



**PHILIPS**  
**SERVICE AGREEMENT**

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*County of Monterey*  
*On behalf of*  
**NATIVIDAD MEDICAL CENTER**

*and*

**PHILIPS HEALTHCARE**

**ATTACHMENT A: PRICING SUMMARY**

SITE #	SERIAL #	SYSTEM TYPE	LOCATION	CONTRACT COVERAGE	ADDED OPTIONS	CONTRACT START DATE	CONTRACT END DATE	MONTHLY BILLING VALUE	ANNUAL CONTRACT VALUE	TOTAL CONTRACT VALUE
58677367	SN13000044	DigitalDiagnost Release 3	Natividad Medical Center	Protection	Flat Detector x2; 2kVA UPS	10/27/2020	10/26/2024	\$3,401.00	\$40,812.00	\$163,248.00
58677413	SN13000076	DigitalDiagnost Release 3	Natividad Medical Center	Protection	Flat Detector; Wireless Portable Detector & Battery; 2kVA UPS	10/27/2020	10/26/2024	\$3,727.50	\$44,730.00	\$178,920.00
58677470	SN13000035	DigitalDiagnost Release 3	Natividad Medical Center	Protection	Flat Detector; Wireless Portable Detector & Battery; 2kVA UPS	10/27/2020	10/26/2024	\$3,727.50	\$44,730.00	\$178,920.00
58677468	519605/SN13000019	EasyDiagnost Eleva DRF	Natividad Medical Center	Protection	2kVA UPS	10/27/2020	10/26/2024	\$4,053.25	\$48,639.00	\$194,556.00
64900261	15100071	MobileDiagnost wDR R2	Natividad Medical Center	Primary	X-Ray Tube; Wireless Portable Detector & Battery	10/27/2020	10/26/2024	\$1,892.00	\$22,704.00	\$90,816.00
64900259	15100084	MobileDiagnost wDR R2	Natividad Medical Center	Primary	X-Ray Tube; Wireless Portable Detector & Battery	10/27/2020	10/26/2024	\$1,892.00	\$22,704.00	\$90,816.00
64900260	15100094	MobileDiagnost wDR R2	Natividad Medical Center	Primary	X-Ray Tube; Wireless Portable Detector & Battery	10/27/2020	10/26/2024	\$1,892.00	\$22,704.00	\$90,816.00
64900262	15100088	MobileDiagnost wDR R2	Natividad Medical Center	Primary	X-Ray Tube; Wireless Portable Detector & Battery	10/27/2020	10/26/2024	\$1,892.00	\$22,704.00	\$90,816.00
76176593	1125	Veradius Unity	Natividad Medical Center	Protection		10/27/2020	10/26/2024	\$1,296.92	\$15,563.04	\$62,252.16
76180216	1126	Veradius Unity	Natividad Medical Center	Protection		10/27/2020	10/26/2024	\$1,296.92	\$15,563.04	\$62,252.16
66995143	US915C0638	EPIQ 5W Ultrasound System	Natividad Medical Center	Value_UL	Flat Rate	10/27/2020	10/26/2024	\$533.75	\$6,405.00	\$25,620.00

SITE #	SERIAL #	SYSTEM TYPE	LOCATION	CONTRACT COVERAGE	ADDED OPTIONS	CONTRACT START DATE	CONTRACT END DATE	MONTHLY BILLING VALUE	ANNUAL CONTRACT VALUE	TOTAL CONTRACT VALUE
77531592	US918B0964	EPIQ 7C Ultrasound System	Natividad Medical Center	Value_UL	Flat Rate	10/27/2020	10/26/2024	\$1,031.92	\$12,383.04	\$49,532.16
77531594	US918B0959	EPIQ 7C Ultrasound System	Natividad Medical Center	Value_UL	Flat Rate	10/27/2020	10/26/2024	\$1,031.92	\$12,383.04	\$49,532.16
77531597	US918B0958	EPIQ 7C Ultrasound System	Natividad Medical Center	Value_UL	Flat Rate	10/27/2020	10/26/2024	\$1,031.92	\$12,383.04	\$49,532.16
77908094	B2NMHB	Transducer, X8-2t	Natividad Medical Center	Primary TEE2	Accidental Damage	10/27/2020	10/26/2024	\$803.17	\$9,638.04	\$38,552.16
<b>Totals:</b>								<b>\$29,503.77</b>	<b>\$354,045.24</b>	<b>\$1,416,180.96</b>
<b>Current Tax Rate: 9.25%</b>										<b>\$ 130,996.74</b>
<b>Estimated Total Contract Amount:</b>										<b>\$1,547,177.70</b>

Pricing shown is valid for 60 days from **06/24/20** and includes applicable taxes.

**ADDITIONAL NOTES:**

**Flat Rate:**

Pricing includes coverage for all transducers and printers purchased from Philips, except TEE transducers. TEE transducer coverage requires a supplemental agreement.

**152T – Tee Accidental Damage**

This Service Agreement includes one transducer replacement per year due to accidental damage for each 3D TEE and 2D TEE transducer covered under this agreement. Additional replacements due to accidental damage will be discounted 50% off the Service exchange price.

**END OF LIFE:**

The EasyDiagnost Eleva DRF imaging system and iU22 Ultrasound System will reach End of Life on 12/31/2022. After the End of Life date, Philips will make commercially reasonable efforts to procure replacement parts. Uptime guarantees will no longer be applicable after the End of Life date.

## ATTACHMENT B: SERVICE COVERAGE DEFINITIONS

Plan Type	<b>Protection/Protection POS</b>
Uptime Guarantee	98% per contract year. This provides assurance of the equipment availability to scan patients, as described in the uptime guarantee exhibit.
Labor Coverage	Labor and travel coverage for on-site or phone support service 8am-9pm, M-F, excluding Philips published holidays.
On-site Labor Response	At customer's request, Philips service goal is to be on-site within 4 hours.
Planned Maintenance	Planned maintenance coverage from 8am–9pm, M–F, 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 or the OEM for Non-Philips equipment. Current recommendations for service depends on modality and product model. Modality ranges are: <b>NM</b> : 2-4 times/yr; <b>CT</b> : 2-6 times/yr; <b>DXR</b> : 1-2 times/yr; <b>IXR</b> : 1-2 times/yr; <b>MR</b> : 3-4 times/yr;
Labor Rates	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.
Labor Cap/Limits & BioMedical Engineer Training	N/A
Standard Parts Coverage	This provides coverage on parts used to maintain and repair the equipment, including both hardware and software items.
Parts Delivery	<u>Earliest next day AM parts delivery</u> : This provides delivery in most areas that can be accommodated by 8:30am to fit the urgency of your need. (Actual time depends on local shipper delivery schedule and delivery restrictions for heavyweight, oversized or hazardous parts).
Strategic Parts (By Modality)	<ul style="list-style-type: none"> <li>• <b>Magnet Maintenance Package (MMP). The MMP includes the following:</b> <ul style="list-style-type: none"> <li>• <u>Helium Replenishment Service</u>: Standard Helium Replenishment is intended to supply Customer for the normal depletion of helium experienced when the MR equipment is operated as instructed in the Agreement. Philips shall provide, as available, scheduled Standard Helium Replenishment, when required as determined by Philips operating specifications of the MR system type, including labor, transportation, management costs and taxes associated with replenishing the MR equipment with helium product. Standard Helium Replenishment is capped at \$8,000, per MR system, per contract year, as determined by Philips standard rate at the time of each helium fill. Philips will provide <u>additional</u> helium, billed at Philips standard rate, as available, when required as determined by Philips operating specifications of the MR system type. Standard Helium Replenishment <u>does not include</u> helium consumption caused by the following: physical environment out of compliance with Customers obligations (e.g. power loss, room temp), helium loss due to maintenance provided by a party other than Philips or Philips subcontractors, quench from ERDU, and/or ramp down due to metal objects/projectiles. Any helium replenishment caused by these events shall always be billable events.</li> <li>• <u>Magnet Protection Plan</u>- Replacement of the system magnet if Philips cannot complete an on-site repair. Includes labor, transportation, replacement of magnet, pump, magnet cool down, shimming, re-assembly, and performance testing as necessary to complete the magnet replacement. For Philips MRs, Magnet Protection Plan must be continuous from the end of system warranty. Magnet Protection Plan does not provide for facility alterations that may be necessary to complete the magnet replacement.</li> <li>• <u>Magnet Refrigeration Service</u>- Corrective and planned maintenance service for the MR refrigeration system (Cold Head, cryo compressor and helium lines).</li> </ul> </li> </ul> <p><u>Surface Coils</u>: For Philips systems, this includes repair or exchange of surface coils purchased from Philips limited to coils that have not been misused, abused or operated outside normal operating parameters. For Non-Philips Systems, coil coverage is limited to standard surface coils associated with the MR under service contract with Philips. Coil coverage excludes the Noras head frame, other high-end speciality coils and coils sold as part of the MR-OR solution.</p> <p><b>NM</b>: Crystals and Photomultiplier Tubes (PMT's), X-Ray Tube and the flat panel coverage (excludes mechanical damage on the grid) included for the Brightview XCT, X-Ray Tubes included for Precedence. Magnet Maintenance Package (MMP) and Surface Coils from Philips included for the Ingenuity TF PET MR.</p> <p><b>DXR</b>: <u>X-Ray tubes</u> included on all systems except for PCR and CAD Chest Systems. <u>1 Flat Detector</u> included on Digital RAD Single Detector systems, Juno and EasyDiagnost Eleva DRF (except Rel.5). Additional coverage for second flat detector must be purchased under "Added Options". <u>2 Flat Detectors</u> included on Digital Diagnost Dual Detector. <u>Detector</u> coverage included <b>only</b> when it is specified under "Added Options" on MobileDiagnost wDR, DigitalDiagnost 3 or 4, EasyUpgrade DR, EasyDiagnost Eleva DRF Rel. 5, DuraDiagnost, ProGrade and CombiDiagnost. <u>Wireless Detector Battery</u> coverage included <b>only</b> when it is specified under "Added Options". <u>Image Intensifier</u> included on R/F systems except for Juno and CombiDiagnost.</p> <p style="text-align: center;"><b>CT</b>: X-Ray Tubes at Medium Level <b>IXR</b>: X-Ray Tubes, Image Intensifiers, Detectors.</p>
Lifecycle	For Philips Systems operating system software and hardware reliability updates. These updates include onsite or remote labor, travel and parts necessary to complete safety, performance and reliability modifications to existing equipment software or hardware. Mandatory Field Change orders for Non-Philips Systems are the responsibility of the OEM.
Lifecycle Solutions Discount	20% discount on any items selected from Philips Life Solutions catalog, excluding power monitoring.
Remote Services	This supports remote system diagnostics and monitoring. Philips and Non-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.
Technical Telephone Support	24/7 Technical telephone support.
Clinical Telephone Support	Clinical telephone support (for Philips systems only) from 8:00 am - 9:00 pm, Monday – Friday.
Solution Enhancements	<p><u>Philips Service Information</u>: This contains service management reports. Information on equipment service status, historical service performance, engineer response time, and planned maintenance schedules.</p> <p><u>Annual customer loyalty meetings</u>: These include a review of current and future performance goals of Philips equipment and service.</p>

