount not paid when due at the lesser of 1.5% interest per month or the maximum rate permitted by applicable law.

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

5.1.3 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.

6. FORCE MAJEURE

6.1 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 or military authority, fire, floods, war, terrorism, 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, requests shall not be considered 'government' requests under this section.

7. TERM AND TERMINATION

7.1 The term of this Agreement shall be set forth in the quote(s) and/or Attachment A attached hereto and incorporated herein ("Term").

7.2 This Agreement is non-cancelable by Customer and will remain in effect for the Term specified in this Agreement. However, Customer may cancel service coverage for an individual Covered System under this Agreement upon sixty (60) days written notice to Philips representing that the Covered System is being permanently removed from the site and that the Covered System is not being used in any other Customer site.

7.3 Upon sixty (60) days written notice to Philips, Customer may cancel this Agreement specifically describing a material breach or default of the Agreement by Philips, provided that Philips may avoid such cancellation by curing the condition of breach or default within such sixty (60) day notice period. Termination under this clause shall not impact fees paid for services rendered up to the time of such material breach, which shall remain payable to Philips.

7.4 In addition, if the Customer sells or otherwise transfers any of the Covered System to a third party and the System remains installed and in use at the same location, and such third party assumes the obligations of the Customer under this Agreement or enters into a new service agreement with Philips the price will be equal to the price in this Agreement and a term at least equal to the unexpired/unused term of this Agreement. If such third party does not assume the obligations of the Customer under this Agreement, then the Customer may terminate this Agreement with respect to such Covered System upon no less than thirty (30) days prior written notice to Philips, in which case the Customer shall pay to Philips (i) all amounts due under this Agreement through the effective date of termination (based on the notice requirement) and (ii) as liquidated damages and not as a penalty, an amount equal to 30% of the remaining payments due under this Agreement for such Covered System from the date of termination through the scheduled expiration of the term of this Agreement.

7.5 If this Agreement includes a Pool and terminates for any reason and Customer has expended more funds from its Pool than it has contributed to the Pool, then Customer shall pay Philips the amount by which its expenditures exceeded its contributions within five (5) days of such termination.

7.6 Clinical Education training and credits will expire upon termination of the Agreement.

8. DEFAULT

8.1 Customer's failure to pay any undisputed amount due under this Agreement within thirty (30) days of when payment is due constitutes a default of this Agreement and all other agreements between Customer and Philips. In such an event, Philips may, at its option, (i) withhold performance under this Agreement and any or all of the other agreements until a reasonable time after all defaults have been cured, (ii) declare all sums due and to (iii) commence collection activities for all sums due or to become due hereunder, including, but not limited to costs and expenses of collection, and reasonable attorney's fees, (iv) terminate this Agreement with ten (10) days' notice to Customer, and (v) pursue any other remedies permitted by law.

9. END OF LIFE

9.1 AFTER THE END OF LIFE DATE, PHILIPS WILL CONTINUE TO USE COMMERCIALLY REASONABLE EFFORTS TO REPAIR SYSTEMS, BASED ON PARTS AND TRAINED ENGINEER AVAILABILITY, BUT WITH NO UPTIME GUARANTEE. AFTER THE END OF LIFE DATE, PHILIPS WILL NOT CREATE OR TEST BUG FIXES, PATCHES, OR ENHANCEMENTS TO THE SYSTEM HARDWARE OR SOFTWARE.

9.2 If Philips determines that its ability to provide the service coverage is hindered due to the unavailability of parts or trained personnel, or that the Covered System can no longer be maintained in a safe or effective manner as determined by Philips, then Philips may terminate this Agreement with respect to such Covered System upon notice to the Customer and provide Customer with a refund of any Customer pre-payments for periods of service coverage not already completed.

10. WARRANTY DISCLAIMER

10.1 Philips' full contractual service obligations to Customer are described in this Agreement, including all exhibits attached hereto that apply to the specific services offering and coverage purchased under the Agreement. Moreover, all labor shall be performed in a good and workmanlike manner consistent with industry practices by personnel with training. In the event of a material breach of the foregoing, Customer shall provide Philips written notice and an opportunity to cure per the termination section of this Agreement. Philips provides no additional warranties express or implied under this Agreement. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO SERVICE OR SERVICE ITEMS PROVIDED BY PHILIPS UNDER THIS AGREEMENT.

11. INTELLECTUAL PROPERTY INDEMNIFICATION

11.1 Philips shall indemnify, defend, and hold harmless Customer against any claim that services, including any software, part, or service materials provided under this Agreement (collectively "Service Items"), 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.

