

PCMS AGREEMENT QUOTATION - Comprehensive Onsite

Customer: Williamson County EMS
 Address: 303 Martin Luther King St
 Address:
 City,State/Zip: Georgetown, TX 78626
 Agreement Contact : John Gonzales
 Telephone: 512-943-1260
 Fax:
 System Contact:
 Telephone:
 Field Service Engineer:
 Equipment Location:
 Department Name:
 Email: jgonzales@wilco.org

Payment Terms: Net 30
 Agreement Quote Date: 4/13/2015
 Prior Agreement #:
 Agreement Start Date: 12/30/2015
 Agreement End Date: 12/29/2019
 Billing Schedule: Yearly
 Extended Onsite Coverage: Mon-Fri 8am to 5pm
 Multi -Year Option: 17%

Valid for 60 days

Philips Representative:	Tel:	Fax:	Date:	Quote #:
Dolores Lezo	724-834-0374 Opt #3	724-834-1043	9/10/2015	097513-2

Model #	Serial #	Qty	SAP#		Start	End	Annual List \$	Extended Annual List \$
6301147394								
		1		Defibrillators				
M3536A	US00558712	3		HeartStart MRx (PA recommended)	12/30/2015	12/29/2019	\$945.00	\$2,835.00
	US00558713							
	US00558714							
6302199907								
		1		Defibrillators				
M3536A	US00580843	23		HeartStart MRx (PA recommended)	12/30/2015	12/29/2019	\$945.00	\$21,735.00
	US00580844							
	US00580845							
	US00580846							
	US00580847							
	US00580848							
	US00580849							
	US00580850							
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	US00580859							
	US00580860							
	US00580861							
	US00580862							
	US00580863							
	US00580864							
	US00580865							
6302199908								
		1		Defibrillators				
M3536A	US00580767	3		HeartStart MRx (PA recommended)	12/30/2015	12/29/2019	\$945.00	\$2,835.00
	US00580768							
	US00580769							

Total Annual Service Charge Year 1	\$27,405.00
Total Annual Service Charge Year 2	\$27,405.00
Total Annual Service Charge Year 3	\$27,405.00
Total Annual Service Charge Year 4	\$27,405.00

Subtotal :	\$109,620.00
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Extended Travel Charge	See Travel Uplifts	111 mi	\$27,405.00
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ADDENDUM TO SERVICE TERMS & CONDITIONS

Philips Healthcare, a division of Philips North America Corporation ("Philips") and Williamson County EMS ("Customer") agree to amend the Service Agreement Terms and Conditions (Quote No. 097513) ("Agreement") between them. If there are any conflicts between the terms of this Addendum and the terms of the Agreement, the terms of this Addendum shall control. All paragraph(s) specifically listed below supersede the same numbered paragraph(s) as listed in the Agreement. Capitalized terms used herein and not otherwise defined herein, unless the context otherwise requires, shall have the same meanings set forth in the Agreement.

Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date The County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by The County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of The County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

The parties to this Agreement have signed this Addendum by their duly authorized officers on the date written below.

For Philips

A handwritten signature in blue ink, appearing to be "K. Graham".