Plan Type	<b>Primary</b> Our Primary Service Agreement offers you the advantage of flexible service, a hands-on relationship with Philips, and open communications.
Uptime Guarantee	98% per contract year. This provides assurance of the equipment availability to scan patients, as described in the uptime guarantee exhibit.
Labor Coverage	Labor and travel coverage for on-site or phone support service from 8am-5pm, M-F excluding Philips published holidays.
On-site Labor Response	At customer's request, Philips service goal is to be on-site within 4 hours.
Planned Maintenance	Planned maintenance coverage from 8am-5pm, M-F, 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 or the OEM for Non-Philips equipment. Current recommendations for service depends on modality and product model. Modality ranges are: <b>NM</b> : 2-4 times/yr; <b>CT</b> : 2-6 times/yr; <b>DXR</b> : 1-2 times/yr; <b>IXR</b> : 1-2 times/yr; <b>MR</b> : 3-4 times/yr;
Labor Rates	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.
Labor Cap/Limits & BioMedical Engineer Training	N/A
Standard Parts Coverage	This provides coverage on parts used to maintain and repair the equipment, including both hardware and software items.
Parts Delivery	10:30am next day parts delivery. This provides UPS next day delivery by air, available in most areas. (Actual time depends on local shipper delivery schedule and delivery restrictions for oversized or hazardous parts).
Strategic Parts (By Modality)	<ul style="list-style-type: none"> <li>• <b>Magnet Maintenance Package (MMP). The MMP includes the following:</b></li> <li>• <b>Helium Replenishment Service:</b> Standard Helium Replenishment is intended to supply Customer for the normal depletion of helium experienced when the MR equipment is operated as instructed in the Agreement. Philips shall provide, as available, scheduled Standard Helium Replenishment, when required as determined by Philips operating specifications of the MR system type, including labor, transportation, management costs and taxes associated with replenishing the MR equipment with helium product. Standard Helium Replenishment is capped at \$8,000, per MR system, per contract year, as determined by Philips standard rate at the time of each helium fill. Philips will provide <u>additional</u> helium, billed at Philips standard rate, as available, when required as determined by Philips operating specifications of the MR system type. Standard Helium Replenishment <u>does not include</u> helium consumption caused by the following: physical environment out of compliance with Customers obligations (e.g. power loss, room temp), helium loss due to maintenance provided by a party other than Philips or Philips subcontractors, quench from ERDU, and/or ramp down due to metal objects/projectiles. Any helium replenishment caused by these events shall always be billable events.</li> <li>• <b>Magnet Protection Plan-</b> Replacement of the system magnet if Philips cannot complete an on-site repair. Includes labor, transportation, replacement of magnet, pump, magnet cool down, shimming, re-assembly, and performance testing as necessary to complete the magnet replacement. For Philips MRs, Magnet Protection Plan must be continuous from the end of system warranty. Magnet Protection Plan does not provide for facility alterations that may be necessary to complete the magnet replacement.</li> <li>• <b>Magnet Refrigeration Service -</b> Corrective and planned maintenance service for the MR refrigeration system (Cold Head, cryo compressor and helium lines).</li> </ul> <p><b>Surface Coils:</b> For Philips systems, this includes repair or exchange of surface coils purchased from Philips limited to coils that have not been misused, abused or operated outside normal operating parameters. For Non-Philips Systems, coil coverage is limited to standard surface coils associated with the MR under service contract with Philips. Coil coverage excludes the Noras head frame, other high-end speciality coils and coils sold as part of the MR-OR solution.</p> <p><b>NM:</b> Crystals and Photomultiplier Tubes (PMT's), X-Ray Tube and the flat panel coverage (excludes mechanical damage on the grid) included for the Brightview XCT, X-Ray Tubes included for Precedence. Magnet Maintenance Package (MMP) and Surface Coils from Philips included for the Ingenuity TF PET MR.</p>
Lifecycle	For Philips Systems operating system software and hardware reliability 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. Mandatory Field Change orders for Non-Philips Systems are the responsibility of the OEM.
Lifecycle Solutions Discount	15% discount on any items selected from Philips Life Solutions catalog, excluding power monitoring.
Remote Services	This supports remote system diagnostics and monitoring. Philips and Non-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.
Technical Telephone Support	24/7 Technical telephone support.
Clinical Telephone Support	Clinical telephone support (for Philips systems only) from 8am-5pm, M-F.
Solution Enhancements	<u>Philips Service Information:</u> Available upon request, this contains service management reports. Information on equipment service status, historical service performance, engineer response time, and planned maintenance schedules is available.

Plan Type	<b>Value_UL-Ultrasound</b> Our Value_UL Service Agreement offers you robust security, a hands-on relationship with Philips and open communications
Uptime Guarantee	N/A
Labor Coverage	Labor and travel coverage for on-site service from 8am-5pm, M-F, excluding Philips published holidays. Preferential scheduling of service calls for service contract customers
On-site Labor Response	At customer's request, Philips service goal is to be on-site within the next business day.
Planned Maintenance	Planned maintenance coverage from 8am-5pm, M-F, excluding Philips published holidays. Coverage includes activities performed according to a schedule to review safety, image quality, calibrations, equipment cleaning, performance trials and any other planned service prescribed by Philips. Planned Maintenance Inspections will be performed per Philips manufacturing specifications (1 or 2 per year, depending on product).
Labor Rates	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.
Labor Cap/Limits & BioMedical Engineer Training	N/A
Standard Parts Coverage	This provides coverage on parts (including transducers listed on this agreement that fail during normal use) used to maintain and repair the equipment including both hardware and software items. <u>Transducer Accidental Damage Protection:</u> Coverage at 50% off the Philips Service Exchange Program price for transducers listed on this agreement. This excludes TEE transducers
Parts Delivery	Next Day Parts Delivery. This provides delivery of parts needed during the next standard p.m. business day. (Actual time depends on local shipper delivery schedule and delivery restrictions for oversized or hazardous parts).
Strategic Parts (By Modality)	N/A
Lifecycle	<u>System software updates:</u> This includes on-site or remote labor, travel and parts necessary to complete safety, performance and reliability modifications to existing equipment software or hardware
Lifecycle Solutions Discount	35% discount on the purchase of eligible system upgrades, transducer upgrades and Clinical Education tuition purchased with the upgrade, excluding system platform exchanges.
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.
Technical Telephone Support	Unlimited Technical telephone support.
Clinical Telephone Support	Clinical telephone support from 8am-5pm, M-F.
Solution Enhancements	<u>Utilization Reports.</u> This provides information on system utilization reports to help improve workflow. May not be available on all platforms. <u>On-Board system diagnostics.</u> 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, APM/DVS/ISEM, IDI and SONOS PC modules used on this system are covered as part of this agreement. Coverage for consumables excluded with the exception of battery coverage for the CX50, CX30, Sparq and VISIQ (remote service only on VISIQ).

Plan Type	<b>TEE Primary2 - Ultrasound</b> Our TEE Primary2 Service Agreement offers you robust security, a hands-on relationship with Philips and open communications..
Uptime Guarantee	N/A
Labor Coverage	Labor and travel coverage for on-site service (for TEE only) from 8am-5pm, M-F, excluding Philips published holidays. Preferential scheduling of service calls for service contract customers
On-site Labor Response	At customer's request, Philips service goal is to be on-site the next business day.
Planned Maintenance	Planned maintenance coverage from 8am-5pm, M-F, 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 Inspection will be performed per year for TEE's listed on this agreement.
Labor Rates	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
Labor Cap/Limits & BioMedical Engineer Training	N/A
Standard Parts Coverage	This provides coverage on parts used to maintain and repair TEE transducers listed on this agreement that fail during normal use. All exchanges due to normal non-accidental failure only. <u>TEE Transducer Accidental Damage Protection:</u> Coverage at 50% off the Philips Service Exchange Program price for transducers listed on this agreement.
Parts Delivery	N/A
Strategic Parts (By Modality)	N/A
Lifecycle	N/A
Lifecycle Solutions Discount	N/A
Remote Services	N/A
Technical Telephone Support	Unlimited Technical telephone support.
Clinical Telephone Support	Clinical telephone support from 8am-5pm, M-F.
Solution Enhancements	N/A



**PHILIPS HEALTHCARE  
SERVICE AGREEMENT TERMS AND CONDITIONS (REV P)**

**\*\*DENOTES AMENDED PARAGRAH**

This Service Agreement (hereinafter "Agreement") is made by and between Philips Healthcare a division of Philips North America LLC ("Philips") and the County of Monterey, a political subdivision of the State of California (hereinafter, "the County"), on behalf of Natividad Medical Center ("Customer"), a general acute care teaching hospital wholly owned and operated by the County.

**1. \*\*SERVICES PROVIDED**

- a. The services listed in the quotation and/or Attachment A (the "Services") are offered by Philips only under the terms and conditions described below, and on any exhibits and attachments, each of which are hereby incorporated (the "Agreement").
- b. All travel by Philips for the delivery of services under this Agreement shall be reimbursed according to the County of Monterey Travel and Business Expense Reimbursement Policy (Attachment C).

**2. \*\*EXCLUSIONS**

The Services do not include:

- 2.1. Servicing or replacing components of the system other than those systems or components listed in the quote, attachments and exhibits, as applicable (the "Covered System") that is at the listed system location ("Site");
- 2.2. Servicing Covered System if contaminated with blood or other potentially infectious substances;
- 2.3. Any service necessary due to: (i) a design, specification or instruction provided by Customer or Customer representative; (ii) the failure of anyone (excluding Philips or a Philips representative) to comply with Philips' written instructions or recommendations; (iii) any combining of the Covered System with other manufacturers product or software other than those recommended by Philips; (iv) any alteration or improper storage, handling, use or maintenance of the Covered System by anyone other than Philips' subcontractor or Philips; (v) damage caused by an external source, regardless of nature; (vi) any removal or relocation of the Covered System; or (vii) neglect or misuse of the Covered System;
- 2.4. Any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors.
- 2.5. Batteries are not included in coverage for any purpose, system, or modality, including, but not limited to, Biomedical Equipment or uninterruptible power supply (UPS) systems of any size or type.

**3. CUSTOMER RESPONSIBILITIES**

During the term of this Agreement, Customer will:

- 3.1. Ensure that the Site is maintained in a clean and sanitary condition; and that the Covered System, product or part is decontaminated prior to service, shipping or trade-in as per the published manufacturer's operating instructions
- 3.2. Dispose of hazardous or biological waste generated;
- 3.3. Maintain operating environment within Philips specifications for the Site including temperature and humidity control, incoming power quality (including but not limited to voltage spikes, brownouts and outages), incoming water quality, and fire protection system;
  - 3.3.1. For customers choosing not to use a Philips approved UPS, Philips reserves the right to insert a power monitor at any time during the contracted period to collect power quality statistics. Should results show that power quality negatively impacted system performance and resulted in additional Philips cost to maintain the system, Philips reserves the right to bill for service events related to poor power quality.
- 3.4. Use the Covered System in accordance with the published manufacturer's operating instructions.

