

PHILIPS

PHILIPS SERVICE AGREEMENT

NATIVIDAD MEDICAL CENTER

and

PHILIPS HEALTHCARE

THIS DOCUMENT IS CONFIDENTIAL. IT IS NOT INTENDED FOR USE BY ANYONE OTHER THAN REPRESENTATIVES OF PHILIPS HEALTHCARE OR [NATIVIDAD MEDICAL CENTER](#).

ATTACHMENT A: PRICING SUMMARY

SITE #	SERIAL #	SYSTEM TYPE	LOCATION	CONTRACT COVERAGE	STRATEGIC PARTS COVERAGE	CONTRACT START DATE	CONTRACT END DATE	PRORATED VALUE	BILLING VALUE	ANNUAL CONTRACT VALUE	TOTAL CONTRACT VALUE
45681263	02RDD2	iU22 Ultrasound System	Natividad Medical Center	Value UL	S5-1, L9-3, L12-5, C8-5, C5-2, C8-4V V6-2	07/01/2016	06/30/2020		\$1,245.83	\$14,949.96	\$59,799.84
45681362	02RDJ2	iU22 Ultrasound System	Natividad Medical Center	Value UL	S5-1, L9-3, L12-5, C8-5, L17-5, C5-1, C8-4V 3D9-3v	07/01/2016	06/30/2020		\$1,300.00	\$15,600.00	\$62,400.00
45682902	02XRN1	iU22 Ultrasound System	Natividad Medical Center	Value UL	L12-5, C5-1, C8-4v V6-2, X3-1	07/01/2016	06/30/2020		\$1,283.75	\$15,405.00	\$61,620.00
53740574	B0431D	iU22 Ultrasound System	Natividad Medical Center	Value UL	C8-5, L17-5, C10-3v X6-1	07/01/2016	06/30/2020		\$1,148.33	\$13,779.96	\$55,119.84
60593692	B0MCTK	iE33 Ultrasound System	Natividad Medical Center	Value UL	S8-3, S12-4 X5-1	07/01/2016	06/30/2020		\$1,094.17	\$13,130.04	\$52,520.16
66995143	US915C0638	EPIQ 5W Ultrasound System	Natividad Medical Center	Value UL		09/29/2016	06/30/2020	One prorated payment of \$36.60 from 09/29/16 to 09/30/16	\$556.51	\$6,678.12	\$25,079.55
46178314	02ZTTQ	S7-2 Omni TEE Transducer	Natividad Medical Center	Primary TEE		07/01/2016	06/30/2020		\$778.67	\$9,344.04	\$37,376.16
TOTALS:									\$7,407.26	\$88,887.12	\$353,915.55

*Additional Note: Promo # 131U and 153I being utilized

Pricing shown is valid for 60 days from 03/30/2016 and does not include applicable taxes.

Contract Coverage for Ultrasound (UL) Systems (continued)