Signature

Kim Graham

Printed Name

Service Contracts Manager

Title

Date

12-14-15

For Williamson County EMS

Signature

Printed Name

Title

Date




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For Philips




Signature
Kim Graham

Printed Name
Service Contracts Manager

Title
12-14-15

Date

For Williamson County EMS



Signature
DARRIN L. PATTON

Printed Name
County Judge

Title
06-07-2016

Date

PHILIPS HEALTHCARE SERVICE AGREEMENT TERMS AND CONDITIONS

1. **SERVICES PROVIDED.** The services listed in the quotation (the "Services") are offered by Philips Healthcare, a division of Philips Electronics North America Corporation ("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 Exhibits (the "System") that is at the listed location ("Site");
 - 2.2. Servicing 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 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 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 System; or (vii) neglect or misuse of the System;
 - 2.4. Any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors.
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 System, product or part is decontaminated prior to service, shipping or trade-in as per the Instructions in the User manual;
 - 3.2. Dispose of hazardous or biological waste generated;
 - 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);
 - 3.4. Use the System in accordance with the published manufacturer's operating instructions.
4. **SYSTEM AVAILABILITY.** If Customer schedules service and the 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 the System.
5. **PAYMENT.** 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. 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.
6. **EXCUSABLE DELAYS.** Philips is excused from performing under this Agreement when Philips' delay or failure to perform is caused by events beyond Philips reasonable control including, but not limited to, acts of God, acts of third parties, acts of the other party, acts of any civil or military authority, fire, floods, war, terrorism, embargoes, labor disputes, acts of sabotage, riots, accidents, delays of carriers, subcontractors or suppliers, voluntary or mandatory compliance with any government act, regulation or request, shortage of labor, materials or manufacturing facilities.
7. **TERM AND TERMINATION**
 - 7.1. The term of this Agreement shall be set forth in the quotation(s) attached hereto and incorporated herein.
 - 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 this Agreement upon 60 days written notice to Philips (i) representing that the System is being permanently removed from the Site and that the System is not being used in any other Customer site, or (ii) 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 60 day notice period.
 - 7.3. In addition, if the Customer sells or otherwise transfers any of the System to a third party and the System remains installed and in use at the same location, but such third party does not assume the obligations of the Customer under this Agreement or enter into a new service agreement with Philips with a term at least equal to the unexpired term of this Agreement, then the Customer may terminate this Agreement with respect to such 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 System from the date of termination through the scheduled expiration of the term of this Agreement.
 - 7.4. 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) business days of such termination.
8. **DEFAULT.** Customer's failure to pay any amount due under this Agreement within 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 10 days' notice to Customer, and (v) pursue any other remedies permitted by law.

9. **END OF LIFE.** 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 system can no longer be maintained in a safe or effective manner as determined by Philips, then Philips may terminate this Agreement 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.** Philips' full contractual service obligations to Customer are described in this Agreement. Philips provides no additional warranties under this Agreement. All service and parts to support service under this Agreement are provided AS IS. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO ANYTHING PROVIDED BY PHILIPS' SUBCONTRACTOR OR PHILIPS.
11. **LIMITATIONS OF LIABILITY AND DISCLAIMER.**
 - 11.1 Philips' total liability, if any, and Customer's exclusive remedy with respect to 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 that is the basis for the claim.. THIS LIMITATION SHALL NOT APPLY TO THIRD PARTY CLAIMS FOR BODILY INJURY OR DEATH CAUSED BY PHILIPS' NEGLIGENCE. PHILIPS WILL HAVE NO LIABILITY FOR ANY ASSISTANCE PHILIPS PROVIDES THAT IS NOT REQUIRED UNDER THIS AGREEMENT.
 - 11.2 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.
12. **PROPRIETARY SERVICE MATERIALS.** Philips may deliver or transmit certain proprietary service materials (including software, tools and written documentation) 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 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 provision.
13. **THIRD PARTY MANAGEMENT.** 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.
14. **TAXES.** Any applicable tax will be invoiced to and payable by Customer, along with the Agreement Price in accordance with the payment terms set forth in this Agreement, unless Philips receives a tax exemption certificate from Customer which is acceptable to the taxing authorities. Customer will not be obligated to pay any federal, state, or local tax imposed upon or measured by Philips' net income.
15. **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.
16. **RECORD RETENTION AND ACCESS.** If Section 1861(v)(1)(I) of the Social Security Act applies to this Agreement, then Subsections (i) and (ii) of that Section are made a part of this Agreement. In such an event, Philips shall retain and make available, and insert the requisite clause in each applicable subcontract requiring Philips subcontractor to retain and make available, the contract(s), book(s), document(s), and record(s) to the person(s), upon the request(s) for the period(s) of time required by these Subsections.
17. **HIPAA. PRIVACY.** Philips complies with all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Upon Customer request Philips will provide a mutually agreeable Business Associates agreement. In the course of providing the Services to Customer, Philips may need to access, view, or download computer files from the 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 can include both personal health information (e.g., images, heart monitor data, and medical record number) and non-health information (e.g., date of birth and gender). Philips will process Personal Data only to the extent necessary to fulfill its Service obligations under this Agreement.