**4. \*\*SYSTEM AND BIOMEDICAL EQUIPMENT AVAILABILITY**

- 4.1. **System Availability.** If Customer schedules service and the Covered System is not available at the agreed upon time, then Philips may cancel the service or charge the Customer at Philips then current labor and travel rate for all time spent by Philips service personnel waiting for access to the Covered System. In the event of a patient emergency, Philips will extend a thirty (30) minute grace period. Additionally, Customer has the option to call ahead of time to reschedule the mutual appointment or pay for the FSE to wait.
- 4.2. **Biomedical Equipment Availability.** In order to achieve contracted planned maintenance (PM) compliance, Customer agrees to make the Biomedical Equipment available for PM service during normal business hours (Monday through Friday, 8am to 5pm, excluding Philips recognized holidays) starting 2 weeks before the month in which PM's are due and ending on the last day of the actual month in which PM's are due. If the Biomedical Equipment is unavailable during the month in which PM's are due and this results in Philips having to perform service of more than 25% of the PM volume due that month, in the last week of the month that PM's are due, Philips will charge the Customer at Philips then current labor rates (and travel, if required) for all overtime incurred as a result of the Biomedical Equipment not being available. For the purposes of this Agreement, Biomedical Equipment means clinical equipment that is mobile and not in a fixed location. It does not include diagnostic imaging equipment that is non-



mobile.

**5. \*\*PAYMENT**

5.1. 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 (certified by Natividad Medical Center) until the Agreement amount and all applicable taxes are paid in full. If the invoice consists of more than one line item, 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 date. Correspondence relating to disputes should be addressed to: Attn: Accounts Receivables Philips Healthcare  
22100 Bothell Everett Highway - MS#450  
Bothell, WA 98021

**5.1.1** Intentionally omitted.

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

**5.1.3** If the quotation indicates net prices that are each associated with a payment method, then Philips will invoice Customer, and Customer will pay, the net price that corresponds to Customer's elected payment method.

**6. \*\*EXCUSABLE DELAYS**

6.1. 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 from October 27, 2020 through October 26, 2024 ("Term").
- 7.2. This Agreement is non-cancelable by Customer and will remain in effect for the Term specified in this Agreement. However, Customer may cancel service coverage for an individual Covered System under this Agreement upon sixty (60) days written notice to Philips representing that the Covered System is being permanently removed from the Site and that the Covered System is not being used in any other Customer site.
- 7.3. Upon sixty (60) days written notice to Philips, Customer may cancel this Agreement specifically describing a material breach or default of the Agreement by Philips, provided that Philips may avoid such cancellation by curing the condition of breach or default within such sixty (60) day notice period.
- 7.4. In addition, if the Customer sells or otherwise transfers any of the Covered System to a third party and the System remains installed and in use at the same location, and such third party assumes the obligations of the Customer under this Agreement or enters into a new service agreement with Philips the price will be equal to the price in this Agreement and a term at least equal to the unexpired term of this Agreement. If such third party does not assume the obligations of the Customer under this Agreement, then the Customer may terminate this Agreement with respect to such Covered System upon no less than thirty (30) days prior written notice to Philips, in which case the Customer shall pay to Philips (i) all amounts due under this Agreement through the effective date of termination (based on the notice requirement) and (ii) as liquidated damages and not as a penalty, an amount equal to 30% of the remaining payments due under this Agreement for such Covered System from the date of termination through the scheduled expiration of the term of this Agreement.
- 7.5. If this Agreement includes a Pool and terminates for any reason and Customer has expended more funds from its Pool than it has contributed to the Pool, then Customer shall pay Philips the amount by which its expenditures exceeded its contributions within five (5) business days of such termination.
- 7.6. Clinical Education training and credits will expire upon termination of the Agreement.
- 7.7. **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**

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

**9. END OF LIFE**

- a. AFTER THE END OF LIFE DATE, PHILIPS WILL CONTINUE TO USE COMMERCIALY REASONABLE EFFORTS TO REPAIR SYSTEMS, BASED ON PARTS AND TRAINED ENGINEER AVAILABILITY, BUT WITH NO UPTIME GUARANTEE. AFTER THE END OF LIFE DATE, PHILIPS WILL NOT CREATE OR TEST BUG FIXES, PATCHES, OR ENHANCEMENTS TO THE SYSTEM HARDWARE OR SOFTWARE.
- b. If Philips determines that its ability to provide the service coverage is hindered due to the unavailability of parts or trained personnel, or that the Covered System can no longer be maintained in a safe or effective manner as determined by Philips, then Philips may terminate this Agreement with respect to such Covered System upon notice to the Customer and provide Customer with a refund of any Customer pre-payments for periods of service coverage not already completed.

**10. \*\*WARRANTY DISCLAIMER.**

10.1 Philips' full contractual service obligations to Customer are described in this Agreement. 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. Philips represents that all services provided pursuant to this Agreement shall be done in a professional workmanlike manner in conformance with all applicable standards of care pursuant to industry standards, laws, rules and regulations.

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

a. THE TOTAL LIABILITY, IF ANY, OF PHILIPS' AND ITS AFFILIATES' FOR ALL DAMAGES AND BASED ON ALL CLAIMS, WHETHER ARISING FROM OR RELATING TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING FROM THE SERVICES OR PHILIPS' PERFORMANCE OF THE SERVICES, IS LIMITED TO THE ANNUAL AMOUNT PAID OR PAYABLE UNDER THIS AGREEMENT. THIS LIMITATION SHALL NOT APPLY TO:

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

11.1.2 CLAIMS OF TANGIBLE PROPERTY DAMAGE REPRESENTING THE ACTUAL COST TO REPAIR OR REPLACE PHYSICAL PROPERTY TO THE EXTENT CAUSED BY PHILIPS NEGLIGENCE OR PROVEN PRODUCT DEFECT;

11.1.3 OUT OF POCKET COSTS INCURRED BY CUSTOMER TO PROVIDE PATIENT NOTIFICATIONS, REQUIRED BY LAW, TO THE EXTENT SUCH NOTICES ARE CAUSED BY PHILIPS' UNAUTHORIZED DISCLOSURE OF PHI, AS DEFINED BY HIPAA; and,

11.1.4 FINES/PENALTIES LEVIED AGAINST CUSTOMER BY GOVERNMENT AGENCIES CITING PHILIPS' UNAUTHORIZED DISCLOSURE OF PHI AS THE BASIS OF THE FINE/PENALTY; ANY SUCH FINES OR PENALTIES CONSTITUTING DIRECT DAMAGES.

b. PHILIPS WILL HAVE NO LIABILITY FOR ANY ASSISTANCE PHILIPS PROVIDES THAT IS NOT REQUIRED UNDER THIS AGREEMENT.

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

11.4. 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' negligent acts or omissions.

**12. PROPRIETARY SERVICE MATERIALS**

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

**13. THIRD PARTY MANAGEMENT**

a. 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**

Customer shall provide Philips with an appropriate exemption certificate reasonably in advance of the effective date, otherwise, Philips shall invoice Customer for those taxes, and Customer shall pay those taxes in accordance with the terms of the invoice. The total contract amount stated in the quotation includes customer's current tax rate at the time of the contract execution. In the event that the tax rate changes Customer shall provide Philips a sixty (60) days prior written notice of the change in tax rate and Philips and Customer shall execute an amendment to adjust the tax rate.

**15. INDEPENDENT CONTRACTOR**

- a. 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**

**16.1** Philips and Customer shall comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and its implementing regulations (42 CFR, Part 420). Philips agrees that until the expiration of four (4) years after furnishing services pursuant to these Terms and Conditions of Service, Philips shall make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General, or any of their duly authorized representatives, these Terms and Conditions of Service and the books, documents and records of Philips that are necessary to verify the nature and extent of the costs charged to Customer hereunder. Philips further agrees that if Philips carries out any of the duties of these Terms and Conditions of Service through a subcontract with a value or cost of ten-thousand U.S. dollars (\$10,000.00) or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary, or upon request to the Comptroller General, or any of their duly authorized representatives the subcontract, and books and documents and records of such organization that are necessary to verify the nature and extent of such costs. This paragraph relating to the retention and production of documents is included because of possible application of Section 1861(v) (1) (1) of the Social Security Act (42 U.S.C. 1395x (v) (1) (I) (1989)), as amended from time to time to these Terms and Conditions of Service. If Section 1861(v) (1) (1) should be found to be inapplicable, then this paragraph shall be deemed inoperative and without force and effect.

**17. \*\*COMPLIANCE**

- a. Each party shall comply with all laws, rules, and regulations applicable to the party in connection with the performance of its obligations in connection with the transactions contemplated by the quotation, including, but not limited to, those relating to affirmative action, fair employment practices, FDA, Medicare fraud and abuse, and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Health care providers are reminded that if this Agreement includes a discount, they must fully and accurately report such discount or loan on cost reports or other applicable claims for payment submitted under any federal or state health care program, including but not limited to Medicare and Medicaid, as required by federal law (see 42 CFR 1001.952[h]).
- b. Notwithstanding Section 4.3 of the Business Associate Agreement ("BAA") dated July 3, 2017 executed between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center and Philips Healthcare, a division of Philips North America LLC and its Affiliates, this Agreement will be governed by all other terms and conditions set forth in the BAA.
- c. In the course of providing the Services to Customer, hereunder, it may be necessary for Philips to have access to, view, and/or download computer files from the Covered System that might contain Personal Data. Personal Data includes information relating to an individual, from which that individual can be directly or indirectly identified ("Personal Data"). Personal Data means information about an identifiable individual, and includes any information that is "personal information" or "personal health information" within the meaning of any applicable privacy law. Personal Data can include both personal health information (i.e. images, heart monitor data, and medical record number) and non-health information (i.e., date of birth, gender). Philips will process Personal Data only to the extent necessary to perform and/or fulfill its Service obligations under this Agreement. Customer further acknowledges and agrees that all telephone conversations between Philips and Customer may, in Philips discretion, be recorded.

**18. \*\*CONFIDENTIALITY**

**18.1.** Each party shall maintain as confidential any information furnished or disclosed to one party by the other party, whether disclosed in writing or disclosed orally, relating to the business of the disclosing party, its customers, employees, and/or its patients. Each party shall use the same degree of care to protect the confidentiality of the disclosed information as that party uses to protect the confidentiality of its own information, but in no event less than a reasonable amount of care. Each party shall disclose such confidential information only to its employees having a need to know such information to perform

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

**19. SUBCONTRACTS AND ASSIGNMENTS**

- a. 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. Neither party shall assign this Agreement or the responsibility for payments due under it without the other party's prior express written consent, which will not be unreasonably withheld.

**20. \*\*INSURANCE**

20.1. Evidence of Coverage:

Prior to commencement of this Agreement, Philips shall provide a "Certificate of Insurance" certifying 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.

- 20.2 Qualifying Insurers: All coverage's, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than 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 Director.

- 20.3 Insurance Coverage Requirements: Without limiting Philips 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:

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.

- Exemption/Modification (Justification attached; subject to approval).

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 \$1,000,000 per occurrence.

- Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, If CONTRACTOR employs others 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.

- Exemption/Modification (Justification attached; subject to approval).

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 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.

- Exemption/Modification (Justification attached; subject to approval).