<p>Support Our Support, UL Service Agreement offers you cooperative hands-on participation from Philips and open communications.</p>	<p>Support Our Support, UL Service Agreement for SPARQ ultrasound equipment offers you cooperative hands-on participation from Philips and open communications.</p>	<p>Support Our Support, UL Service Agreement offers you cooperative hands-on participation from Philips and open communications. Excludes the SPARQ ultrasound system.</p>	<p>Planned Maintenance UL Service Agreement offers basic upkeep for your equipment, a hands-on relationship with Philips and open communications...</p>
<p>Service Delivery and Labor</p>	<p>LABOR: -Second Response Labor Coverage. This includes labor and travel coverage from 8:00 am - 5:00 pm, Monday - Friday, excluding Philips published holidays. Labor is provided by Philips after the customer engineer has made an initial attempt to resolve equipment problems or concerns. -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. One (1) Planned Maintenance inspections will be performed per year. -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. -Engineer Training. This includes technical service training for one customer service engineer per year at Philips designated training centers specific to the covered equipment. Travel and living expenses for trainees may be purchased separately. Technical training addresses problem resolution, planned maintenance, safety, and other topics. The training is conducted at a Philips training center. Training course length and timing are determined by Philips. *Customer acknowledges that an authorized employee of Customer (blinded) must complete Philips' training before the end of the first year of this Agreement for Customer to maintain eligibility for this "Support" Service Agreement. If no Customer blinded is trained before the end of the first year, then this Agreement will convert into Philips then current lowest level full service agreement for the remainder of the Term or until Customer, in Philips sole and reasonable discretion, becomes eligible for this "Support" Service Agreement. Blinded training is available only to direct employees of the hospital and the attendee must sign Attachment C of this agreement.</p>	<p>LABOR: -Second Response Labor Coverage. This includes labor and travel coverage from 8:00 am - 5:00 pm, Monday - Friday, excluding Philips published holidays. Labor is provided by Philips after the customer engineer has made an initial attempt to resolve equipment problems or concerns. -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. One (1) Planned Maintenance inspections will be performed per year. -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. -Customer Engineer Training. A minimum of one (1) full day of technical service training on the system covered by this Support agreement must be purchased. Tuition can be waived if customer currently employs a Philips trained service engineer. The tuition price per customer service engineer when purchased with a minimum 12-month Support agreement is \$3,000. *Customer acknowledges that an authorized employee of Customer (blinded) must complete Philips' training before the end of the first year of this Agreement for Customer to maintain eligibility for this "Support" Service Agreement. If no Customer blinded is trained before the end of the first year, then this Agreement will convert into Philips then current lowest level full service agreement for the remainder of the Term or until Customer, in Philips sole and reasonable discretion, becomes eligible for this "Support" Service Agreement. Blinded training is available only to direct employees of the hospital and the attendee must sign Attachment C of this agreement.</p>	<p>LABOR: -Preferential scheduling of service calls for service contract customers -Planned maintenance coverage from 8:00 am - 5:00pm, 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. Inspections will be performed per Philips manufacturing specifications (1 or 2 per year, depending on product). -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.</p>
<p>Parts</p>	<p>LABOR: -Standard parts coverage. This provides coverage on parts (including transducers listed on this agreement that fall during normal use) used to maintain and repair the equipment including both hardware and software items. This excludes TEE for service. -Transducer Accidental Damage Protection. Coverage at 50% off the Philips Service Exchange Program price for transducers listed on this agreement. This excludes TEE transducers</p>	<p>LABOR: -Standard parts coverage. This provides coverage on parts (including transducers listed on this agreement that fall during normal use) used to maintain and repair the equipment including both hardware and software items. This excludes TEE for service. -Transducer Accidental Damage Protection. Coverage at 50% off the Philips Service Exchange Program price for transducers listed on this agreement. This excludes TEE transducers</p>	<p>LABOR: Not included</p>
<p>Additional Coverage included</p>	<p>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. -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 location on the ultrasound system. May not be available on all platforms. NOTE: Philips approved VCRs, B&W printers, static probes, APMDV/SISEM, IDI and SONOS PC modules used on this system are covered as part of this agreement. Remote Service, Remote Desktop, Proactive Monitoring, Utilization Reports and On-Board Diagnostics may not be available on all platforms.</p>	<p>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. -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 location on the ultrasound system. May not be available on all platforms. NOTE: Philips approved VCRs, B&W printers, static probes, APMDV/SISEM, IDI and SONOS PC modules used on this system are covered as part of this agreement. Remote Service, Remote Desktop, Proactive Monitoring, Utilization Reports and On-Board Diagnostics may not be available on all platforms.</p>	<p>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. CUSTOMER CARE SOLUTIONS CENTER: -Unlimited Technical telephone support. -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. NOTE: Philips approved VCRs, B&W printers, static probes, APMDV/SISEM, IDI and SONOS PC modules used on this system are covered as part of this agreement. Remote Service, Remote Desktop, Proactive Monitoring, Utilization Reports and On-Board Diagnostics may not be available on all platforms.</p>
<p>Parts</p>	<p>LABOR: -Standard parts coverage. This provides coverage on parts used to maintain and repair TEE transducers listed on this agreement. All exchanges due to normal non-accidental failure only. -Transducer Accidental Damage Protection: Coverage at 50% off the Philips Service Exchange Program price for TEE transducers listed on this agreement.</p>	<p>LABOR: -Standard parts coverage. This provides coverage on parts used to maintain and repair TEE transducers listed on this agreement. All exchanges due to normal non-accidental failure only. -Transducer Accidental Damage Protection: Coverage at 50% off the Philips Service Exchange Program price for TEE transducers listed on this agreement.</p>	<p>LABOR: -Standard parts coverage. This provides coverage on parts used to maintain and repair TEE transducers listed on this agreement. All exchanges due to normal non-accidental failure only. -Transducer Accidental Damage Protection: Coverage at 50% off the Philips Service Exchange Program price for TEE transducers listed on this agreement.</p>
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**PHILIPS HEALTHCARE
SERVICE AGREEMENT TERMS AND CONDITIONS**

****DENOTES AMMENDED PARAGRAPH**

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"), to the County of Monterey on behalf of Natividad Medical Center ("Customer"), 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 (excluding Philips or a Philips representative) 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, and does not reschedule prior to Philips appearing, 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. This shall not apply in the event the delay is due to a life threatening patient emergency, at which time, service shall be rescheduled.
5. ****PAYMENT.** All undisputed payments under this Agreement are due thirty (30) days from the date of Customer's receipt by the County Auditor Controller of a certified copy of the Philips' invoice (prepared by Natividad Medical Center) until the Agreement amount and all applicable taxes and interest are paid in full. If the invoice consists of more than one line, Customer shall remit full invoice payment owed less the disputed line item amount. Customer shall notify Philips, in writing, of details relating to any disputed balances within 30 days of invoice. Correspondence relating to disputes should be addressed to:

Attn: Accounts Payable
Philips Healthcare
22100 Bothell-Everett Hwy, MS 450
Bothell, WA 98021
6. ****EXCUSABLE DELAYS.** In the event that either party shall be delayed or hindered in or prevented from the performance of an obligation hereunder (except for payment hereunder) by insurrection; war; Acts of God; fire; flood; restrictive government; judicial orders; reasons of strike, embargoes, acts of sabotage, accidents, delays of carriers, subcontractors or suppliers, shortage of labor, lockouts; acts of sabotage; riots; failure of power; accidents; delays of carriers, subcontractors or suppliers due to an underlying force majeure event; shortage of materials or manufacturing facilities due to an underlying force majeure event; voluntary or mandatory compliance with any government act regulation or request; or other similar reason or cause beyond the reasonable control of and without the fault or negligence of such party (an "Excusable Delay"), then performance of such act shall be excused for the period of such Excusable Delay. Each party agrees to give the other party prompt written notice of the occurrence of any Excusable Delay, the nature thereof, and the extent to which the affected party will be unable to fully perform its obligations hereunder. Each party further agrees to use reasonable efforts to correct the Excusable Delay as quickly as possible and to resume performance hereunder promptly upon cessation of the Excusable Delay.
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. Except as described in this Paragraph, 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. **TERMINATION FOR NON-APPROPRIATION OF FUNDS.** Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the Customer for services that are to be provided under this Agreement, Customer, in its sole and absolute discretion after consultation with Philips, may elect to terminate this Agreement by giving 90 days written notice of termination to Philips. Alternatively, County and Philips may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

8. ****DEFAULT.** Customer's failure to pay any undisputed 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.