11.2 If (a) a Service Item is found or believed by Philips to infringe a valid patent or copyright; or, (b) Customer has been enjoined from using a repaired product or Service Item pursuant to an injunction issued by a court of competent jurisdiction, Philips may, at its option: (i) procure the right for Customer to use Service Items; (ii) replace or modify the Service Items to avoid infringement; or (iii) refund to Customer a portion of the service fees upon the return of Service Items that are subject of such claims of infringement. Philips shall have no obligation for any claims 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 Philips Service Items, which is not permissible hereunder; or, use of the covered Philips product (based Service Items delivered under this Agreement other than in accordance with the product specifications or applicable written product instructions for such Service Items or Covered Products); use of the covered Philips product, including with Service Items with any other product not sold by Philips to customer and the Philips product (including Service Items) in and of itself is not infringing; if infringement would have been avoided by the use of a current unaltered release of a covered Philips products; provided that, Philips makes such unaltered release available to Customer at no additional charge for use of the Philips Product (including with Service items) 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 in 10.2(i)-(iii) above. The terms in this section 11.2 state Philips' entire obligation and liability for claims of infringement, and Customer's sole remedy in the event of a claim of infringement.

12. LIMITATIONS OF LIABILITY AND DISCLAIMER

12.1 THE TOTAL LIABILITY, IF ANY, OF PHILIPS' AND ITS AFFILIATES', FOR ALL DAMAGES AND BASED ON ALL CLAIMS, WHETHER ARISING FROM OR RELATING TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING FROM THE SERVICES OR PHILIPS' PERFORMANCE OF THE SERVICES, IS LIMITED TO AN AMOUNT NOT TO EXCEED THE PRICE STATED IN THIS AGREEMENT FOR THE SERVICE GIVING RISE TO THE LIABILITY. THIS LIMITATION SHALL NOT APPLY TO:

12.1.1 THIRD PARTY CLAIMS FOR BODILY INJURY OR DEATH CAUSED BY PHILIPS' NEGLIGENCE;

12.1.2 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;

12.1.3 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, AS DEFINED BY HIPAA; and,

12.1.4 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 CONSTITUTING DIRECT DAMAGES.

12.1.5 PHILIPS INTELLECTUAL PROPERTY INDEMNIFICATION OBLIGATIONS UNDER SECTION 11 ABOVE.

12.2 IN NO EVENT SHALL PHILIPS OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, 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. PROPRIETARY SERVICE MATERIALS

13.1 Philips may deliver or transmit certain proprietary service materials (including software, tools and written documentation intended solely to assist Philips and its authorized agents in performing Services under this Agreement) ("Proprietary Service Materials") that have not been purchased by or licensed to Customer. The presence of this property within the Site will not give Customer any right or title to this property or any license or other right to access, use or decompile this property. Customer agrees to restrict access to such software, tools and written documentation to Philips' employees and those of Philips' authorized agents only and to permit Philips to remove its Proprietary Service Materials upon request. Customer will use all reasonable efforts to protect this property against damage or loss and to prevent any access to or use of this property by any unauthorized party. Customer shall immediately report to Philips any violation of this section.

14. THIRD PARTY MANAGEMENT

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

15. TAXES

15.1 The price stated in the quotation does not include applicable sales, excise, use, or other taxes in effect or later levied. Customer shall provide Philips with an appropriate exemption certificate reasonably in advance of the effective date, otherwise, Philips shall invoice Customer for those taxes, and Customer shall pay those taxes in accordance with the terms of the invoice.

16. INDEPENDENT CONTRACTOR

16.1 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.

17. RECORD RETENTION AND ACCESS

17.1 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 pursuant to these Terms and Conditions of Service, 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 Service 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 Service 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 to these Terms and Conditions of Service. If Section 1861(v) (1) (1) should be found to be inapplicable, then this paragraph shall be deemed inoperative and without force and effect.

18. COMPLIANCE

18.1 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 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 Act of 1972 as amended), E-Verify, fair employment practices, FDA, Medicare fraud and abuse, and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Health care providers are reminded that if this Agreement includes a discount, 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]).

18.2 Business Associates Addendums/Agreements between Philips and Customer. Customers 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 the 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.

18.3 In the course of providing the Services to Customer, hereunder, it may be necessary for Philips to have access to, view, and/or download computer files from the Covered System that might contain Personal Data. Personal Data includes information relating to an individual, from which that individual can be directly or indirectly identified ("Personal Data"). 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 Service obligations under this Agreement. Customer further acknowledges and agrees that all telephone conversations between Philips and Customer may, in Philips discretion, be recorded.