18. **CONFIDENTIALITY.** Each party will 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, or its patients, and this Agreement and its terms, including its pricing terms. Each party will 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 not less than reasonable care. Each party will disclose such information only to its employees having a need to know such information to perform the transactions contemplated by this Agreement. The obligation to maintain the confidentiality of such information will not extend to information in the public domain at the time of disclosure, or to information that is required to be disclosed by law or by court order and will expire five years after the Exhibit terminates or expires.
19. **SUBCONTRACTS AND ASSIGNMENTS.** 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.
20. **INSURANCE.** Upon Customer request, Philips will provide a Certificate of Philips insurance coverage.
21. **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.
22. **EXCLUDED PROVIDER.** Philips represents and warrants that Philips, its employees, and subcontractors, are neither debarred, excluded, suspended, or otherwise ineligible to participate in a federal 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 becomes an Excluded Provider, whereupon Customer may terminate this order by express written notice for services not yet rendered.
23. **SOLICITATION OF PHILIPS EMPLOYEES.** For the duration of this Agreement and for one year following the expiration or termination of this Agreement, Customer and its affiliates will not directly or indirectly solicit any employee of Philips or its affiliates engaged in providing the services.
24. **SURVIVAL, WAIVER, SEVERABILITY, NOTICE, CHOICE OF LAW.** 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. A party's failure to enforce any provision of this Agreement is not a waiver of that provision or of such party's right to later enforce each and every provision. If any part of this Agreement is found to be invalid, the remaining part will be effective. Notices or other communications will be in writing, and will be deemed served if delivered personally, or if sent by facsimile transmission, by overnight mail or courier, or by certified mail, return receipt requested and addressed to the party at the address set forth on the face of this Agreement. 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. The law of the state in which the System is located will govern any interpretation of this Agreement and dispute between Philips and Customer without regard to the principles of choice of law.
25. **ENTIRE AGREEMENT; EXHIBITS.** This Agreement constitutes the entire understanding of the parties and supersedes all other agreements, written or oral, regarding its subject matter. No additional terms, conditions, consent, waiver, alteration, or modification will be binding unless in writing and signed by Philips' authorized representative and Customer. Additional or different terms and conditions, whether stated in a purchase order or other document issued by Customer, are rejected and will not apply to the transactions contemplated by this Agreement. No prior proposals, statements, course of dealing, course of performance, usage of trade or industry standard will be part of this Agreement. The service specific exhibits listed below, and any associated attachments, are incorporated herein as they apply to the services listed on the quotation 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 schedule shall govern.

Exhibit 1-5: Intentionally deleted; N/A for this Agreement

Exhibit 6: Additional Patient Care Software Maintenance Service Agreement Terms and Conditions

Exhibit 7: Additional Patient Care Software Maintenance Hardware Support Coverage Terms and Conditions

Exhibit 8: Additional Patient Care Services Terms and Conditions

26. **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.

Exhibit 6

PATIENT CARE SOFTWARE MAINTENANCE AGREEMENT

1. **SERVICES PROVIDED.** Commencing on the Effective Date and subject to the limitations below, Philips will provide services listed on the quotation(s) for Covered System.

Table 1 - Coverage Types

Coverage Types	Telephone and Remote Support	Software Updates and Upgrades	Installation Services for Software Updates and Upgrades	Hardware Coverage
Software Maintenance Agreement	Included	Included	Included	Not Available
Software Maintenance Agreement with Hardware Support	Included	Included	Included	See Hardware Support Attachment

2. **TELEPHONE AND REMOTE SUPPORT.**

2.1 Telephone Support. Telephone and Remote Support coverage is included with all Service Agreements identified in the Exhibit. Technical Telephone and Remote Support coverage Services are available twenty-four hours per day, seven days per week including Philips recognized holidays. Clinical Telephone and Remote Support coverage is available Monday through Friday between 8:00 AM and 5:00 PM local time, excluding Philips observed holidays.