10.1 **Professional Competency.** Philips represents and warrants that all Services to be provided under this Agreement shall be performed in a professional, competent, and timely manner by appropriately qualified personnel in accordance with this Agreement and consistent with Philips' applicable best practices.

11. ****LIMITATIONS OF LIABILITY AND DISCLAIMER.**

11.1 Both Party's 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 EITHER PARTY 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.

11.3 **INDEMNIFICATION.** Philips shall indemnify and hold harmless Customer and its officers and employees from any claims for loss, cost, damages, expense or liability (including reasonable attorney fees) by reason of bodily injury (including death) or tangible property damage (representing the actual cost to repair or replace physical property damage), to the extent such damages result from Philips' negligent acts or omissions, or proven product defect. This indemnification obligation will not be subject to the limitation of liability in Philips' Terms and Conditions.

Nothing herein is intended to limit or relieve Philips from liability for third party claims relating to personal injury, death, or tangible property damage to the extent caused by Philips' or its' employees' or agents' wrongful or negligent acts or omissions.

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)(l) 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.** Subject to Paragraph #27 below, 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. In the event Customer determines that a Philips employee and/or Third Party Representative is providing unsatisfactory services in performing Philips' obligation, as outlined in the Agreement, Customer shall notify Philips in writing. Philips shall have seven (7) calendar days following receipt of Customer's written request to resolve any problems with respect to such individual in a manner that is satisfactory to the Customer, including but not limited to removal of such individual from the site. 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.** See Attachment B, Monterey County Insurance Requirements for Service Agreements.
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: Additional Imaging System Service Terms and Conditions
 - Exhibit 2: Philips Technology Upgrades
 - Exhibit 3: Additional Support & Assist Coverage Terms and Conditions
 - Exhibit 4: Uptime Guarantee
 - Exhibit 5: Additional Clinical Education Training Terms and Condition – Intentionally Deleted
 - Exhibit 6: Additional Patient Care Software Maintenance Service Agreement Terms and Conditions – Intentionally Deleted
 - Exhibit 7: Additional Patient Care Software Maintenance Hardware Support Coverage Terms and Conditions – Intentionally Deleted
 - Exhibit 8: Additional Patient Care Services Terms and Conditions – Intentionally Deleted
 - Exhibit 9: Additional Clinical Informatics Service Terms and Conditions – Intentionally Deleted
 - Exhibit 10: Additional Clinical Informatics Hardware Support Coverage Terms and Conditions – Intentionally Deleted
 - Exhibit 11: MV Biomedical Service Coverage Terms and Conditions – Intentionally Deleted
 - Attachment B: Monterey County Insurance Requirements for Service Agreements
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.
27. ****OPEN ACCESS TO RECORD ACT.** It is understood that information provided to the State by Philips is considered confidential, competitive or trade secret information by Philips and that Philips would not provide the State access without the State's commitment to protect the information. State is subject to state Statutes re: Public Records Law. Notwithstanding any other provision of this Agreement, compliance with open records laws shall not be considered a violation of this Agreement. If the State receives an open records request for Philips information that the State believes is not exempt from disclosure under law, the State will send Philips written notice of the request before releasing the information, so that Philips has an opportunity to promptly litigate the disclosure. If the State's determination of exemption is challenged, the State will send Philips written notice of the challenge, allowing Philips the opportunity to promptly litigate the challenge. The State is not compelled by this Agreement to litigate any open records disclosure issue.
28. **PAYOR INFORMATION.** Please enter where invoices are to be sent for payment under this agreement.

Name: Natividad Medical Center

Address: 1441 Constitution Blvd - Salinas, CA 93906-3100
Contact Name:
Phone Number:

29. **NOTICES.** Notice required to be given must be made in writing and shall be deemed given only if delivered personally or sent by registered or certified mail, postage prepaid, shall be as follows:

If to **NATIVIDAD MEDICAL CENTER** to:

Name:
Title:
Address:

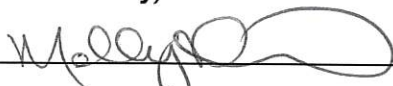
If to Philips Healthcare:

Name: **west.Helpdesk@philips.com**
Title: Master Contract Coordinator
Phone: (800) 722-7900
Fax: (425) 482-8453
Address: 22100 Bothell Everett Hwy MS 665, Bothell WA 98021


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


Philips Healthcare:
(Home Office Use Only)


Accepted by:
NATIVIDAD MEDICAL CENTER

By: 
Printed Name: Molly Reed
Title: CS Rep
Date: 6/22/16

By: _____
Printed Name: _____
Title: _____
Date: _____


MAY 6/22/16

Philips Healthcare
Service Contract Manager
Reviewed and Approved

6/22/2016

APPROVED AS TO FORM AND LEGALITY

DISTRICT COUNTY COUNSEL
COUNTY OF MONTEREY

Reviewed as to fiscal provisions


Auditor/Controller
County of Monterey 6/28/16

Exhibit 1
ADDITIONAL IMAGING SYSTEM SERVICE TERMS AND CONDITIONS

(for Philips and/or Non-Philips Equipment)

1. SERVICES PROVIDED.

- 1.1. **Initial Covered System Inspection.** Within 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 manufacturers' specifications. 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 contract labor rate. If customer elects not to have System repaired, then Philips may remove such System from coverage in 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 paragraph 3. All components used are subject to Philips inspection and quality control procedures, and shall be warranted to the same extent that a non-refurbished component is warranted. Parts removed for replacement become the property of Philips and Philips shall remove parts from the System Site. Philips may increase its contract prices if the 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 schedule. 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 90 days to make available Covered System for planned maintenance, otherwise customer waives right to service and Philips may delete Covered System from the 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 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 the contract 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 after receipt of the signed inventory modification form.
- 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 included within this Exhibit.