20.4 Other Requirements:

With the exception of the professional liability insurance policy which is a global policy place in Amsterdam that provides world-wide insurance. 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.

Philips shall provide that Customer shall be given notice in writing at least thirty days in advance of any reduction in

coverage or limit, cancellation, or intended non-renewal thereof. The commercial general liability insurance 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.

**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 the Philips' 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' insurance.** The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 04-13 or CG 20 10 04 – 13 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 10 13.

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. Philips shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. 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.

Philips shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by Customer, annual certificates to Customer's Contracts/Purchasing Department. If the certificate is not received by the expiration date, Customer shall notify Philips and Philips shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. 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.



## 21. **RULES AND REGULATIONS**

21.1 To the extent made known in writing to Philips, Philips and its subcontractors will comply with Customer's rules and regulations provided such rules and regulations do not conflict with established Philips policies.

## 22. **EXCLUDED PROVIDER**

a. As of the Effective Date of this Agreement, Philips represents and warrants that Philips, its employees, and subcontractors, are not debarred, excluded, suspended, or otherwise ineligible to participate in a federal or state health care program, nor have they been convicted of any health care related crime for the products and services provided under this Agreement (an "Excluded Provider"). Philips shall promptly notify Customer if it becomes aware that Philips or any of its employees or subcontractors, providing the Services hereunder have become an Excluded Provider under a federal or state healthcare program, whereupon Customer shall provide Philips with a reasonable opportunity to discuss and attempt to resolve in good faith with Customer any Customer related concerns in relation thereto, and/or will give Philips a reasonable opportunity to dispute its, or its employee's or subcontractor's, designation as an Excluded Provider. In the event that the Parties are unable to resolve any such Customer concerns of the applicable party's designation as an Excluded Provider, then Customer may terminate this Agreement by express written notice for Services not yet rendered prior to the date of exclusion.

## 23. **SOLICITATION OF PHILIPS EMPLOYEES**

23.1 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. **GENERAL TERMS**

- a. **Survival.** Customer's obligation to pay any money due to Philips under this Agreement survives expiration or termination of this Agreement. All of Philips' rights, privileges, and remedies with respect to this Agreement will continue in full force and effect after the end of this Agreement.
- b. **Performance.** The failure of Customer or of Philips at any time to require the performance of any obligation will not affect the right to require such performance at any time thereafter. Course of dealing, course of performance, course of conduct, prior dealings, usage of trade, community standards, industry standards, and customary standards and customary practice or interpretation in matters involving the Service and delivery of similar or dissimilar services shall not serve as references in interpreting the terms and conditions of this Agreement.
- c. **Severability.** If any provision of the Agreement is deemed to be illegal, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall not be affected or impaired, and shall continue in full force and effect.
- d. **Counterparts.** This Agreement may be executed in one or more counterpart copies, each of equal validity, that together constitute one and the same instrument. Any photocopy or facsimile of this Agreement or any such counterpart is deemed the equivalent of an original and any such facsimiles constitute evidence of the existence of this Agreement.
- e. **\*\*Governing Law.** All transactions contemplated under this Agreement shall be governed by the laws of the State of California, without regard to that state's choice of law principles, and expressly excluding application of the Uniform Computer Information Transactions Act ("UCITA"), in any form. EACH PARTY, KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, FOR ITSELF, IT'S SUCCESSORS' AND ASSIGNS, WAIVES ALL RIGHT TO TRIAL BY JURY OF ANY CLAIM ARISING WITH RESPECT TO THIS AGREEMENT OR ANY MATTER RELATED IN ANY WAY THERETO.
- f. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement by and between the parties with respect to the transactions contemplated by the quotation and/or Attachment A, and supersede any previous understandings or agreements between the parties, whether written or oral, regarding the transactions contemplated by the quotation and/or Attachment A. No additional terms, conditions, consents, waivers, alterations, or modifications will be binding unless in writing and signed by the parties. Customer's additional or different terms and conditions, whether stated in a purchase order or other document issued by Customer, are specifically rejected and will not apply to the transactions contemplated by this Agreement.

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

## 25. **AUTHORITY TO EXECUTE**

a. 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.

26. **PAYOR INFORMATION.** Please enter where invoices are to be sent for payment under this agreement.

Name: NATIVIDAD MEDICAL CENTER  
Email: AccountsPayableEmail@natividad.com

27. **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 **CUSTOMER** to:

Name: Natividad Medical Center  
Attn: Contracts Division  
1441 Constitution Blvd  
Salinas, CA 93906


If to Philips Healthcare:

Name: WEST.Helpdesk@philips.com  
Title: Master Contract Coordinator  
Phone: (800) 722-7900  
Fax: (425) 482-8453  
Address: Philips Plaza, 414 Union St 2<sup>nd</sup> Floor, Nashville TN 37219

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

**Philips Healthcare:**  
**(Home Office Use Only)**

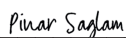
**Accepted by:**  
**COUNTY OF MONTEREY ON**  
**BEHALF OF NATIVIDAD MEDICAL**  
**CENTER**

DocuSigned by:  
By:   
Printed Name: Thuy Hong  
Title: SA0E910810E24B6BA18E560B1222E352  
Date: 25-Jun-2020

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Philips Healthcare:

Approved as to form. 10/8/2020

DocuSigned by:  
By:   
Printed Name: Pinar Saglam  
Title: Head of Finance, S&SD NAM  
Date: 29-Jun-2020



Deputy County Counsel

Approved as to fiscal provisions. 10-8-2020



Chief Deputy Auditor-Controller

## **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 ninety (90) days after the Effective Date, Philips will inspect the Covered System not previously serviced by Philips and notify Customer of any Covered System that does not meet 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 current labor and travel rates. If Customer elects not to have Covered System repaired, then Philips may remove such system from coverage under this Agreement.
- 1.2. Repair Service.** Commencing on the Effective Date and subject to the repair limitation below, Philips or Philips' subcontractors will provide repair services for Covered System. Philips will provide all replacement parts, which may be refurbished, and labor necessary to repair Covered System, unless excluded in Section 3 herein. All components used are subject to Philips' inspection and quality control procedures, and shall be warranted to the same extent that a non-refurbished component is warranted. Parts removed for replacement become the property of Philips and Philips will remove parts from the Covered System Site ("Exchange Basis"). Philips may increase its contract prices if the Covered System is upgraded or reconfigured.
- 1.3. Planned Maintenance Service.** Philips will provide Customer a planned maintenance schedule for the Covered System. Philips will provide such planned maintenance during the service coverage hours (as defined in the Agreement) at a time that is mutually agreed upon. Customer will make the Covered System available in accordance with this Exhibit. Philips or its subcontractors will provide planned maintenance on the Covered System at scheduled intervals. If Philips cannot locate Covered System, or Covered System was not made available for planned maintenance when scheduled, Philips will notify the Customer that Customer has ninety (90) days to make available Covered System for planned maintenance, otherwise Customer waives right to service and Philips may delete Covered System from this Agreement.
- 1.4. Software Updates.** Philips will install operating system software updates provided by the Original Equipment Manufacturer (OEM) for Covered System. Software updates mean revisions to OEM proprietary operating system software that enhance existing Covered System functions and operation without hardware changes, but will not install operating system software upgrades to new software platforms or software options offered separately for sale by the OEM.

#### **2. CONTRACT ADMINISTRATION**

- 2.1. System Additions and Deletions.** After completing the inspection, Customer may add a system to the Covered System list by contacting Philips. Customer and Philips will agree on a mutually-agreeable price and contract start date. The Covered System will be added to this Agreement after receipt of the signed inventory modification form. Customer may delete Covered System only if: (i) Customer permanently removes it from operation or (ii) it is no longer under Customer's exclusive ownership or control and Customer notifies Philips in writing. The Covered System will be deleted from the contract pursuant to Section 7 of the Service Agreement Terms and Conditions.
- 2.2. Management and Staffing.** If on-site staffing is provided, Philips will determine and provide the management and service staff necessary to provide the Services under this Exhibit. Philips will pay all salaries, payroll and other employment taxes or fees, worker's compensation insurance, and other charges or insurance levied or required by any federal, state, or local statutes, relating to its employees.
- 2.3.** If applicable, Customer shall execute the Subcontracting Confirmation and Agency Authorization Agreement as required by Philips to perform certain duties and responsibilities 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 (as defined below) ("Consumables"), cryogenics, PET calibration sources, film, batteries, cassettes;
  - 3.2.1.** Consumables include, but are not limited to, the following: Biomedical Equipment batteries and battery chargers; biomedical laser tubes; patient use pads; filters; light bulbs and light sources; line cords and power cords; external cables and hoses; patient leads and cables; SpO2 sensors and O2 sensors; Probes (TOCO, Doppler, Biomed Ultrasound, Pencil, Bladder Scan, Temp probe, etc); BP hose/cuff; foot pedals; hand pieces; scopes (laryngoscope, baton, endoscope, etc.); defibrillator cables; paddles and test plugs; or table accessories.
- 3.3.** Cosmetic repairs;
- 3.4.** The cost of factory reconditioning, rebuilds, or overhauls if repairs cannot maintain the equipment in satisfactory operating condition;
- 3.5.** Disposing hazardous, infectious, or biomedical waste or materials;

- 3.6. Providing service to any system under a current service agreement between Customer and another vendor until such agreements expire or are terminated by Customer. Philips is not liable for any cancellation penalty or cost associated with Customer's termination of any such agreement;
- 3.7. Unless otherwise specified in the quote, maintaining or repairing 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, the following are not included in the definition of Biomedical Equipment: arthroscopy instruments, blood pressure cuffs (accessory or attachment), fume hoods, high-end lab analyzers, lead aprons/shields, nurse call, and surgical robots, , electronic thermometer probes, electrosurgical instruments (pencils & pads), general or surgical instruments, laboratory glass, laser tubes, phaco hand pieces (cataract extraction units, accessory or attachment), non-electrical surgical equipment, rigid & semi-rigid scopes.

#### 4. **COVERAGE**

4.1 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 labor and travel rates. Customer will be charged a minimum of two hours on-site time plus applicable travel charges and expenses per service visit.

#### 5. **DOCUMENTATION**

5.1 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 Covered System service manuals for any non-Philips System;
- 6.5. Maintain all software licenses applicable to the Covered System;
- 6.6. For Philips use in remote servicing of the System, provide Philips a secure location for hardware to connect System to Philips Remote Service ("PRS").
  - 6.6.1. The PRS hardware remain Philips' property and is only provided during the term of this Agreement;
  - 6.6.2. Provide Philips and its vendors full and free access to the PRS hardware to enable Philips to remotely access the Covered System or non-Philips System;
  - 6.6.3. Provide Philips at each Covered System Site, at all times during the term of this Agreement, a dedicated broadband Internet access node, including public and private interface access, suitable to establish a successful connection to the System through the PRS and Customer network; and
  - 6.6.4. If the Covered System cannot be connected to the PRS, and Customer fails to provide the access described in Section 6, then Customer waives its rights to Services under this Agreement and any uptime guarantee.