2.2 Initial Telephone Response. If Philips receives a Customer request for service Monday through Friday between 8:00 AM and 5:00 PM local time, excluding Philips observed holidays, then Philips will make reasonable efforts to make an initial response within one hour from the receipt of the request. Otherwise, Philips will respond within two hours of the receipt of the original message.

2.3 Remote Access & Diagnostics. Philips may remotely access the System to perform services. Customer shall provide Philips access to the System.

2.4 On-Site Response. Philips primary method for Software services is telephone and Philips Remote Services. Philips may provide on-site Software support services to resolve software issues that cannot be resolved through Philips' primary resolution method. On-site services is next business day, Monday through Friday, excluding Philips recognized holidays, 8:00 AM to 5:00 PM local time, and provides for labor and travel necessary for the delivery of corrective Services.

2.5 Philips Internet-based Customer Support Tools. Philips will provide access to Philips web based support tool for the System(s) covered under the Service Agreement.

3. **INTERFACE SUPPORT.** Philips supports the DICOM and HL7 communication to and from the System as they exist at the System Site at the time of installation. In the case of upgrades, Philips shall provide the following Software maintenance Services:

3.1 If the Philips System, interoperability mapping engine, or biomedical device is upgraded to the latest version, Philips will restore the inbound / outbound communication to the pre-upgrade condition with like-for-like parameters. If incremental parameters or functionality are available as a result of the upgrade and Customer purchases or chooses to use these parameters or functionality, then Customer shall pay the cost of any additional work required to implement and support the new communication capabilities at Philips' then-current standard labor and material rates for such Service.

3.2 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 System 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 System to support such new interface specifications at a schedule and additional cost to be mutually approved by Philips and the Customer. The Customer shall pay the cost of any additional work required to implement and support the new interface specifications at Philips' then-current standard labor and material rates for such Service.

4. **SOFTWARE, UPDATES, UPGRADES AND FIXES.** If a software upgrade, update, or fix is available for the System, is included in the Agreement, and the requirements of the Agreement are satisfied, then Philips will update or upgrade the System application software during the term of the Agreement as follows:

4.1 Philips will provide Software updates and upgrades consisting of revisions to, and new versions of, Software for existing applications. Third party software including, but not limited to operating system licenses, database software licenses, client access licenses, and anti-virus software is not included. Hardware updates and upgrades are not included. Customer has no right to updates and upgrades that are released before the start date of the Agreement. If the Agreement expires after Philips notifies Customer than an update or upgrade is available, then the Customer is entitled to receive the offered update or upgrade for three (3) months following such termination.

4.1.1 Functionality. Customer is entitled to additional functionality or options previously purchased or bundled with the software if available in the update or upgrade released on or after the start date of the Agreement .

Customer may purchase new, separately-licensed functionality or options for the System separately after the start date of the Agreement. Customer acknowledges that certain functionality in current and previous software versions may not be available in upgrades.

- 4.1.2 Hardware updates and upgrades.** Software updates and upgrades may require hardware updates or upgrades. Customer is responsible for any such hardware updates or upgrades. Upgrade installation and clinical support of the installation are subject to the terms of this Agreement.

4.2 To receive an upgrade:

4.2.1 Customer must be in compliance with all terms and conditions of this Exhibit and the Agreement, including the availability of Philips remote service capability and access to the System by Philips personnel;

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

4.2.3 The System that will receive the update or upgrade must meet the specifications of the update or upgrade. Customer shall provide the System hardware or software necessary to meet such specifications.

- 4.3** Unless specifically included elsewhere in this agreement, software updates, upgrades, and fixes do not include: functionality, applications, options or the like that were not purchased with the System, including virus protection software, security patches, custom interface software, operating system software, software updates of third party software (e.g. Citrix). Philips shall have no responsibility to provide software upgrades, updates or fixes for minor software defects.