19. CONFIDENTIALITY

19.1 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, the quotation and this Agreement and its terms, including its pricing terms. Each party shall use the same degree of care to protect the confidentiality of the disclosed information as that party uses to protect the confidentiality of its own information, but in no event less than a reasonable amount of care. Each party shall disclose such confidential information only to its employees having a need to know such information to perform the transactions contemplated by this Agreement. The 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 Service 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.

20. SUBCONTRACTS AND ASSIGNMENTS

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

21. INSURANCE

21.1 Upon Customer request, Philips will provide a Certificate of Philips insurance coverage.

22. RULES AND REGULATIONS

22.1 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.

23. EXCLUDED PROVIDER

23.1 As of the Effective Date of this Agreement, 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 this Agreement (an "Excluded Provider"). Philips shall promptly notify Customer if it becomes aware that Philips or any of its employees or subcontractors, providing the 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 Agreement by express written notice for Services not yet rendered prior to the date of exclusion.

24. GENERAL TERMS

24.1 **Survival.** Customer's obligation to pay any money due to Philips under this Agreement survives expiration or termination of this Agreement. All of Philips' rights, privileges, and remedies with respect to this Agreement will continue in full force and effect after the end of this Agreement.

24.2 **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 Service and delivery of similar or dissimilar services shall not serve as references in interpreting the terms and conditions of this Agreement.

24.3 **Severability.** If any provision of the Agreement is deemed to be illegal, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall not be affected or impaired, and shall continue in full force and effect.

24.4 **Counterparts.** This Agreement may be executed in one or more counterpart copies, each of equal validity, that together constitute one and the same instrument. Any photocopy or facsimile of this Agreement or any such counterpart is deemed the equivalent of an original and any such facsimiles constitute evidence of the existence of this Agreement.

24.5 **Governing Law.** All transactions contemplated under this Agreement shall be governed by the laws of the state in which the Covered System is located, 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, ITS 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.

24.6 **ENTIRE AGREEMENT.** This Agreement constitutes the entire understanding and agreement by and between the parties with respect to the transactions contemplated by the quotation and/or Attachment A, and supersedes any previous understandings or agreements between the parties, whether written or oral, regarding the transactions contemplated by the quotation and/or Attachment A. No additional terms, conditions, consents, waivers, alterations, or modifications will 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 will not apply to the transactions contemplated by this Agreement.

24.7 **Additional Terms.** service specific exhibits, and any associated attachments, are incorporated herein as they apply to the services listed on the quotation and/or Attachment A and their additional terms shall apply solely to Customer's purchase of the services specified therein. If any terms set forth in an exhibit conflict with terms set forth in these Terms and Conditions of Service, the terms set forth in the exhibits shall govern.

25. AUTHORITY TO EXECUTE

The parties acknowledge that they have read the terms and conditions of this Agreement, that they know and understand the same, and that they have the express authority to execute this Agreement.

ADDITIONAL IMAGING SYSTEM SERVICE TERMS AND CONDITIONS

Exhibit 1

(for Philips and/or Non-Philips Equipment)

1. SERVICES PROVIDED

1.1 Initial Covered System Inspection. Within ninety (90) days after the effective date, Philips will inspect the Covered System not previously serviced by Philips and notify Customer of any Covered System that does not meet manufacturer's specification. Philips will provide Customer a written estimate for repairs necessary to bring any of the covered system within proper manufacturers specifications. Upon Customer's request, Philips will provide necessary repairs at Philips' then current labor and travel rates. If Customer elects not to have Covered System repaired, then Philips may remove such system from coverage under this Agreement.

1.2 Repair Service. Commencing on the effective date and subject to the repair limitation below, Philips or Philips' subcontractors will provide repair services for Covered System. Philips will provide all replacement parts, which may be refurbished, and labor necessary to repair Covered System, unless excluded in section 3 herein. 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 will remove parts from the Covered System Site ("Exchange Basis"). Philips may increase its contract price if the Covered System is upgraded or reconfigured.

1.3 Planned Maintenance Service. Philips will provide Customer a planned maintenance schedule for the Covered System. Philips will provide such planned maintenance during the Service Coverage hours (as defined in the Agreement) at a time that is mutually agreed upon. Customer will make the Covered System available in accordance with this Exhibit. Philips or its subcontractors will provide planned maintenance on the Covered System at scheduled intervals. If Philips cannot locate Covered System, or 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 Covered System for planned maintenance, otherwise customer waives right to service and Philips may delete Covered System from this contract.