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 (such as biomedical laser tubes and patient used pads), cryogenes, PET calibration sources, film, batteries, cassettes;
- 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 quotation, maintaining or repairing 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, ultrasound transducers (probes) (accessory or attach), TEE probes, TV camera pick-up tubes, photo multiplier tubes, accelerator center beam lines, piped medical gases (up to the wall outlets), copier drums, electron guns, fiber optic bundles, foot/hand controls (switches, accessory, or attachment), klystrons and thyratrons, magnetrons, plumbicons, waveguides, and attachments.

- 3.8. If this agreement includes coverage for biomedical services: arthroscopy instruments, blood pressure cuffs (accessory or attachment), centrifuge motor brushes, electronic thermometer probes, electrosurgical instruments (pencils & pads), general or surgical instruments, laboratory glass, laser tubes, phaco hand pieces (cataract extraction units, accessory or attachment), non-electrical surgical equipment, rigid & semi-rigid scopes.
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's then-current preferred rates and for material and labor. Customer will be charged a minimum of three hours on-site time plus applicable travel charges and expenses per service visit.
5. **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. 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 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 System or non-Philips System; and
 - 6.6.3. Provide Philips at each 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 System through the PRS and Customer network..
 - 6.6.4. If the 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. **CRYOGENS (Applies only to MRI Service).**
 - 7.1. If Cryogenics are included in this agreement, Customer shall report any magnet cooling system (cold-head, compressor, or chiller) malfunction within 24 hours. If customer fails to report any malfunctions or provide continuous chilled water or power, then customer is responsible for any additional cryogen expenses.
 - 7.2. If the System is not connected to the PRS, then Customer shall report Cryogen level readings for all Systems covered by this Agreement into the Magnet Monitoring System at 1-800-722-9377 (follow prompts) each week.

Exhibit 2
PHILIPS TECHNOLOGY UPGRADES

If Philips Technology Upgrade Option ("PTU Option") is purchased under this Agreement, then Philips will upgrade the System software and hardware as follows:

1. For System software Upgrades, Philips will provide the latest available Upgrades, if any, when available and approved by Philips, to the System operating system software, basic application software and software options purchased with the System or purchased separately from Philips for the System. This paragraph (1) does not apply if the PTU Option is for hardware only.
2. For System hardware Upgrades, Philips will provide the latest available upgrade, if any, to the System hardware component(s) expressly described on the Agreement under the PTU Option. Philips will provide such hardware at the time and quantity as expressly described on the Agreement under the PTU Option. In no case will Philips obligation under any System hardware provided under the Agreement exceed the greater of \$5,000 or the amount expressly described on the Agreement under the PTU Option. This paragraph (2) does not apply if the PTU Option is for software only.
3. Such Upgrades to the System software and hardware are available only for the System at the System Site. Such Upgrades do not include functionality, applications, options or the like that were not purchased with the System, including but not limited to virus protection software. Customer may not resell, transfer, or assign the right to such Upgrades to any third party. All Upgrades to the System software and hardware provided under the Agreement are subject to the terms and conditions of the Agreement and any licensing terms and conditions included in the purchase of the System from Philips. The System must have the most recent software or hardware version (prior to the then current software or hardware update) to be eligible for an upgrade under the PTU Option.
4. If the Agreement is terminated due to the fault of Customer or Customer defaults under the Agreement after any Upgrades to the System software or hardware are provided by Philips, then Customer will pay Philips the list price of the provided Upgrades within thirty days of such termination or default.

Exhibit 3
ADDITIONAL SUPPORT AND ASSIST COVERAGE TERMS & CONDITIONS

1. SERVICES PROVIDED.

1.1 Training. If training is included with the Agreement, then Philips will admit the number of employees of Customer identified on the face of the Agreement ("Trainee(s)") into the next scheduled training course that relates to the System identified in the quotation or this agreement where space is available, or to any subsequent scheduled course as the parties may agree. Philips will provide training to the Trainee(s) only to the extent service training for the System is included in Philips' training course offerings then in effect and is included on the face of the Agreement. Training will be conducted at Philips' service training facilities, or through remote training options as defined by Philips for the applicable course. All travel and living expenses incurred by the Trainee(s) will be borne by Customer, unless otherwise indicated on the face of the Agreement. Philips may cancel or reschedule courses.

Philips' obligation to provide training hereunder is expressly subject to the Customer Non-Disclosure Terms and Conditions set forth in Attachment 3-1 to this Exhibit (which are incorporated into this Exhibit) and expressly contingent on each Trainee signing a Customer Employee Non-Disclosure Agreement set forth as Attachment 3-2 to this Exhibit. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, and must satisfy all prerequisites prior to admission. Philips makes no warranty that any Trainee will pass all or any portion of the training courses provided or that the training will result in any Trainee being qualified or able to troubleshoot and repair any or all possible malfunctions that may occur in the Covered System.

1.2 Customer Service Documentation; Customer Diagnostic Software License. If software and documentation are included in the Agreement, then Philips grants to Customer and Customer accepts from Philips a limited, non-exclusive and non-transferable license (the "License") to load and run the customer diagnostic software issued for the Philips-manufactured Covered System ("Diagnostic Software") and use customer service documentation issued for the Philips-manufactured Covered System ("Service Documentation") in conjunction with the maintenance, service and repair of the Covered System and at the Covered System Site, and subject to Customer Non-Disclosure Terms and Conditions and Customer Employee Non-Disclosure Agreement. Customer acknowledges that the Diagnostic Software and Service Documentation, and all trademarks, copyrights, patents, trade secrets, proprietary rights, or other property rights of Philips associated therewith, are and will remain the exclusive property of Philips. Customer acknowledges that the Diagnostic Software and the Service Documentation included in this Agreement are only for the Philips-manufactured Covered System, not for any Covered System manufactured by third parties.