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

5. INSTALLATION SERVICES FOR SOFTWARE, UPGRADES, UPDATES AND FIXES. Philips will install the upgrades, updates, or fixes that Customer is entitled to receive under this Agreement either on-site or remotely, at Philips sole discretion, at a time mutually agreed to by Philips and the Customer.

Philips will provide clinical support or clinical education during the installation that Customer is entitled to receive under the purchased coverage type. If Customer requires additional clinical services, then Philips will provide such services to Customer at Philips' then current labor and material rates. Clinical support at the installation will be provided in support of the new software revision installation and does not include end-user clinical education. Clinical support at the installation may be provided remotely at Philips sole discretion.

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

- 6. CLINICAL EDUCATION.** Philips will perform the clinical support of the installation or clinical education for upgrades, updates, or fixes 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 the installation or clinical education will vary by upgrade, update, or fix and will be defined by Philips at Philips sole discretion.

7. CUSTOMER RESPONSIBILITIES.

- 7.1 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 System operation and ensuring that proper backup procedures are in place.

- 7.2 Remote access.** Customer must provide necessary remote access, required information, and support for the System to connect to Philips Remote Service (PRS). PRS is the basis for Services delivered under this Exhibit. Customer waives all rights to services and service deliverables under this agreement unless PRS connectivity is enabled and maintained.

- 7.3 Security.** The Customer is solely responsible for providing adequate security to prevent unauthorized System access to Philips (or its third party vendors) proprietary and confidential information.

- 7.4 Software version levels.** Customer must maintain its Systems at a currently supported version to receive support under this Exhibit.

- 7.5 Hardware revision levels.** The Customer must maintain all associated System hardware, firmware, and middleware at the required revision levels for the software version. To receive software updates and upgrades, the Customer must maintain all associated hardware to the then-current specification for the software updates or upgrades.

- 7.6 Data reconstruction.** The Customer shall follow the recommended back-up processes as outlined in the System Installation or Reference Guides. The Customer is also 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. For an additional charge based upon published labor and material rates, Philips will offer services on a commercially reasonable efforts basis to reconstruct data.

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

8. SERVICE LIMITATIONS.

- 8.1 Software Restoration.** If the Software fails and the supported application Software requires restoration, then Philips will reinstall the application Software, database Software, and operating 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 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 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. Philips may offer, for an additional charge based upon published labor and material rates, Hardware support and Software restoration Services.
- 8.2 Anti-Virus Statement.** Philips Software is a computer-based medical product and, therefore, may be subject to attack by outside computer viruses. The Software required to prevent attack by a computer virus must be constantly monitored and updated. Customer shall install and maintain anti-virus Software in accordance with the System Installation or Reference guides. After installing the software, Customer shall have the burden of proof if it claims that Philips introduced a Virus discovered in the software. Customer will pay an additional amount based on Philips' then-current time and materials rates for such work in respect of Services rendered in connection with a Virus that was not introduced by Philips. Philips shall use reasonable efforts to notify Customer if Philips becomes aware of any Virus in the Software licensed to Customer under this Agreement.
- 8.3 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. However, if Customer's request, then Philips may provide non-Philips Software assistance on a time and materials basis at Philips then-current time and materials rates, as available.
- 9. EXCLUSIONS.** In addition to the Service Exclusions set forth in the Agreement, the following Service Exclusions apply to Services.
- 9.1** Any combining of the System with a non-qualified device. A non-qualified device is:
- 9.1.1** Any product (hardware, firmware, software, or cabling) not supplied by Philips, whether used internal or external to System without Philips' approval. Examples include, software patches, security fixes, and service packs from the operating system, web browser, or database software manufacturer(s);
- 9.1.2** Any product supplied by Philips that has been modified by the Customer or any third party; and
- 9.1.3** Any product maintained under this Agreement in which the Customer does not allow Philips to incorporate engineering improvements.
- 9.1.4** 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.
- 9.2** Operating system software issues that manifest themselves in non-performance of another installed application and affect use or performance of the System.
- 9.3** If the System covered by this Exhibit is software only, then notwithstanding anything to the contrary in the Agreement or this Exhibit, hardware and parts are not included in the Services.
- 9.4** Any network related problems.
- 9.5** The cost of consumable materials, including batteries, software media, and cassettes.