#### 7. **HELIUM REPLENISHMENT (APPLIES ONLY TO MRI SERVICE)**

- 7.1. If Helium Replenishment Service is included in this Agreement, Customer shall report any magnet cooling system (cold-head, compressor, or chiller) malfunction within twenty four (24) hours. If Customer fails to report any malfunctions or provide continuous chilled water or power to the MRI system, then Customer is responsible for any additional helium expenses.
- 7.2. Customer shall provide access to the MRI system to perform helium replenishment, cryo refrigeration system and chiller services during contract hours of corrective and/or planned maintenance services.
- 7.3. If the Covered System is not connected to the PRS, then Customer shall report helium level readings weekly for all MRI systems covered under this Agreement into the Philips Helium Reading Registration System at: <https://heliumreg.onephilipsmdc.com/>.
- 7.4. During the term of the Agreement Customer will immediately inform Philips upon the happening of any of the following:
  - 7.4.1. An on-screen message appears on the Covered System computer that Helium refill is required; or
  - 7.4.2. The liquid helium level is below the minimum operating helium level as indicated in the Instructions for Use. (In such case an on-screen message may also appear on the system computer indicating that scanning will be prohibited within certain days or immediately. In both cases Customer shall immediately inform Philips and in the latter case Customer shall also immediately cease to operate the MRI Equipment);
  - 7.4.3. A sudden, unexpected drop of liquid helium level is encountered; or

- 7.4.4. The MRI magnet refrigeration system is out of order and/or not operational.
- 7.5. Customer shall act on alerts provided by the MRI Equipment and/or monitoring processes which apply to the operating environment condition.
- 7.6. If liquid Helium is purchased by Customer from Philips, Customer shall ensure that the filling of liquid Helium is done by Philips authorized personnel only.
- 7.7. If Helium Replenishment Service is excluded from this Agreement, Philips does not accept any responsibility and Philips will not be liable for any cost or damages due to the loss of liquid Helium or due to the services provided by a third party other than a subcontractor of Philips. Any costs will be fully charged to Customer, including the costs of refill of the liquid Helium, including shipment, labor, duties and taxes.
- 7.8. Customer will inform Philips of any planned power outages.

## Exhibit 4

### UPTIME GUARANTEE

**1. GENERAL**

- 1.1 Philips shall provide to Customer the uptime guarantee specified below ("Uptime Guarantee") on the Covered System listed in the quote and/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.
- 1.2 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**

- 2.1 Measurement Period: The measurement period for determining Uptime Percentage is twelve (12) months beginning on the effective date of this Agreement and thereafter on the anniversary date of the effective date.
- 2.2 Base Hours shall mean 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 this Agreement for each Uptime System.
- 2.3 Downtime shall mean 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 Care Solutions 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 this Agreement. Philips may verify Downtime and adjust calculations accordingly.
- 2.4 Uptime Hours are determined by subtracting the total Downtime from the Base Hours for a particular piece of Uptime System [Uptime Hours = Base Hours – Downtime].
- 2.5 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**

- 3.1 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.
- 3.2 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**

- 4.1 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:

**4.1.1 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

**4.1.2 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**

**5.1** 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 Uptime System within sixty (60) days after the end of a Measurement Period.

**6. WARRANTY DISCLAIMER**

**6.1** 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**

**7.1** 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.



## **OFFICIAL SERVICE HOLIDAY SCHEDULE**

When a holiday falls on a Saturday it will be officially recognized the Friday prior to the holiday. When a holiday falls on a Sunday it will be officially recognized the Monday after the holiday. Designated holidays may differ on an annual basis.

### **HOLIDAY**

New Year's Day

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Day after Thanksgiving Day

Christmas Day

Philips Healthcare, Philips Plaza, 414 Union St 2<sup>nd</sup> Floor, Nashville TN 37219.  
Company schedules are subject to change without notice.

Attachment C



# **TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT POLICY**

Revised December 11, 2012

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## **I. PURPOSE**

The purpose of this policy is to establish uniform travel and business expense reimbursement policies, rules and claim procedures for persons authorized to conduct County business.

## **II. SCOPE**

The County travel and business expense reimbursement policy applies to all County employees, members of legislative bodies established by the Board (salaried or not), non-County employees (such as contractors who receive travel and/or business expense reimbursements) and volunteers traveling on County business.

## **III. DEFINITIONS**

Unless the context otherwise requires, the definitions contained in this part govern the construction of this policy. They do not necessarily apply in other County contexts.

### **A. Accountable Expense Reimbursement Plan**

Reimbursements of travel and other business expenses to a County employee, contractor or volunteer will be considered to be made under an "Accountable Expense Reimbursement Plan" if the following three requirements are met:

- The person substantiates his or her expenses by submitting an expense report with
  - 1) the amount of the expenditure,
  - 2) the time and place of the travel or business entertainment,
  - 3) the business purpose of the expenditure, and
  - 4) the names and business relationship of any persons entertained.
- The person documents the expenses with supporting receipts, paid bills, etc. within 60 days after the expense is paid or incurred, and
- Excess advances, if any, are repaid to the County within 120 days after the expense is paid or incurred.

"County" means the County of Monterey.

### **B. County Business**

"County business" means the activity directly related to the ordinary, necessary and/or required business functions of the County of Monterey ("County"). It does not include travel or expenses related to an employee's participation in the County's Educational Assistance Program or commuting expenses (a non-reimbursable expense).

### **C. County Employee**

"County employee" means any County officer or employee, whether elected or appointed, filling a budgeted position approved by the Board of Supervisors.

Independent contractors and their employees are not County employees.

#### **D. County Traveler**

"County traveler" means any County employee, authorized non-County employee (such as a contractor) or volunteer traveling on County business. Agency temporary employees are not covered by this policy and are not reimbursable for travel.

#### **E. County Volunteer**

"County volunteer" means a person, other than a County employee, who performs volunteer work authorized by a department or the Board of Supervisors for the County, such as a department volunteer, a commissioner or a member of an interview panel. It does not include agency temps, inmates, wards or probationers working for the County.

#### **F. Home**

"Home" means the actual dwelling place of the County traveler without regard to any other legal or mailing address.

#### **G. Main or Regular Place of Work**

"Main or regular place of work" means the principal place of business for the County employee or the principal location to which the County volunteer/contractor is assigned to work for the County. This may be the place at which s/he spends the largest portion of his/her regular County workday or working time or, in the case of field workers, the assigned location/headquarters to which s/he returns upon completion of regular or special assignments.

#### **H. Meals**

Meals that are 1) directly related or associated with bona fide County business matters and 2) approved for reimbursement by a member of the Board of Supervisors or a department head (or his or her designee) will be considered a reimbursable County business expense, if incurred in connection with out-of-County business travel or while conducting in-County business. Also, reimbursement for the provision of in-kind meals to employees on the business premises of the County will only be allowed if there is a substantial non-compensatory business reason for providing such meals to employees.

#### **I. Temporary Work Location**

"Temporary work location" means the place where the County employee, volunteer or contractor is assigned on an irregular or short-term basis. If an employee is assigned to a work location for no more than 35 work days during a calendar year, then the location is considered temporary. Attending conferences, meeting or training sessions away from the main or regular place of work by County employees or volunteers, or field

workers conducting fieldwork at off-site locations, does not normally constitute assignment to another site. If the employee is assigned for more than 35 work days during the calendar year, the new location has become the main or regular place of work.

#### **J. Vehicle**

"Vehicle" means a motor vehicle, which can be legally operated on public highways.

### **IV. AUTHORIZATION TO TRAVEL**

#### **A. General Conditions**

1. Travel will be authorized only when the travel is necessary and in the best interest of the County.
2. Advance authorization is required for all County travel, as specified in B & C.
3. Advance written authorization from the County Administrative Officer is required for all County travel by County volunteers, except as follows:
  - a) Travel by appointed members of County boards, commissions, or advisory committees to and from the official meetings of their respective boards.
  - b) Travel to and from the County for members of personnel interview panels, subject to authorization by the Human Resources Department.
  - c) Travel to and from meetings, conferences and training covered by the County MHSA plan, subject to authorization by the Behavioral Health Program Manager or designee.

#### **B. In-County Travel**

County employees are authorized to travel within the County when said travel is required by the department and is considered a part of the routine, day-to-day official duties of the employee as defined and authorized by the department head or his/her designee. All other in-County travel requires advance authorization by the department head or his/her designee.

#### **C. Out-of-County Travel**

1. All travel outside of the County, but within the State of California, requires advance authorization by the department head, or his/her designee. Travel by immediate staff of a member of the Board of Supervisors requires the advance authorization of the respective Board member.

2. All travel outside of the State of California requires advance written authorization by the department head, or his/her designee. Travel by immediate staff of a member of the Board of Supervisors requires the advance authorization of the respective Board member.
3. Authorization for out-of-state travel by current members of the Board of Supervisors is subject to the guidelines established by the Board.

#### **D. Travel Requests**

Travel requests that require department head authorization shall be submitted to the department head pursuant to department policy. If the traveler is requesting a travel advance, an approved "County of Monterey Travel Request" form (usually in the form of a "white claim" or "GAX"), accompanied by all documentation relative to the request, shall be forwarded to the Auditor-Controller.

### **V. TRAVEL EXPENSES**

#### **A. General Conditions**

1. County travelers are entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals for authorized travel, subject to the conditions set forth in this Travel and Business Expense Reimbursement Policy ("Policy"), whenever the expenses are incurred as part of his/her official duties and authorized because the County traveler is required to work, attend a school, training, meeting or convention overnight at a location sufficiently distant from main or regular place of work to qualify under this policy for meal per diem and overnight lodging.
2. Notwithstanding Section 1 above, claims shall be paid subject to the rules set forth in this Policy and statutory law. Eligibility to submit a claim does not automatically entitle the claimant to reimbursement for any and all expenses.
3. County travelers receiving reimbursement from an outside source for travel on County time shall forward said reimbursement to the County Auditor-Controller for handling and deposit if the traveler intends to submit an expense claim to the County or use County resources to travel. Said travelers shall then be entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals, subject to the conditions set forth in this travel policy.
4. Arrangements for transportation, lodging or registration fees that have cancellation or change penalties shall be carefully monitored by the department. If cancellation/change occurs due to direction by the County traveler's department head, or his/her designee, or the County Administrative Officer, the County department will cover the penalty cost. If the cancellation/change occurs due to a traveler's personal request or obligations, the traveler will be required to pay the



penalty. Exceptions shall be made when a traveler is unable to travel because of hospitalization, serious sickness or death of self or an immediate family member or when the department head certifies that the reason for the employee's absence was legitimate and authorized.

## **B. Transportation Expenses**

### 1. General Conditions

- a) Transportation expenses are the direct costs related to movement of the County traveler from authorized point of departure to destination of travel and back to the authorized point of return.
- b) All transportation expenses incurred shall be based upon the most efficient, direct, and economical mode of transportation required by the occasion.
- c) Whenever a time frame is established as criteria for eligibility for claiming, such as the requirements set forth for meals in Section V, subsection C. 1. d., estimated travel time shall be based upon legal vehicle speed limits, volume of traffic, and weather conditions in effect at the time of travel.

### 2. Vehicle Transportation

Vehicle use (both County-owned and private) by authorized County travelers during the conduct of official County business is subject to the County Vehicle Use Policy.