The Diagnostic Software and Service Documentation are licensed by Philips for ultimate end use by government agencies only under the following conditions: (a) software and technical data rights in the Software and Documentation include only those rights customarily provided to end user customers as defined in the Agreement; (b) this customary commercial License in the Software and Documentation is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Computer Software) and, for Department of Defense purchases, DFAR 252.227-7015 (Technical Data - Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation); (c) if a federal government or other public sector customer has a need for rights not conveyed under these terms, it must negotiate with Philips to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written agreement specifically conveying such rights must be executed by both parties.

1.3 Parts Coverage. If Parts or Combination (parts and labor) Pool coverage is not included in the Agreement, then Philips will sell parts to Customer at Philips' published list price. If Parts coverage is included in the Agreement, then the cost of parts used in corrective maintenance of the Covered System at the Covered System Site is included in this Exhibit, subject to the terms and conditions of the Agreement. Customer may request parts to maintain, service, or repair only Covered Systems at the Site. Customer may not resell or exchange such parts with any third party. If a replaced part is a returnable part as indicated by Philips, Customer must return to Philips the returnable part within 14 days of shipment. If the parts are resold or exchanged, or the part is not returned to Philips in the time stated, Customer shall pay Philips , published list price for such parts plus freight and any other amounts due Philips. Unless priority parts delivery is included in the Agreement, all replacement parts ordered under this Exhibit will be shipped using Philips standard shipping priority prepaid subject to availability. Other freight arrangements will be at Customer's request and expense.

1.4 On-Site Coverage. If on-site coverage is included in the quotation, then prior to receiving such coverage, Customer shall follow this process. Customer's trained engineer shall attempt to resolve issue. If Customer's trained engineer is unable to resolve issue then Customer shall contact Philips Customer Solutions Center. If Philips Customer Solutions Center is unable to remotely resolve the issue, then Philips shall dispatch an engineer to the customer site. The Customer's engineer will be present during all such visits. If the Covered System requires any major component replacements, (for example: tubes, flat panel detectors, and coldheads), then Philips must be present for such replacements. Second Response coverage does not include planned maintenance unless otherwise stated on the face of the Agreement.

1.5 Combination Pool (Parts and Labor). If Customer purchased Combination Pool option, the initial account balance and the site to which that balance applies (site balance) is specified in the quotation. As Customer requests or uses either on-site labor or parts under Combination Pool coverage, the Combination Pool monetary level stated on the face

of the Agreement will be reduced at Philips then current standard rates for on-site labor and Philips then current published list price for parts. If Combination Pool coverage is exhausted during any year of the term then Customer may request on-site labor or parts at Philips' list price less the discount specified in the quotation. Combination Pool coverage expires on an annual basis and no credit for any unused portion is carried forward. Customer may allocate the site balance to on-site labor or parts purchased by Customer between the Covered Systems at the site. Customer may not allocate the site balance to System not listed in the quotation.

- 1.6 **Additional Requested Services.** If Customer purchased assist without labor coverage, then Philips will provide requested on-site labor to Customer at Philips' then-current standard hourly rates.
- 1.7 **Tubes, Flat Detectors and Image Intensifiers.** If tube, flat detector, or image intensifier coverage is included in the Agreement, then Philips will provide and install these parts on the Covered System.

2. CUSTOMER RESPONSIBILITIES.

- 2.1 Customer shall assign the Trainee to perform the obligations of Customer described under the Agreement.
- 2.2 Customer shall notify Philips if the Trainee's employment with Customer terminates or Customer assigns another trained employee to maintain or repair the Covered System. Customer's selected employee shall attend training and customer shall pay list price for such training.
- 2.3 Customer shall maintain the Covered Equipment in strict compliance with the planned and remedial maintenance requirements specified by Philips, utilizing replacement parts that meet or exceed Philips' specification. If Customer does not meet these responsibilities, then Philips may terminate any or all of the options specified above and may void any warranty provided herein.

3. **TERMINATION.** In addition to the termination rights described in the Agreement, Philips may immediately terminate this Exhibit or the Agreement and the License without liability to Customer by providing Customer written notice of termination on the happening of any of the following: (a) Customer removes the system from operation at the Covered System Site; (b) Customer no longer owns sole and exclusive title to the Covered System (c) someone other than Customer, Philips, or an authorized Philips distributor or dealer services the Covered System; (d) a competitor of Philips acquires an ownership interest in Customer; or (e) Customer or the Trainee(s) violates any condition or restriction set forth in Customer Non-Disclosure Agreement Terms and Conditions or Customer Employee Non-Disclosure Agreement. Customer must notify Philips immediately upon the happening of any of the above events.

If Customer or Trainee(s) breaches any other term, covenant, or condition herein, then Philips may terminate this Exhibit or the Agreement and the License without liability to Customer upon three (3) days written notice to Customer.

Upon expiration or termination of this Exhibit or the Agreement, the License expires and Customer must immediately return the Philips' Diagnostic Software and Service Documentation and all copies or reproductions thereof to Philips at Customer's expense. Such termination or expiration will not relieve Customer of any of its obligations incurred prior to such termination or expiration, and will not impair any of Philips' rights that have accrued prior to such date. The covenants of Customer contained herein will survive the expiration or termination of this Exhibit or the Agreement and the License. In addition to all other rights and remedies, Philips is entitled to injunctive relief for any breach by Customer of Section 1.2 or 3 of these terms and conditions.