Exhibit 7
PATIENT CARE SOFTWARE MAINTENANCE AGREEMENT
HARDWARE SUPPORT COVERAGE

If included in the Agreement, Philips 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, and repairs, as follows:

1. **Support Parts.** If the Agreement includes Support Parts, then Philips will provide the technical and clinical phone support and parts for corrective services for System hardware covered under this Exhibit. Unless otherwise specified, parts will be shipped via priority delivery.
2. **Exchange.** If the Agreement includes Exchange coverage, then Philips will provide technical and clinical phone support and determine whether corrective maintenance for particular System components will include System exchange instead of parts. Defective, broken, or otherwise replaced components will become Philips property and will be promptly removed from the System Site. Unless otherwise specified, exchange Systems will be shipped via priority delivery.
3. **Bench.** If the Agreement includes Bench coverage, then Philips will provide the technical and clinical phone support and determine whether corrective maintenance for particular bench repairs instead of parts or System exchange. Defective, broken, or otherwise replaced components will become Philips property. Unless otherwise specified, bench repairs will be return shipped via priority delivery. Customer shall ship the System to Philips in accordance with Philips shipping instructions.

Exhibit 8
ADDITIONAL PATIENT CARE SERVICES TERMS & CONDITIONS

1. **SERVICES PROVIDED:** Commencing on the Effective Date and subject to the limitations below, Philips will provide services listed on the quotation(s) for Covered System.

Agreement Type	Telephone and Remote Support	On-Site Response Time	On-Site Labor	On-Site Travel	Parts	Priority Parts Delivery
Comprehensive Onsite Support	24x7x365 Two Hour Response	On-Site Next Business Day†	Included	Included	Included††	Included
Support Parts Agreement	24x7x365 Two Hour Response	Not Applicable	Not Applicable	Not Applicable	Included††	Included
Support Parts Agreement with Second Response	24x7x365 Two Hour Response	On-Site Next Business Day†	Included	Included	Included††	Included
Bench Repair Service	24x7x365 Two Hour Response	Not Applicable	Included – Remote Only	Not Applicable, Return Shipping Only	Included††	Typical Bench Repair Time: 3-6 business day return†
Unit Exchange Services	24x7x365 Two Hour Response	Not Applicable	Not Applicable	Not Applicable	Unit exchange only	Typical Unit Exchange Time: Next business day exchange†
Biomed Assist Services	24x7x365 Two Hour Response	Not Applicable	Not Applicable	Not Applicable	Discount Applied	Included

†Excluding Philips recognized holidays

††Excluding Supplies and Accessories

2. **RESPONSE TIME DEFINITIONS.**

- 2.1 "Initial Telephone Response" is the time for a qualified Philips service representative to make direct telephone contact with the Customer following a request for Service.
- 2.2 "On-Site Response Time" is the time for a qualified Philips service representative to arrive on site to begin service.
- 2.3 "Typical Bench Repair Time" is the time for a qualified Philips service representative to repair and return the Customers' existing Patient Care Equipment (from Philips receipt of the device to Philips shipment of such equipment to Customer).
- 2.4 "Typical Unit Exchange Time" is the time for a qualified Philips service representative to exchange the Customers' Patient Care Equipment with a new and/or refurbished device.
- 2.5 "Philips Next Business Day" response depends on the location of the Customer. Philips response time will be: (i) next business day response time for System Sites located within 100 miles of the responding Philips Field Service Engineer, (ii) two business days for System Sites located within 101 – 200 miles of the responding Philips Field Service Engineer, (iii) three business days for System Sites located within 201 – 300 miles of the responding Philips Field Service Engineer, and (iv) the response time described in the Agreement for System Sites located greater than 301 miles of the responding Philips Field Service Engineer.