1.4 Software Updates. Philips will install operating system software updates provided by the Original Equipment Manufacturer (OEM) for Covered System. Software updates mean revisions to OEM proprietary operating system software that enhance existing Covered 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.

2. CONTRACT ADMINISTRATION

2.1 System Additions and Deletions. After completing the inspection, Customer may add a System to the Covered System list by contacting Philips. Customer and Philips will agree on a mutually-agreeable price and contract start date. The Covered System will be added to this Agreement after receipt of the signed inventory modification form. Customer may delete Covered System only if: (i) Customer permanently removes it from operation or (ii) it is no longer under Customer's exclusive ownership or control and Customer notifies Philips in writing. The Covered System will be deleted from the contract pursuant to Section 7 of the Service Agreement Terms and Conditions

2.2 Management and Staffing. If on-site staffing is provided, Philips will determine and provide the management and service staff necessary to provide the Services under this Exhibit. Philips will pay all salaries, payroll and other employment taxes or fees, worker's compensation insurance, and other charges or insurance levied or required by any federal, state, or local statutes, relating to its employees.

2.3 If applicable, Customer shall execute the Subcontracting Confirmation and Agency Authorization Agreement as required by Philips to perform certain duties and responsibilities.

3. EXCLUSIONS Unless specifically included in this Agreement, the Services do not include providing or paying the cost of:

3.1 Any rigging or structural alteration incident to the Services;

3.2 Consumable items and supplies (as defined below) ("Consumables"), cryogens, PET calibration sources, film, batteries, cassettes;

3.2.1 Consumables include, but are not limited to, the following: Biomedical Equipment batteries and battery chargers; biomedical laser tubes; patient use pads; filters; light bulbs and light sources; line cords and power cords; external cables and hoses; patient leads and cables; SpO₂ sensors and O₂ sensors; Probes (TOCO, Doppler, Biomed Ultrasound, Pencil, Bladder Scan, Temp probe, etc); BP hose/cuff; foot pedestals; hand pieces; scopes (laryngoscope, baton, endoscope, etc); defibrillator cables; paddles and test plugs; or table accessories.

3.3 Cosmetic repairs;

3.4. The cost of factory reconditioning, rebuilds, or overhauls if repairs cannot maintain the equipment in satisfactory operating condition;

3.5. Disposing hazardous, infectious, or biomedical waste or materials;

3.6. Providing service to any 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;

3.7. Unless otherwise specified in the quote, maintaining or repairing Philips' and/or third-party products including but not limited to nuclear camera detector crystals, CT Tubes and radiation therapy tubes, x-ray tubes, flat panel detectors, image intensifiers magnet replacement, magnet refrigeration system (coldhead, compressor, chillers), MR RF rooms, surface coils HVAC systems, power conditioners, uninterruptible power supplies, special 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 thyatrons, magnetrons, plumbicons, waveguides, and attachments.

3.8. If this Agreement includes coverage for biomedical services: the following are not included in the definition of Biomedical Equipment: arthroscopy instruments, blood pressure cuffs (accessory or attachment), fume hoods, high-end lab analyzers, lead aprons/shields, nurse call, and surgical robots, 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.

4. COVERAGE Philips will provide services on-site during the hours listed in Customer's service agreement, 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' then-current preferred labor and travel rates. Customer will be charged a minimum of two hours on-site time plus applicable travel charges and expenses per service visit.

5. DOCUMENTATION Upon Customer's written request, Philips will provide repair and planned maintenance records for the Covered System.

6. CUSTOMER RESPONSIBILITIES During the term of this Agreement Customer will

6.1 If applicable, attend a start-up meeting at Customer's facility, prior to the Effective Date of this Agreement, so Philips can explain the Services to the Customer's management and selected staff;

6.2 Provide a secure dedicated space within Customer's main facility and at each additional facility or location as necessary for the resident Philips staff.

6.3 Provide Philips with broadband Internet or Wi-Fi access for business purposes.

6.4 Provide Philips with the Covered System service manuals for any non-Philips System;

6.5 Maintain all software licenses applicable to the Covered System.

6.6 For Philips use in remote servicing of the System, provide Philips a secure location for hardware to connect System to Philips Remote Service (PRS).