4. **WARRANTY AND WARRANTY DISCLAIMER.** In addition to the warranty obligations described in the Agreement, Philips warrants that any replacement parts or special service tools and Service provided under this Exhibit will be free from defects in material and workmanship for a period of 90 days from the date of installation (when installed by Philips) or 30 days from the date the parts were delivered to Customer (when not installed by Philips). Certain items such as x-ray tubes, photomultiplier tubes, cathode-ray tubes, and high voltage transformers may carry separate warranties that are provided at the time of purchase. This warranty does not include any defect or failure to perform that is the direct or indirect result, in whole or in part, of accident, abuse, misuse, operation of the Covered System in which the part is installed outside of its environmental, electrical or performance specifications, power fluctuations or failures, fires, floods or other similar or dissimilar natural causes, or improper installation or calibration. If a Part does not comply with this warranty, then Customer shall promptly return part to Philips and Philips shall repair or replace such part. THE WARRANTIES STATED ABOVE ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT WITH RESPECT TO ANYTHING PROVIDED BY PHILIPS OR ITS SUBCONTRACTOR UNDER THIS EXHIBIT OR THE AGREEMENT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THIS WARRANTY IS THE REPAIR OR REPLACEMENT OF A NON-CONFORMING PART AND THE REPAIR OF COVERED SYSTEM FOR ANY NON-CONFORMING SERVICE.

**Support and Assist Coverage Exhibit
Customer Non-Disclosure Terms and Conditions
Attachment 3-1**

1. Philips holds and owns certain proprietary and trade secret information ("Philips Proprietary Information"), relating to the installation, service, maintenance, and repair of the products, whether or not manufactured or sold by Philips, including the Software and Documentation and any work product or diagnostic results derived therefrom, any oral, written, or electronically recorded information regarding the installation, service, maintenance, repair, construction, design, theory of design, theory of operation, diagnostic tools, teaching materials, hardware schematics, electrical schematics, software of any nature in any form and on any media, repair analysis techniques or maintenance of any Covered System, service notes, safety bulletins, installation manuals, service manuals, service diagnostic tools and techniques, and any other corresponding information of Philips or any of its predecessors, successors, affiliates, subsidiaries, or assigns.
2. Customer warrants that all Trainees attending any Philips training are Customer's employees. For the purpose of this Attachment, the term "employee", or other words contemplating the same relationship as "employee", will have the same meaning as when the term is used by the Internal Revenue Service (as distinct from an "independent contractor") to determine whether there is an obligation to withhold income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment tax on wages paid.
3. Prior to the disclosure or dissemination of any Philips Proprietary Information to Customer's Trainee(s) and prior to attending training, Customer must deliver an original copy of the signed Customer Employee Non-Disclosure Agreement (Attachment C1) to Philips. The execution by Customer's Trainee(s) of the Customer Employee Non-Disclosure Agreement and its delivery to Philips is a CONDITION PRECEDENT to Philips' obligation to train or otherwise disclose or disseminate any Philips Proprietary Information to said Customer Trainee(s).
4. Customer will treat any Philips Proprietary Information that is received in strictest confidence and will refrain from disclosing or disseminating any of the Philips Proprietary Information without Philips' prior, express, written consent, except to those employees of the Customer who have executed a Customer Employee Non-Disclosure Agreement. Except as permitted under this Attachment, Customer will not directly or indirectly disclose, copy, access, run, perform, display, disassemble, decompile, reverse engineer, modify, adapt, translate, create derivative works, distribute, sublicense, sell, assign, or otherwise transfer all, or any part, of the Proprietary Information, or cause or permit the Proprietary Information, or any part thereof, to be used by any persons, other than the Trainees, and only on the System and at the applicable System Site. Except as permitted under this Attachment, Customer will not, directly or indirectly, permit or authorize its employees to use the Philips Proprietary Information.
5. All information disclosed to Customer's Trainee(s) in connection with said training, and all related information regarding the Covered System that Customer may have access to, is presumed to be Philips Proprietary Information.
6. The use or disclosure of any of the Philips Proprietary Information by Customer's Trainee(s) for purposes other than the service, maintenance, or repair of the Covered System without Philips' prior, express, written consent is a breach of this Attachment and an unauthorized use or disclosure of Philips' trade secrets or other proprietary rights. If there is such an unauthorized use or disclosure, Philips will be entitled to compensation for all damages arising out of or resulting therefrom, including all consequential damages and attorney's fees incurred by Philips. Considering the substantial investment that Philips has in the Philips Proprietary Information, a violation by or for Customer of any provision of this Attachment or the Customer Employee Non-Disclosure Agreement by Customer's Trainee(s) will cause irreparable injury to Philips and Philips will be entitled, in addition to any other rights and remedies it may have at law or in equity, to an injunction enjoining and restraining the Customer from violating, or continuing to violate, its obligations under this Attachment. Customer confers jurisdiction to enforce the provisions of this Attachment upon the courts of any State of the United States. Customer shall indemnify and hold Philips harmless from any damages resulting from Customer or Trainee's breach of this Attachment.
7. The obligations hereunder to maintain the confidentiality of Philips Proprietary Information will endure permanently. Customer may not assign this Attachment nor may any party succeed to Customer's rights and obligations hereunder, unless with the prior written approval of Philips. The terms and conditions of this Attachment will inure to and be binding upon Customer's affiliates, parent, subsidiaries, officers, directors, employees, agents, or other representatives and its permitted assigns and successors.