3. **COVERAGE.**

- 3.1 **Telephone and Remote Support.** Telephone and remote support coverage is included with all Service Agreements identified in the Exhibit.
- 3.2 **Remote Access & Diagnostics.** Philips may remotely access the System to perform services. Customer shall provide Philips access to the System.
- 3.3 **Philips Internet-based Customer Support Tools.** Philips will provide one (1) seat license to Philips web based support tool for the System(s) covered under the Service Agreement.
- 3.4 **On-Site Labor and Travel.** Philips will provide the labor and travel necessary for the delivery of corrective maintenance Services during on-site Service Coverage hours. On-site service coverage hours are Monday to Friday, 8:00 am to 5:00 pm excluding holidays.
- 3.5 **Extended Coverage Hours.** Extended coverage hours for on-site labor coverage is seven (7) days per week, twenty-four (24) hours per day, including Philips holidays.
- 3.6 **Overtime On-Site Labor and Travel.** If extended coverage hours are not included, then overtime on-site labor will be billed at a preferred rate.

3.7 Parts and Priority Delivery of Parts. Philips will provide the parts for corrective maintenance services. . Priority Delivery of parts is next business day delivery for parts ordered prior to 3:00 PM Eastern.

3.8 Planned Maintenance. If Planned Maintenance Service is included in the agreement, then Philips will provide Customer a planned maintenance schedule for the Covered Equipment. Philips will provide such planned maintenance during the Service Coverage hours at a mutually agreed upon time. Customer will make the Covered Equipment available in accordance with this schedule. Philips will provide planned maintenance on the Covered Equipment at scheduled intervals. Philips may perform Planned Maintenance activities at the Philips repair facility for certain Patient Care Equipment. If loaner equipment is included in the Service Agreement and provided to Customer, then Customer will execute a loaner agreement to document its responsibility for any loss or damage to such equipment while in Customer's possession. All terms and conditions of the Service Agreement and this Services Exhibit will apply to the loaner equipment.

4. CUSTOMER RESPONSIBILITIES.

4.1 Support Parts Agreement.

4.1.1 Ensure that all Patient Care Equipment of the same model number at the Patient Care Equipment Site is covered by the same Support Parts Agreement program, a separate Philips service agreement (except Biomed Assist Services), or Philips standard warranty. If such service agreement or warranty expires during the term of the Service Agreement, then all equipment of the same model as the Patient Care Equipment must be added to the existing Support Parts Agreement program (except Biomed Assist Services) or a new Philips service agreement that includes a Support Parts Agreement.

4.1.2 Designate and train a biomedical engineer and an alternate, who will serve as Philips' primary support contacts. Such individuals must be familiar with all aspects of biomedical training provided by Philips. In addition, the biomedical engineer shall maintain the integrity of the Patient Care Equipment. If the Customer does not have a trained biomedical engineer who meets Philips requirements, then Customer shall purchase the optional Biomedical Engineer (BMET) Training course.

4.1.3 If Customer cannot resolve the Patient Care Equipment problem and requires on-site assistance of Philips, then Philips will provide such on-site service at Philips then current standard rates for demand service plus applicable travel charges per service visit (unless Second Response coverage is included in the Service Agreement).

4.2 Biomed Assist Services. If Biomed Assist Services coverage is included in the Service Agreement, then Customer will ensure that any Patient Care Equipment not covered by Biomed Assist Services is covered under a Support Parts Agreement, a separate Philips service agreement, or Philips standard warranty. If such Support Parts Agreement, service agreement, or warranty expires during the term of the Agreement, then all Patient Care Equipment covered under such expiring agreement or warranty must be added to the existing Biomed Assist Services coverage or a new Philips service agreement.