#### a) Private Vehicle

- (1) Travel by private vehicle will be reimbursed at the IRS rate for business use of a personal vehicle in effect in the County at the time of travel.
- (2) Authorized County travelers who travel in a vehicle other than their own may not claim mileage for business use of a private vehicle but may claim reimbursement of actual fuel expenses necessary for the trip and expended by the traveler. Receipts are required and should be claimed by the employee actually paying the expense.
- (3) Authorized County travelers may not claim mileage for business use of a private vehicle in the following instances:
  - (a) when the County traveler is riding with someone who will be claiming reimbursement for the vehicle's use from the County or another source;
  - (b) when the County traveler is traveling in a County or other government

agency vehicle;

- (c) when the County traveler is traveling in a rented vehicle (paid by County);
  - (d) when the County traveler has been assigned a County Vehicle for home retention, is receiving an allowance or lump sum for mileage, unless specifically provided for in the terms of their agreement or contract with the County or by Board resolution.
- (4) County employee mileage to the regular or main place of work from home, and back, is considered commuting and may not be claimed.
  - (5) County employee mileage to the temporary work location from home, and back, is considered commuting and may not be claimed except in the following cases:
    - (a) if the County employee is required to report to the regular or main place of work before reporting to the temporary work location, s/he is eligible for mileage from the regular or main place of work to the temporary work location;
    - (b) if the County employee is required to report to the regular or main place of work after working at the temporary work location and before going home, s/he is eligible for mileage from the temporary work location to the regular or main place of work.
  - (6) Mileage in conjunction with authorized County travel to and from a school, training, convention or meeting shall be based on the distance to the destination from the traveler's home or the regular or main place of work, whichever is less, except in the following cases:
    - (a) if the traveler is required to report to his/her work location before leaving, s/he is eligible for mileage to the school, training, convention/meeting from the work location.
    - (b) if the traveler is required to report to his/her work location before returning home, s/he is eligible for mileage based on the distance from the school, training, convention/meeting to the work location.
  - (7) Appointed volunteer members of County boards, commissions, or advisory committees may claim mileage to the official meetings of their respective boards from home, and back.
  - (8) Members of personnel interview panels may claim mileage to the panel location from their regular or main place of work, and back.

- (9) When two or more County travelers from the same department are traveling to the same site by vehicle, they should use only as many vehicles as are required to accommodate the number of travelers and business needs of the County. If a County traveler chooses to use a separate private vehicle because of personal preferences or obligations, h/she shall not be eligible for mileage or fuel reimbursement for the travel unless the department head determines that reimbursement is appropriate and justified.
- (10) If a County traveler chooses to use a private vehicle instead of an alternative mode of transportation chosen by the department head because of personal preferences or obligations, his/her mileage reimbursement shall not exceed the cost of using the alternative mode of transportation unless the department head determines that the additional reimbursement is appropriate and justified.

b) County Vehicle Transportation

- (1) County travelers using a County vehicle for traveling shall not be eligible for reimbursement for mileage.
- (2) County travelers required to fuel a County vehicle at their own expense should claim the actual fuel costs expended by them. Receipts must accompany the claim. Vehicle license number and the odometer reading should be written on the receipts.
- (3) If the County vehicle experiences mechanical failure, the County traveler shall follow the rules set forth in the "Mechanical Failure" section of the "Vehicle Operator's Handbook" located in the glove compartment of each County vehicle.

c) Rental Vehicle Transportation

- (1) Vehicles may be rented for transportation at the destination point when the County traveler travels to the destination via commercial common carrier and the cost of the rental will be less than the charge for shuttle or taxi service to and from the carrier termination point to the function or hotel accommodations.
- (2) Vehicles may be rented for transportation to the destination point when the cost of the rental will be less than other reasonable and available modes of transportation.
- (3) If more than one County traveler from the same department is traveling to the same function, only one rental vehicle may be claimed and then only if

it is available for use by all of the County travelers.

- (4) The County traveler shall choose the least expensive size and mileage limits appropriate to the use required. Rental expenses for luxury cars, motorcycles and recreational vehicles may not be claimed.
- (5) Rental cars shall be refueled prior to return to the rental agency to reduce cost to the County. Rental cars should be returned to the renting location and on time to avoid additional charges.
- (6) When traveling domestically the County traveler shall waive additional vehicle insurance (except for additional driver and coverage for drivers under 25 years of age), provided that the employee has his/her own vehicle insurance coverage. When traveling internationally additional insurance should be accepted if the traveler lacks other similar coverage.
- (7) An original car rental receipt showing the number of days and type of vehicle rented is required for vehicle rental claims. A copy of the receipt or a credit card receipt alone is insufficient.

d) Commercial Carrier Transportation

- (1) County travelers shall seek and attempt to use the lowest rates available for the type of commercial carrier service being utilized. Whenever possible, travelers should take advantage of flight arrangements that minimize County cost (for example, purchasing a round trip ticket may be less expensive than two one-way tickets). Reservations should be made as far in advance as possible to take advantage of available discounts and special offers. Travel agents that have added ticket handling charges should be avoided.
- (2) Claims for travel via commercial carrier shall be limited to the cost of travel at economy rates for the same day and time of travel or actual cost, whichever is less. County travelers may upgrade tickets, provided that the traveler and not the County pay for the difference in cost for such upgrade. The County will not reimburse any type of travel insurance unless the Department Head requests the traveler to purchase cancellation coverage. Reasonable baggage charges, if imposed by the airline, on the first checked bag are reimbursable.
- (3) Claims for commercial carrier tickets shall be substantiated by an original ticket document (such as an e-ticket or passenger receipt ticket copy) showing the price, date, date/time of travel and class of travel. A copy of the credit card receipt or statement from a travel agency alone is insufficient.

- (4) County business traveler may retain frequent flyer/hotel rewards and similar program benefits. However, participation in these programs must not influence flight/hotel/etc. selection, which would result in incremental cost to the County beyond the lowest available airfare/hotel cost unless the difference is paid by the traveler. Free tickets or cash allowances for volunteering to be denied timely boarding may be retained by the traveler but no additional cost to the County or interruption of County work is allowed and any additional time required to complete the trip is to be personal time.
- (5) Should a Saturday night stay reduce the cost to the County of a ticket more than the total of any additional hotel/meal/parking cost, the costs to do so are reimbursable to the traveler but should be well-documented with a clear savings to the County.

e) Private Aircraft Transportation

- (1) Traveling by private aircraft which is flown by a County employee may be authorized if it will be the most efficient means of travel and the flight is incidental to the purpose of the County travel. Said use shall require the advance written approval of the County Administrative Officer. If approved, the following must be provided to the Auditor-Controller's Office in advance of the travel:
  - (a) a copy of the pilot's Federal Aviation Administration (FAA) pilot's certificate and instrument rating for the category and class of aircraft to be flown and the type of flying to be performed;
  - (b) a copy of the pilot's current medical certificate;
  - (c) a copy of the FAA Pilot Proficiency Award Program certificate issued to the pilot within the twelve months prior to the flight;
  - (d) a copy of the pilot's flight log showing a minimum of 250 hours of flight time within the twelve months prior to the flight;
  - (e) a certificate of public liability and property damage insurance of not less than \$1,000,000 naming the County as an additional insured.
- (2) Traveling by private aircraft, which is flown by a non-County employee, except for flights conducted by members of the Sheriff's Air Squadron in the performance of their official duties, is normally prohibited.
- (3) County travelers who operate a private aircraft in connection with approved County travel may be reimbursed the actual cost paid by the

traveler for fuel used by the aircraft on the trip or the County's mileage rate for each air mile at the travelers option.

f) Other Transportation Expenses

(1) The following necessary transportation expenses may be claimed at actual cost (receipt required) when directly related to transporting the County traveler to and from the business destination point:

- (a) taxi, shuttle, or public transit fares;
- (b) parking fees (airport long-term parking is required for travel exceeding 24 hours);
- (c) bridge, road or ferry tolls;
- (d) other actual transportation expenses determined to be reasonable and necessary by the department head and the Auditor-Controller.

(2) The following transportation expenses may not be claimed:

- (a) traffic and parking violations;
- (b) emergency repairs or non-emergency repairs on non-County vehicles;
- (c) personal travel while at an out-of-County location;
- (d) other actual transportation expenses determined to be unreasonable or unnecessary by the department head or the Auditor-Controller.

**C. Meal Expenses**

1. Eligibility for Meals

- a) County employees, contractors and volunteers may be reimbursed for in-County meal costs that are 1) ordinary (not extravagant) and necessary, 2) directly related or associated with bona fide County business matters and 3) approved by a member of the Board of Supervisors or a department head (or his or her designee). County business discussions associated with a meal must be conducted in a “clear business setting”.
- b) County travelers involved with in-County travel that does not require an overnight stay away from their home are not eligible to claim for meals taken outside the County, unless the requirements of paragraph a) above are met, or unless provided for in a Board of Supervisor-approved written County policy.

- c) County travelers on out-of-County business travel that requires an overnight stay away from their home are eligible to claim for meals taken out-of-County.
- d) County travelers are eligible to claim the meal reimbursements noted below for travel requiring overnight lodging if the total travel time (work time, plus the lunch period plus round-trip travel time) is estimated to equal or exceed 12 hours.
  - (1) Breakfast may be claimed if the County traveler must reasonably be away from home because of County business travel at or before 7:00 a.m.
  - (2) Lunch may be claimed if the County traveler must reasonably be away from home because of County business travel at or before Noon.
  - (3) Dinner may be claimed if the County traveler must reasonably be away from home because of County business travel at 7:00 p.m. or after.
- e) Snacks are a personal expense, not reimbursable.
- f) Claims for meals purchased by a County employee or volunteer on behalf of federal, state or local public officials or employees is prohibited, including any other Monterey County employees, unless provided for under other Board of Supervisor approved written County policies.
- g) County travelers are not eligible to claim meals or other expenses for those persons who are not otherwise eligible to file a claim themselves for County reimbursement.
- h) County travelers are not eligible to keep or claim per diem allowances for anyone other than themselves.

## 2. Meal Claims

- a) The County maximum full day meal and incidental expenses rate shall be equal to the maximum federal per diem meal and incidental expenses (M&IE) rate established by the GSA. Said maximums include taxes and gratuities.
- b) Meal expense amounts shall be calculated by the Auditor-Controller for first and last partial days of travel based on the maximum federal per diem meal rate for the appropriate meal(s).
- c) Claims for out-of-County meals taken in conjunction with travel that includes an overnight stay away from the traveler's home shall be reimbursed in the form of a "per diem allowance", which means the traveler is eligible to be reimbursed at the maximum rate allowed and receipts are not required (except for Board of

Supervisor Members). Partial days shall be reimbursed at the appropriate meal rate.