6.6.1 The PRS hardware remain Philips' property and is only provided during the term of this Agreement;

6.6.2 Provide Philips and its vendors full and free access to the PRS hardware to enable Philips to remotely access the Covered System or non-Philips System;

6.6.3 Provide Philips at each Covered System Site, at all times during the term of this Agreement, a dedicated broadband Internet access node, including public and private interface access, suitable to establish a successful connection to the Covered System through the PRS and Customer network.

6.6.4 If the Covered System cannot be connected to the PRS, and Customer fails to provide the access described in Section 6, then Customer waives its rights to Services under this Agreement and any uptime guarantee.

7. Helium Replenishment (Applies only to MRI Service)

7.1 If Helium Replenishment Service is included in this Agreement, Customer shall report any magnet cooling system (cold-head, compressor, or chiller) malfunction within twenty four (24) hours. If Customer fails to report any malfunctions or provide continuous chilled water or power to the MRI System, then Customer is responsible for any additional Helium expenses.

7.2 Customer shall provide access to the MRI system to perform helium replenishment, cryorefrigeration system and chiller services during contract hours of corrective and/or planned maintenance services.

7.3 If the Covered System is not connected to the PRS, then Customer shall report Helium level readings weekly for all systems covered by this Agreement into the Philips Helium Reading Registration System at: <https://heliumreg.onephilipsmdc.com>

7.4 During the term of the Agreement Customer will immediately inform Philips upon the happening of any of the following:

7.4.1. an on-screen message appears on the Covered System computer that Helium refill is required; or
7.4.2. the liquid helium level is below the minimum operating helium level as indicated in the Instructions for Use. (In such case an on-screen message may also appear on the system computer indicating that scanning will be prohibited within certain days or immediately. In both cases Customer shall immediately inform Philips and in the latter case Customer shall also immediately cease to operate the MRI Equipment);

7.4.3. a sudden, unexpected drop of liquid helium level is encountered; or

7.4.4. the MRI magnet refrigeration system is out of order and/or not operational;

7.5 Customer shall act on alerts provided by the MRI Equipment and/or monitoring processes which apply to the operating environment condition.

7.6 If liquid Helium is purchased by Customer from Philips, Customer shall ensure that the filling of liquid Helium is done by Philips authorized personnel only.

7.7 If Helium Replenishment Service is excluded from this Agreement, Philips does not accept any responsibility and Philips will not be liable for any cost or damages due to the loss of liquid Helium or due to the services provided by a third party other than a subcontractor of Philips. Any costs will be fully charged to Customer, including the costs of refill of the liquid Helium, including shipment, labor, duties and taxes.

7.8 Customer will inform Philips of any planned power outages.

8. Further use of System Data

8.1 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. Customer agrees that any Mandatory Data will be the property of Philips. Part of the Mandatory Data might constitute (non-sensitive) Personal Data. Customer agrees that Philips may use and disclose Mandatory Data for Philip's 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). However, in doing so, Philips shall de-identify Customer's data. Philips may use Customer's data in support of such business deliverables and such process of de-identification shall occur on Customer's premises. Separation of such data from the Philips database is impossible, therefore Philips shall have the right to continue using such data upon expiration of this Agreement.

8.2 Enhanced Data. Customer also acknowledges and agrees that additional system performance data related to errors or status of devices shall be delivered into the custody of Philips, or of systems maintained on Philips' behalf, without notice to Customer. This additional data includes alert such as low disc space and device reboot; performance indicators such as slow database query; and additional statistics such as critically low battery and packets sent ("Enhanced Data"). Customer acknowledges that the Enhanced Data feature is activated as default in the Licensed Software, and Customer is responsible for turning off the Enhanced Data feature at install. Customer acknowledges that by activating the Enhanced Data feature, Customer will be able to access an interface, which allows Customer to export data onto Customer's Network Management System. Customer agrees that any Enhanced Data will be the property of Philips. Customer agrees to assign, and hereby assigns, all right, title, and interest worldwide in the Enhanced Data to Philips. Customer acknowledges and agrees that Philips may use such Enhanced Data for its business purposes without restriction. In addition, Philips will not expose any data set tied to the Customer, to another customer of Philips or any other third party. In addition, Customer will be able to select within the Licensed Software settings if they choose to enable or disable the Licensed Software from sending Enhanced Data information to Philips.

Philips ultrasound POS Signed Contract executed

Final Audit Report

2023-06-26

Created:	2023-06-26
By:	Andrew McPherson (andrew.mcpherson@philips.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA8UeV45_T6EgBWueeZzSPNZdh_MKlpdQC

"Philips ultrasound POS Signed Contract executed" History

-  Document created by Andrew McPherson (andrew.mcpherson@philips.com)
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