

PCCI SYSTEMS AGREEMENT QUOTATION - Bench Repair

Customer: Polk County Fire Rescue
 Address: 2470 Clower Lane
 Address:
 City,State/Zip: Barlow, FL 33830
 Agreement Contact : John Wheeler
 Telephone: 863-512-9889
 Fax:
 System Contact:
 Telephone:
 Field Service Engineer: Terrence Skluzak - SE01(Kiser)
 Equipment Location:
 Department Name:
 Email: johnwheeler@polkfl.com

Payment Terms: Net 30
 Agreement Quote Date: 9/27/2012
 Prior Agreement #: 41195715 & NB
 Agreement Start Date: 1/1/2013
 Agreement End Date: 12/31/2016
 Billing Schedule: Yearly

Multi -Year Option: 14%
 Additional Discount: 8.00%

Service Sales VP, or
 Service Zone VP *Valid for 60 days*

Philips Representative: **Dolores Lezo** Tel: **724-834-0374 Opt 3** Fax: **724-834-1043** Date: **5/16/2013** Quote #: **071685-5**

Model #	Serial #	Qty	SAP#	Description	Start	End	Annual List \$	Extended Annual List \$
---------	----------	-----	------	-------------	-------	-----	----------------	-------------------------

Support Renewal Proposal

Model #	Serial #	Qty	SAP#	Description	Start	End	Annual List \$	Extended Annual List \$
M3536A	US00208781	27		Defibrillators HeartStart MRx (PA recommended)	1/1/2013	12/31/2016	\$563.00	\$15,201.00
	US00208783							
	US00208784							
	US00208785							
	US00208786							
	US00208787							
	US00208788							
	US00208789							
	US00208790							
	US00208779							
	US00208780							
	US00208782							
	US00214880							
	US00214881							
	US00214882							
	US00214883							
	US00211994							
	US00322022							
	US00322023							
	US00322024							
	US00322025							
	US00322394							
	US00322395							
	US00322396							
	US00322397							
	US00322398							
	US00322399							

Total Annual Service Charge Year 1	\$15,201.00
Total Annual Service Charge Year 2	\$15,201.00
Total Annual Service Charge Year 3	\$15,201.00
Total Annual Service Charge Year 4	\$15,201.00

Subtotal: **\$60,804.00**

1	Performance Assurance (applies only to products with (PA) in the description) 1 per unit, per year of agreement	1/1/2013	12/31/2016	\$9,450.00	\$37,800.00
---	---	----------	------------	------------	-------------

Subtotal Optional Services Discountable **\$37,800.00**

Subtotal Optional Services Non-Discountable **\$0.00**

Subtotal Discountable **\$98,604.00**

POS Option Discount \$0.00

Model #	Serial #	Qty	SAP#	Description	Start	End	Annual List \$	Extended Annual List \$
Multi-Year Option Discount								(\$13,804.56)
Additional Discount								(\$7,888.32)
Net Charge Year 1								\$19,227.78
Net Charge Year 2								\$19,227.78
Net Charge Year 3								\$19,227.78
Net Charge Year 4								\$19,227.78
Quotation Total								\$76,911.12

Prices exclude taxes. Applicable taxes will be added to the invoice. Subject to credit approval.

IMPORTANT NOTICE: A signed copy of this agreement, for the services and prices quoted herein, is Customers acceptance that the Terms and Conditions and information in the Exhibit and the Data Sheet attached to this quotation are the sole terms applicable to the services quoted. The acceptance of this quotation is not binding upon Philips until further review by Philips contract administration. The information contained in this document is **confidential and is provided to the entity listed as the customer solely in connection with the evaluation of the purchase and sale. This information shall not be disclosed to any other party.** The Philips terms and conditions of sale applicable to the service quoted herein are available via http://www.healthcare.philips.com/main/terms_conditions attached hereto ("Terms and Conditions"). 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 health care program, including but not limited to Medicare and Medicaid, such as may be required by state or federal law, including under any federal or state but not limited to 42 CFR 1001.952(h). Philips reserves all rights with regard to this information. Reserved.

Customer Agreement as Quoted

Upon customer signing and an authorized Philips representative accepting, this quotation constitutes a contract and Customer is bound by all terms and conditions hereof.

Philips by its acceptance hereof, agrees to provide maintenance services for the equipment listed above in accordance with the following terms set forth herein.

Authorized Signature _____
 Printed Name _____
 Title / Date _____
 Customer PO # _____

Authorized Signature _____
 Title / Date _____

FOR CREDIT CARD PAYMENT

Credit Card Type (circle) AMEX VISA MC Discover
 Credit Card # _____
 Expiration Date _____
 Signature _____
 Print Name _____

(Please attach copy of original PO)

prepared by: Debbie St.Yves

FAX To: (800)947-3299 or Mail Purchase Order & Quote To: Philips Healthcare, Business Center, ms0400, 3000 Minuteman Road, Andover, MA 01810 (800)934-7372 opt 5

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.

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. In such an event, Philips may, at its option, (i) withhold performance under this Agreement 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 warranties except for the warranties expressly provided in this Agreement. All Services will be performed in a good and workmanlike manner. All parts are provided "AS IS".

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 of 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 PHILIP PRODUCTS 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 SERVICE WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT UNLESS THE PARTY HAS BEEN NOTIFIED IN WRITING OF THE OTHER PARTY'S REQUEST FOR SERVICES AND THE NOTIFIED PARTY HAS NOT MADE COMMERCIALY REASONABLE EFFORTS TO PROVIDE SUCH SERVICES WITHIN A REASONABLE PERIOD OF TIME.

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 records(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 engage 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. The law of the state of Florida will govern any interpretation of this Agreement and dispute between Philips and Customer without regard to the principles of choice of law.

25. ADVERSE EVENT REPORTING. If Customer notifies Philips of an adverse event, then Philips will assist Customer's risk management department in investigating the adverse event on the System covered under this agreement in accordance with client's risk management policies, Philips' Adverse Event Reporting policy, and the reporting requirements of the Safe Medical Device Act of 1990. All information concerning an adverse event shall be treated as confidential information and will not be discussed with unauthorized personnel. Customer remains solely responsible for reporting adverse events to the FDA; Philips will not be responsible or liable for this reporting activity nor for any repercussions resulting from errors or omissions in, or absences of, such reporting.

26. 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 schedules listed below 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 Sale, the terms set forth in the schedule shall govern.

27. 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.

Polk County

Philips Healthcare

Signature:

Signature:

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:

PATIENT CARE SERVICES EXHIBIT

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 Services	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 to 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, 8:00am to 5:00pm 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.