- d) Allowable meal costs may only exceed the prescribed per diem rates if the meal is being served at a conference or workshop and the costs of the speaker, conference, and/or registration are included in the price. The agenda/brochure or other documentation describing the event and the price must accompany the claim to the Auditor-Controller's Office.
- e) A County traveler may not claim a per diem allowance or reimbursement for any meal which is provided, or otherwise available, to the County traveler with the lodging or function, whether or not there is an actual charge for the meal. For example, if lunch is provided at the function or breakfast is included in the cost of lodging, the traveler may not claim a per diem allowance or request reimbursement for eating elsewhere. For purposes of this section, continental breakfast and meals provided during airline or other commercial carrier travel do not constitute provided meals and do not need to be deducted from the per diem allowance. A County traveler may not claim a per diem allowance for a meal that was paid for by someone else.
- f) If a breakfast is included in the cost of lodging, the traveler may not claim for a breakfast meal; however, s/he may apply the next day's breakfast allowance amount towards the maximum lodging amount. For example, if the maximum lodging amount is \$79.00 and the breakfast allowance is \$8.00, the employee may claim up to a maximum of \$87.00 for lodging which includes a continental breakfast. (For purposes of this section, continental breakfast does not constitute a provided breakfast meal.)
- g) Claiming for alcoholic beverage expenses are prohibited in all cases.
- h) As required by California Government Code 53232.2 Board of Supervisors members must provide receipts for all meals and will be reimbursed at the lower of the appropriate per diem amount or the actual expense.

## **D. Lodging Expenses**

### **1. Eligibility for Lodging**

- a) County travelers are not eligible to claim for lodging for in-County functions.
- b) For out-of-County business that is conducted on one business day, if the County traveler's actual time for the day is estimated to equal or exceed 12 hours (including work time, the lunch period and round-trip travel time), then the County traveler will have the option of securing one night's lodging at either the



front-end or back-end of the trip. Illustration: A member of the County Board of Supervisors who resides in Monterey County is required to attend a one-day business meeting in Sacramento. The Board member estimates that his total time for the day without obtaining lodging would be 14 hours (8 hours of meetings, 1 hour for lunch and 5 hours for round-trip travel). The Board member will have the option of securing one night's lodging in Sacramento, either the night before the meeting, or after conclusion of the meeting.

- c) For out-of-County business that requires multiple business days, if County travelers are eligible to claim lodging for the first and last evenings of an out-of-County trip, they are also eligible to claim lodging for any evenings that fall in between the first and last evenings of the trip.
- d) County travelers are not eligible to claim reimbursement of lodging costs when staying overnight as a guest of friends or relatives.

## 2. Lodging Claims

- a) Lodging expenses shall be claimed at either the actual cost of the lodging (limited to the single occupancy rate for a single room) or the County's maximum lodging rate (Federal Per Diem Rate), whichever is less. Receipts are required. Taxes are in addition to the Federal Per Diem Rate.
- b) Lodging costs may exceed the County's maximum lodging rate only when a conference, meeting or convention is being sponsored by an organization of which the County, the department or employee is a member, the lodging may be claimed at the actual cost if seminars or meetings are to be held at the particular hotel and/or events are scheduled for evening hours, and the department head has given advance written authorization.
- c) An original room folio receipt, showing the number of days and the number of occupants, is required for lodging claims. A copy of the receipt, travel agency statement or a credit card receipt alone is insufficient.
- d) When a room is shared with a fellow County traveler, the expense may either be prorated, and the prorated amount claimed by each County traveler, or one County traveler may claim the total expense at the multiple occupancy rate.
- e) When a room is shared with a person other than a County traveler and said person will also be claiming reimbursement from the County or another source, the amount shall be prorated between the two travelers.
- f) Lodging expense may not be claimed for guests of the County traveler. Where expense for a family member or friend is included in the receipt, the claim must not exceed the single occupancy rate.

- g) Special lodging, such as accommodations in apartments, RV parks, campgrounds or other semi-permanent lodgings, shall require advance written authorization of the County Administrative Officer and the Auditor-Controller.
- h) County travelers should inquire when making lodging arrangements whether the County is exempt from Transient Occupancy Taxes (TOT) in the locale where they are staying and should provide the necessary form to the lodging facility, if required to do so to obtain the waiver.
- h) Except when registering for lodging at a pre-arranged group rate in conjunction with a conference or meeting, County travelers shall request the government rate or lowest available eligible rate when making lodging arrangements.
- i) Travelers are responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Travelers will not be reimbursed for “no-show” hotel charges unless there are unavoidable reasons for not canceling the room.
- j) When multiple county travelers are traveling together and the rooms are put on one invoice, one traveler may take care of the invoice but should provide the details on who stayed in each room on the invoice.

#### **E. Registration Fees**

Conference, convention and seminar registration and tuition fees may be claimed at the actual cost, provided that the agenda/brochure or other documentation describing the event, including the price, accompanies the approved claim to the Auditor-Controller's.

#### **F. Other Travel Expenses**

1. County travelers are eligible to claim a per diem incidental allowance, limited to the maximum federal per diem incidental rate established by the IRS, for each day of travel requiring an overnight stay away from the traveler's home. Said allowance covers fees and gratuities for persons who provide services, such as food servers and luggage handlers, and does not require receipts (Except for Board of Supervisors Meals). If applicable (such as a Board of Supervisor meal), gratuities are limited to not exceed 15% of the service costs unless billed by a provider's standard policy at a higher rate.
2. County travelers are eligible to claim the following expenses at actual cost, even if they also qualify for a per diem incidental allowance. Receipts are required.
  - a) County business calls (traveler must annotate purpose of call on the bill)
  - b) fax machine charges incurred to send or receive documents for County use.

- c) copy machine charges incurred to copy documents for County use.
- d) Internet access connection and/or usage fees away from home not to exceed \$15.00 per day, if Internet access is necessary for county related business.
- e) other business related expenses determined to be reasonable and necessary by the department head and the Auditor-Controller.

## **VI. OTHER COUNTY BUSINESS EXPENSES**

### **A. General Guidelines**

In the course of conducting County business, employees, contractors or volunteers may incur business expenses (including meal expenses pursuant to Section V.C) on behalf of the County. Such expenses will be approved for reimbursement if the disbursement meets the following requirements:

- The disbursement is for an ordinary (not extravagant) and necessary expense of conducting County business, or is an expense that is required by the County,
- The expense is approved by a member of the County Board of Supervisors, or a County department head (or his or her designee), and
- The payee accounts for the expense in accordance with the rules for a “Accountable Expense Reimbursement Plan”, as set forth in the Internal Revenue Code and related regulations.

### **B. Taxation of Business Expense Reimbursements**

If a reimbursement to an employee, contractor or volunteer meets the requirements of an “Accountable Expense Reimbursement Plan”, then such reimbursement will not be reportable for federal or California income tax purposes.

## **VII. CLAIMING PROCEDURES FOR OUT-OF-COUNTY TRAVEL**

### **A. Travel Advance Claims**

#### **1. Authorizations and Eligibility**

- a) Travel advances are strongly discouraged and are only available to County employees. The issuance of travel advances creates double work for departmental and auditor-controller staff and should only be used if a County travel card cannot be used or the employee does not have a personal credit card. Board of Supervisors Members are not eligible for travel advances.

The first choice is for travelers to use their personal credit cards to pay for their

travel expenses and be reimbursed before their monthly statement arrives. Secondly, the County has arranged for the use of the Travel Card to pay many travel related expenses. Departments may use their Travel Cards to pay for airline tickets and conference registration expenses for all of their employees, not just the cardholder. Commercial carrier and conference registration expenses should not be considered in the advance calculation. The third choice would be a cash advance, if necessary.

- b) Travel advances require the authorization of the department head or his/her designee, and the Auditor-Controller or his/her designee.
- c) The net amount of the travel advance shall not exceed the following:
  - (1) 75% of the total estimate for the following travel expenses, exclusive of payments made payable directly to the vendor:
    - (a) lodging (documentation, including at least the confirmation number and hotel name should be provided), including hotel parking
    - (b) rental vehicle transportation;
    - (c) per diem meal allowances;
    - (d) long-term airport parking;
    - (e) other out-of-pocket expenses deemed necessary and reasonable by the Auditor-Controller.
  - (2) 50% of the total estimate of reimbursement for mileage for business use of a private vehicle.
- d) A travel advance shall not be issued for a net amount less than \$100.00 nor more than \$2,000.00.
- e) A travel advance shall not be issued more than thirty (30) calendar days in advance of the commencement of travel.
- f) Travelers are not eligible for an additional travel advance if they have an unsettled advance, unless the advances are for travel taken consecutively. In such case, the sum total of the travel advances shall not exceed \$2,000.00.

## 2. Travel Advance Requests

- a) Requests for travel advances involving travel shall be submitted by the department head to the Auditor-Controller's Office on a completed and signed

"County of Monterey Travel Request" form, accompanied by all documentation relative to the request, at least ten (10) working days in advance of the commencement of travel.

- b) After a completed and approved "County of Monterey Travel Request" form is received by the Auditor-Controller's Office, a warrant payable to the County traveler for the amount requested shall be issued, up to the 100% maximum amount allowed pursuant to this County travel policy.

### 3. Travel Advance Settlements

- a) Within five (5) working days of completion of travel, the County traveler shall submit all receipts for allowable travel expenses to the Department and within fifteen (15) working days of completion of travel to the Auditor-Controller's Office on a completed County claim form. Credit for the travel advance shall be subtracted from the amount owed to the County traveler.
- b) In the event that allowable expenses are less than the amount of the travel advance, the County traveler shall submit the difference in the form of a check or money order made out to the "County of Monterey" with the claim form.
- c) County travelers who cannot provide a required receipt shall reimburse the County for the amount of the money advanced to them for that expense.
- d) Travelers who do not submit the required documentation by the time frames set forth above may lose their eligibility for future travel advances.
- e) Department heads are responsible for ensuring that their employees settle their travel advance claims within the time frames set forth in subsection a) above. Non-compliance may jeopardize advances for the entire department.

## **B. Prepaid Vendor Claims**

### 1. Vendor Claim Requests

- a) Once travel has been authorized, claims to the vendor may be submitted for lodging and registration fees when there is sufficient time for the check to be processed before the authorized County traveler commences travel.
- b) If the travel requires a "County of Monterey Travel Request" form, the approved form shall be submitted with the claim. If the original has been submitted with a previous claim, then that shall be noted on the claim form and a copy of the form attached.
- c) Whenever possible, the County shall be named as registrant for events to allow

transfer of attendance privilege when conflicts prevent the original registrant from attending.

- d) The County will mail the warrant directly to the vendor unless the traveler requests that the warrant be returned to them to hand carry to the vendor.

## 2. Vendor Claim Settlements

- a) Each vendor claim must have an original receipt attached in order to settle the claim. The required receipts for vendor claims that have been prepaid shall be forwarded to the Auditor-Controller's Office within thirty (30) calendar days after completion of travel.
- b) Claims paid directly to vendors that are not substantiated by receipts within thirty (30) calendar days of the completion of travel shall be considered to be unsettled travel advances to the County traveler.
- c) Department heads are responsible for ensuring that their employees return their receipts within the time frames established by this policy. Non-compliance may jeopardize the department's ability to have travel expenses paid in advance.
- d) In the event that all or a portion of the prepaid cost to a vendor is reduced after the check has been processed, the County traveler is responsible for ensuring that the entire difference is returned to the County within the time frames established for settling the claim.