**Support and Assist Coverage Exhibit
Customer Employee Non-Disclosure Agreement
Attachment 3-2**

(Name of Employee) (Natividad Medical Center)

(Residence Address) (City) (State) (Zip)

In consideration of the training, Customer service documentation, or Customer service software received or to be received by me from Philips, and in further consideration of Philips' disclosure to me of its proprietary information, I agree to the following:

1. "Philips Proprietary Information" means information disclosed to me, known by me, or acquired by me as a result of my training by Philips or its agents or in my subsequent use of such information in the installation, service, maintenance, or repair of Covered System, including any oral, written, or electronically recorded information regarding the installation, service, maintenance, repair, construction, design, theory of design, theory of operation, diagnostic tools, teaching materials, hardware schematics, electrical schematics, software of any nature in any form and on any media, repair analysis techniques or maintenance of any Covered System, service notes, safety bulletins, installation manuals, service manuals, service diagnostic tools or techniques, and any other corresponding information of Philips or any of its predecessors, successors, affiliates, subsidiaries, or assigns.
2. I acknowledge that as part of Philips' training of me in the installation, service, maintenance, and repair of the Covered System, I may receive the benefit of Philips' substantial investment in the Philips Proprietary Information, including thousands of man-hours of work by Philips employees in the development of teaching materials for its training school and development of special troubleshooting and diagnostic methods and protocols relating to the installation, service, maintenance, and repair of the Covered System. I further acknowledge that as part of the Philips training I may be given extensive teaching regarding the theory of design and operation of the Covered System, including training on how to set up and operate such System. As part of the training, I may be taught to analyze the design and details of operation of the system and subsystems in the Covered System. During the training program, I may have disclosed to me Philips Proprietary Information that is not available outside of Philips, including detailed schematic diagrams of the Covered System; the Philips instructors may go through the schematics with me and discuss the operation of the System, system and subsystems, their potential trouble spots and how to isolate and repair such trouble spots. Selected detailed manufacturing instructions developed by Philips may be disclosed to me. Philips' troubleshooting methods and protocols for the service and maintenance of its System include detailed computer diagnostic programs and special codes to perform tests and analysis to help locate and repair particular malfunctions of components of the Covered System. I acknowledge that the Philips training will be extremely valuable and cannot be duplicated elsewhere and that only at the Philips training school will I have access to the special troubleshooting methods and protocols that Philips has developed through painstaking effort and at great expense.
3. I will treat the Philips Proprietary Information in strictest confidence, and will not, directly or indirectly, disclose, reverse engineer, decompile, modify, adapt, translate, create derivative works, disassemble, disseminate, lecture upon, publish, copy, or duplicate any such information without Philips' prior, express, written consent. This obligation to maintain the confidentiality of Philips Proprietary Information will endure permanently.
4. Upon my employment with my current employer ("Employer") terminating, prior to or upon my retirement, or upon a change in my employment responsibilities wherein my use of the Philips Proprietary Information is no longer required, I will turn over to a designated individual employed by the Employer, all Philips Proprietary Information then in my possession, custody, or control. I will not retain any copies or reproductions of correspondence, memoranda, reports, notebooks, drawings, photographs, excerpts, or any other documents relating in any way to the Philips Proprietary Information that are entrusted to me at any time during my employment with the Employer. If Employer does not designate an employee or agent to accept the surrender of the information and material as required above, I will immediately inform Philips of these circumstances.
5. For a period of one year from the date of termination or retirement of my employment with Employer, I will not directly or indirectly install, service, maintain or repair the type of Covered System on which I am being trained, unless I become employed by Philips, one of its authorized dealers or distributors, or a Philips customer having an agreement similar to the agreement that permitted me to attend the training.
6. I acknowledge that no license or right is granted hereby and no license or right will be incorporated herein by reference, by implication, or by other means with respect to or under any invention, patent application, patent, copyright, trade secret, or proprietary right contained in or in any way relating to the Philips Proprietary Information.
7. This Agreement and all matters relating to the construction, interpretation, and enforcement thereof will be governed by the laws of the State of Washington, without regard to principles of choice of law.
8. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable, the unenforceable provision may be stricken without affecting the remainder of this Agreement.

(Employee's Signature) (Date)

Exhibit 4
UPTIME GUARANTEE

1. **GENERAL.** Philips shall provide to Customer the uptime guarantee specified below ("Uptime Guarantee") on the System listed in the quotation or Attachment A as having uptime as an entitlement ("Uptime System"). Uptime System does not include peripherals, such as external printers, archiving devices, external display monitors, or attached cameras. If Customer does not meet its responsibilities described in Section 6 of Exhibit 1, then Customer is not entitled to the benefits of this Uptime Guarantee.

If an item of Uptime System fails to achieve the Uptime Percentage (as defined below) set forth on Schedule 3(a) below, then Customer, as its sole and exclusive remedy, will receive a discount of future Agreement payment(s), as described in Section 3 below.

2. DEFINITIONS.

- a) Measurement Period: The measurement period for determining Uptime Percentage is 12 months beginning on the effective date of the Agreement and thereafter on the annual anniversary date of the effective date.
- b) Base Hours means the hours/day and days/week over which Uptime Hours and Downtime will be calculated during the Measurement Period. The Base Hours will be the contracted hours of coverage provided for under the Agreement for each particular piece of Uptime System.
- c) Downtime means the time that the Uptime System is unable to produce diagnostic images during the Base Hours of any given Measurement Period solely due to Philips' design, manufacturing, materials, or Service performance failure. Measurement of Downtime commences when the Customer notifies the Philips customer service center that the Uptime System is unable to produce diagnostic images. Downtime does not include time due to planned maintenance service, cryogen replenishment, installation of upgrades and updates, x-ray tube replacement, or an occurrence or condition excluded under the Agreement. Philips may verify Downtime and adjust calculations accordingly.
- d) Uptime Hours is determined by subtracting the total Downtime from the Base Hours for a particular piece of Uptime System [Uptime Hours = Base Hours – Downtime].
- e) Uptime Percentage is determined by dividing the Uptime Hours by the Base Hours, and multiplying the result by 100 [Uptime Percentage = (Uptime Hours/Base Hours) x 100].