4.3 Parts. If Parts coverage is included in the Service Agreement, then, subject to the terms and conditions of this Agreement, the cost of parts used in corrective maintenance of the Patient Care Equipment at the Patient Care Equipment Site is included in this Agreement. Philips may reject any Customer requests for parts that is not for the Equipment. The following applies regardless if Parts coverage is included or not included in the Service Agreement: Customer acknowledges and agrees that all parts furnished pursuant this Agreement will only be used in the maintenance, service and repair of the Patient Care Equipment at the Patient Care Equipment Site. Customer may not resell or exchange such parts with any third party. Unless Priority Parts Delivery is included in the Services Agreement, all replacement parts ordered under the this Services Exhibit will be shipped using Philips standard shipping priority prepaid subject to availability. Other freight arrangements will be at Customer's request and expense. Philips may use refurbished components in the repair of the Patient Care Equipment; the refurbished components shall be subject to the same inspection and quality control procedures as all other materials used in the manufacture of the Patient Care Equipment, and shall be warranted to the same extent that a non-refurbished component is warranted.

4.4 Exchange Unit: If a replaced part is a recyclable or exchange part as indicated on Philips' published price book, then Customer must return to Philips the failed recyclable or exchange part for which the replacement part was furnished within seven (7) days of shipment of the replacement part. If the failed part is not returned to Philips in the time stated, Customer will pay Philips, in addition to any other amounts due Philips, Philips' published list price for such parts plus freight.

4.5 Remote Access. For Philips to provide remote support, Customer must provide remote access to the Patient Care Equipment via Philips specified connection as described in the Service Agreement and notify Philips of any changes to connection procedures. Customer must also provide Philips with access to domain accounts, passwords, and connections that are necessary to perform required Services.

4.6 Security. Customer shall provide security to prevent unauthorized Patient Care Equipment access to proprietary and confidential information

4.7 Software version levels. Customer must maintain its Systems at a currently supported version to receive support under this Exhibit.

4.8 Hardware revision levels. The Customer must maintain all associated System hardware, firmware, and middleware at the required revision levels for the software version. To receive software updates and upgrades, the Customer must maintain all associated hardware to the then-current specification for the software updates or upgrades.

4.9 Data reconstruction. The Customer shall follow the recommended back-up processes as outlined in the System Installation or Reference Guides. The Customer is also 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. For an additional charge based upon published labor and material rates, Philips will offer services on a commercially reasonable efforts basis to reconstruct data.

4.10 Intermediate Resolutions. Customer shall implement any intermediate System resolutions or workarounds that Philips requests while seeking a long term System resolution.

5. SERVICE LIMITATIONS.

5.1 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 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 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. Philips may offer, for an additional charge based upon published labor and material rates, Hardware support and Software restoration Services.

5.2 Anti-Virus Statement. Philips Software is a computer-based medical product and, therefore, may be subject to attack by outside computer viruses. The Software required to prevent attack by a computer virus must be constantly monitored and updated. Customer shall install and maintain anti-virus Software in accordance with the System Installation or Reference guides. After installing the software, Customer shall have the burden of proof if it claims that Philips introduced a Virus discovered in the software. Customer will pay an additional amount based on Philips' then-current time and materials rates for such work in respect of Services rendered in connection with a Virus that was not introduced by Philips. Philips shall use reasonable efforts to notify Customer if Philips becomes aware of any Virus in the Software licensed to Customer under this Agreement.

5.3 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. However, if Customer's request, then Philips may provide non-Philips Software assistance on a time and materials basis, at Philips then-current time and materials rates, as available.

6. EXCLUSIONS. In addition to the Service Exclusions set forth in the Agreement, the following Service Exclusions apply to Services.

6.1 Any combining of the System with a non-qualified device. A non-qualified device is:

6.1.1 Any product (hardware, firmware, software, or cabling) not supplied by Philips, whether used internal or external to System without Philips' approval. Examples include software patches, security fixes and service packs from the operating system, web browser, or database software manufacturer(s);

6.1.2 Any product supplied by Philips that has been modified by the Customer or any third party; and

6.1.3 Any product maintained under this Agreement in which the Customer does not allow Philips to incorporate engineering improvements.

6.1.4 Any product that has reached its "End of Life". "End of Life" means equipment that is at least six (6) months beyond the end of life date, which is determined by the manufacturer.

6.1.5 Operating system software issues that manifest themselves in non-performance of another installed application and affect use or performance of the System.

6.1.6 Any network related problems.

6.1.7 The cost of consumable materials, including batteries, software media, and cassettes