3. **ADJUSTMENT SCHEDULE.** If the Uptime Percentage specified in Schedule 3(a) is not achieved for Uptime System then the specified discount will be applied to all payments due during the next Uptime Measurement Period for the Uptime System that did not achieve the Uptime Percentage.

Schedule 3(a): Agreement Payment Adjustment Schedule for Uptime System

99% Uptime Guarantee		98% Uptime Guarantee		96% Uptime Guarantee	
Uptime Percentage	Discount	Uptime Percentage	Discount	Uptime Percentage	Discount
99% - 100%	None	98% - 100%	None	96% - 100%	None
96% - 98.9%	5%	95% - 97.9%	5%	91% - 95.9%	5%
93% - 95.9%	10%	92% - 94.9%	10%	<90.9%	10% *
<92.9%	15% *	<91.9%	15% *		

* Maximum adjustment available

4. UPTIME PERCENTAGE DETERMINATION. The Uptime Percentage is determined according to the following formula: Uptime Percentage = (Uptime Hours/Base Hours) x 100. Below are examples of how Uptime Percentage is determined:

a. MEASUREMENT EXAMPLE # 1:

Base Hours = 8 AM to 5 PM Monday through Friday over the 12 month Measurement Period.
9 hours x 5 days x 52 weeks = 2,340 Base Hours
2,340 Base Hours – 60 Downtime hours = 2,280 Uptime Hours
(2280 / 2340) * 100 = 97.4% Uptime Percentage

b. MEASUREMENT EXAMPLE # 2:

Base Hours = 8 AM to 9 PM Monday through Friday over the 12 month Measurement Period.
13 hours x 5 days x 52 weeks = 3,380 Base Hours
3,380 Base Hours – 60 Downtime hours = 3,320 Uptime Hours
(3320 / 3380) * 100 = 98.2% Uptime Percentage

5. REPORTS. Uptime Percentage performance reports will be provided at the Customer's request for any Measurement Period while this Uptime Guarantee remains in effect. To receive any applicable discount, Customer must notify Philips in writing that the Uptime Percentage was not achieved for a particular System within 60 days after the end of a Measurement Period.

6. WARRANTY DISCLAIMER. Philips full Uptime Guarantee obligations to Customer are described in this Exhibit. Philips provides no warranties under this Uptime Guarantee. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO THIS UPTIME GUARANTEE.

7. LIMITATIONS OF REMEDIES AND DAMAGES. Philips total liability, if any, and Customer's exclusive remedy with respect to this Uptime Guarantee and Philips performance hereunder is limited to the remedies stated herein.

Attachment B
Monterey County Insurance Requirements for Service Agreements

1. INSURANCE

1.1. Evidence of Coverage:

Prior to commencement of this Agreement, Philips shall provide to the County of Monterey on behalf of Natividad Medical Center (“Customer”) a “Certificate of Insurance” evidencing that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate.

This verification of coverage shall be sent to Customer’s Contracts/Purchasing Department, unless otherwise directed. Philips shall not receive a “Notice to Proceed” with the work under this Agreement until it has obtained all insurance required and Customer has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of Philips.

Qualifying Insurers: All coverage’s except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less that A-VII, according to the current Best’s Key Rating Guide or a company of equal financial stability that is approved by Customer’s Contracts/Purchasing Manager.

Insurance Coverage Requirements: Without limiting Philips’s duty to indemnify, Philips shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

- 1.2. Commercial General Liability Insurance,** including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- 1.3. Business Automobile Liability Insurance,** covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.
- 1.4. Workers’ Compensation Insurance,** If Philips employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer’s Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.
- 1.5. Professional Liability Insurance, if required for the professional services being provided,** (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, Philips shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

2. OTHER INSURANCE REQUIREMENTS:

- 2.1.** With the exception of the professional liability all insurance required by this Agreement shall be with a company acceptable to Customer and issued and executed by an admitted insurer authorized to

transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Philips completes its performance of services under this Agreement.

- 2.2. Philips shall provide that Customer shall be given notice in writing at least thirty days in advance of cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Philips and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.
- 2.3. **Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds** with respect to liability arising out of Philips's work, including ongoing and completed operations, **and shall further provide that such insurance is primary insurance** to any insurance or self-insurance maintained by the County **and that the insurance of the Additional Insureds shall not be called upon to contribute** to a loss covered by the Philips's insurance.
- 2.4. Prior to the execution of this Agreement by Customer, Philips shall file certificates of insurance with Customer's Contracts/Purchasing Department, showing that Philips has in effect the insurance required by this Agreement. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.
- 2.5. Philips shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, upon request of Customer, annual certificates to Customer's Contracts/Purchasing Department. Failure by Philips to maintain such insurance is a default of this Agreement, which entitles Customer, at its sole discretion, to terminate the Agreement immediately.

2016 OFFICIAL SERVICE HOLIDAY SCHEDULE

The holidays below are for the year 2016 only. A new holiday schedule will be posted each year and the designated holidays may differ.

<i>Holiday</i>	<i>Day of the Week</i>	<i>2016</i>
New Year's Day	Friday	January 1
Memorial Day	Monday	May 30
Independence Day	Monday	July 4
Labor Day	Monday	September 5
Thanksgiving Day	Thursday	November 24
Day after Thanksgiving	Friday	November 25
Christmas Day Observed	Monday	December 26