## **C. Travel Reimbursement Claims**

1. After completion of travel, the County traveler shall submit a completed County claim form to the department head for authorization. After review and authorization, the department head shall submit the authorized claim, together with any required receipts, to the Auditor-Controller's Office. Said claim shall be received by the Auditor-Controller's Office within thirty (30) calendar days of the completion of travel.
2. The traveler shall not be reimbursed until s/he has signed the certification for the claim that is required by the Auditor-Controller's Office.
3. The Auditor-Controller's Office shall review the claim for compliance with applicable County policies and procedures. If approved by the Auditor-Controller's Office, the claim shall be processed and a check sent to the claimant within ten (10) working days. If denied, or denied in part, the department's contact person will be notified immediately. The Auditor-Controller has the final decision on allowable expenses.
4. No reimbursement for travel shall be paid to the employee until all required receipts

for the travel claim have been filed with the Auditor-Controller's Office.

5. Travel reimbursements are to be paid via checks and not to be paid via petty cash.

#### **D. Mileage Claims**

1. Whenever travel requires advance authorization of the department head, or his/her designee, the resulting mileage expense shall be claimed on the same claim form as the other expenses that apply to that travel. The only exception is if mileage is the only expense of the trip, in which case the traveler may claim the mileage on the monthly "Mileage Reimbursement" claim form.
2. Whenever travel does not require advance authorization of the department head, or his/her designee, the resulting mileage expense shall be claimed on the "Mileage Reimbursement" claim form.
3. Mileage claims shall be submitted monthly, unless the total for the month is less than \$50.00, in which case the claim may be held for an additional month. However, the claim must not be held over to the next month more than twice, regardless of the dollar amount.
4. All mileage claims for the last month of the fiscal year must be processed by year-end close.
5. Mileage Claims are to be paid via warrants and not to be paid via petty cash.

#### **E. Reimbursement by Outside Source**

1. County travelers receiving reimbursement from an outside source for travel on County time shall forward said reimbursement to the Auditor-Controller for handling and deposit if the traveler intends to submit an expense claim to the County or use County resources, including a County vehicle, to travel. In such cases, the traveler shall then be entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals, subject to the claiming conditions set forth in this travel policy. Said reimbursement shall be delivered to the Auditor-Controller's Office within thirty (30) days of the receipt of the funds.
2. If a County volunteer or non-employee will be receiving a per diem or other reimbursement of travel expenses from a source outside of the County, the volunteer shall not be eligible to claim or receive any additional reimbursement from the County for the same expenses.

#### **F. Late Claims**

If a claim for reimbursement or settlement of a travel claim is submitted after the allowed time frames, the payment to the employee shall not be made until the claim has

been reviewed and approved by the Auditor-Controller or his/her designee.

**G. Travel Card Use**

Subject to the rules contained in the Travel Card Policy, travel expenses (airline, hotel, vehicle rental, gas, emergency repair of county vehicles and airport parking) may be charged to County of Monterey Travel Cards. Prohibited items include employee meals, room service, movies, cash advances, gift cards of any kind, liquor, tobacco and other items prohibited by the Travel Card Policy. Under no circumstances should personal items (even if reimbursed to the county) be charged to the travel card. Expenses paid on the travel card should not be included on a claim for reimbursement.

**VII. INTERPRETATIONS**

The Auditor-Controller, or his/her designee, shall be responsible for interpretations of this policy.

**VIII. EXCEPTIONS**

Exceptions to this policy require the approval of the Auditor-Controller or his/her designee.

**IX. CONFLICT WITH RULES**

In the event that this County Travel policy is in conflict with another County policy, the policy with the strictest application shall prevail.



## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) effective July 3, 2017 (“Effective Date”), is entered into by and among between the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (“Covered Entity” or “NMC”) and Philips Healthcare, a division of Philips North America LLC and its Affiliates (“Business Associate”) (each a “Party” and collectively the “Parties”).

### RECITALS

A. WHEREAS, Business Associate provides certain Services for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (the “Security Rule”), (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, The Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, The Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA, sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“E PHI”) shall be handled, in accordance with such requirement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

### AGREEMENT

#### 1. DEFINITIONS.

1.1 All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in the Privacy Rule, the Breach Notification Rule, or the Security Rule.

(a) “Breach” shall have the same meaning as “breach” as defined in 45 C.F.R. § 164.402 and shall mean the access, acquisition, Use, or Disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the privacy or security of the PHI; the term “Breach” as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient’s “medical information” as defined under Cal. Civil Code § 56.05(j), for

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and revised on 12/09/16*

which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a “breach of the security of the system” under Cal. Civil Code §1798.29.

(b) “California Confidentiality Laws” shall mean the applicable laws of the State of California governing the confidentiality of PHI or Personal Information, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq.), the patient access law (Cal. Health & Safety Code §123100 et seq.), the HIV test result confidentiality law (Cal. Health & Safety Code §120975, et seq.), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code §5328, et seq.), and the medical identity theft law (Cal. Civil Code 1798.29).

(c) “Protected Health Information” or “PHI” shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individuals, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity’s behalf. **PHI includes EPHI.**

(d) “Services” shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to a Services Agreement between Covered Entity and Business Associate to which this BAA applies.

## **2. PERMITTED USES AND DISCLOSURES OF PHI.**

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws;

(b) Use or Disclose PHI for the purposes authorized by this BAA or as otherwise Required by Law;

(c) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will

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remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached;

(f) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1); and

(g) De-identify any PHI obtained by Business Associate under this BAA in accordance with 45 C.F.R. § 164.514 and Use or Disclose such de-identified information only as required to provide Services pursuant to a Services Agreement between the Parties, or with the prior written approval of Covered Entity.

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI.**

**3.1. Responsibilities of Business Associate.** With regard to its Use and/or Disclosure of PHI, Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted or required by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Breach. Such notice shall be provided within five (5) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in a Breach. A ransomware attack shall not be considered an ineffective Security Incident and shall be reported to Covered Entity, irrespective of whether such Security Incident results in a Breach. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon request. If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall comply with the requirements of Section 3.1(a)(i) below;

(i) Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than five (5) business days after discovery of the Breach;

(ii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government

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agencies, and, if applicable, the media. Business Associate shall assist with the implementation of any decisions by Covered Entity to notify individuals or potentially impacted individuals;

(b) In consultation with the Covered Entity, Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate shall reimburse Covered Entity for its reasonable costs and expenses in providing any required notification to affected individuals, appropriate government agencies, and, if necessary the media, including, but not limited to, any administrative costs associated with providing notice, printing and mailing costs, public relations costs, attorney fees, and costs of mitigating the harm (which may include the costs of obtaining up to one year of credit monitoring services) for affected individuals whose PHI or Personal Information has or may have been compromised as a result of the Breach;

(c) Implement appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent Use and/or Disclosure of EPHI other than as provided for by this BAA;

(d) Obtain and maintain a written agreement with each of its Subcontractors that creates, maintains, receives, Uses, transmits or has access to PHI that requires such Subcontractors to adhere to substantially the same restrictions and conditions with respect to PHI that apply to Business Associate pursuant to this BAA;

(e) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule. In addition, Business Associate shall promptly make available to Covered Entity such books, records, or other information relating to the Use and Disclosure of PHI for purposes of determining whether Business Associate has complied with this BAA or maintains adequate security safeguards, upon reasonable request by Covered Entity;

(f) Document Disclosures of PHI and information related to such Disclosure and, within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

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(g) Subject to Section 4.4 below, return to Covered Entity within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(h) Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) days' prior written request from Covered Entity, provide access to the PHI to Covered Entity to meet a request by an individual under 45 C.F.R. § 164.524. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for access to PHI from an Individual; and

(ii) Upon ten (10) days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for amendment of PHI from an Individual;

(j) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(k) Unless prohibited by law, notify the Covered Entity within five (5) business days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge, provided that all costs and expenses associated with such a challenge shall be borne by the Covered Entity; and

(l) Maintain policies and procedures materially in accordance with State Confidentiality Laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

### **3.2 Business Associate Acknowledgment.**

(a) Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

(b) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA and the HITECH Act. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

(c) Business Associate further acknowledges that uses and disclosures of protected health information must be consistent with NMC's privacy practices, as stated in

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NMC's Notice of Privacy Practices. The current Notice of Privacy Practices can be retrieved online at: <http://www.natividad.com/quality-and-safety/patient-privacy> . Business Associate agrees to periodically review the NMC Notice of Privacy Practices at this URL while doing business with NMC to ensure it remains updated on any changes to the Notice of Privacy Practices NMC may make.

**3.3 Responsibilities of Covered Entity.** Covered Entity shall, with respect to Business Associate:

(a) Provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) Notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI;

(c) Notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; and

(d) Notify Business Associate of any restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

#### **4. TERM AND TERMINATION.**

**4.1 Term.** This BAA shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Section 4. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

**4.2 Termination.** If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) terminate this BAA within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured; or (ii) if Business Associate does not cure the breach or end the violation, Covered Entity may terminate the Agreement. If a cure is not reasonably possible, Covered Entity may immediately terminate this Agreement.

**4.3 Automatic Termination.** This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services related to services associated with the Vital Signs monitors as defined in Philips Quote #2300680489 to Covered Entity.

**4.4 Effect of Termination.** Upon termination or expiration of this BAA for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. To the extent it is not feasible for Business

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Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity with a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its Subcontractors. In such event, Business Associate shall: (i) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or carry out its legal responsibilities; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Section 2 above, which applied prior to termination; and (vi) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

## **5. MISCELLANEOUS.**

**5.1 Survival.** The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 3.1, 4.4, 5.7, 5.8, 5.11, and 5.12 shall survive termination of this BAA until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this BAA, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

**5.2 Amendments; Waiver.** This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA, the HITECH Act, or California Confidentiality Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**5.3 No Third Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

**5.4 Notices.** Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Philips Healthcare  
22100 Bothell-Everett Highway, MS 665  
Bothell, WA 98021  
Attn: HIPAA Coordinator

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With a copy to:

Philips Healthcare  
22100 Bothell-Everett Highway, MS 522  
Bothell, WA 98021  
Attn: Legal Department

If to Covered Entity, to:

Natividad Medical Center  
Attn: Compliance/Privacy Officer  
1441 Constitution Boulevard  
Salinas, CA 93906  
Phone: 831-755-4111  
Fax: 831-755-6254

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

**5.5 Counterparts; Facsimiles.** This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

**5.6 Relationship of Parties.** Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

**5.7 Choice of Law; Interpretation.** This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with the Privacy Rule, the Security Rule, and the California Confidentiality Laws.

**5.8 Indemnification.** Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all (a) costs and expenses, including attorney's fees, to fulfill any notification obligations imposed on Covered Entity arising from Business Associate's unauthorized access, use or disclosure of PHI, (b) penalties imposed by a federal or state agency against Covered Entity to the extent such penalty is imposed upon Covered Entity for Business Associate's acts or omissions under HIPAA privacy and security rules or HITECH, and (c) subject to a \$2,000,000 per occurrence and \$4,000,000 aggregate limitation, any third party claims, demands, awards, judgments, actions and proceedings to the extent arising out of, or in connection with, a material violation of this BAA or a Breach that is directly attributable to an act or omission of Business Associate and/or its agents members, employees, or Subcontractors.. This provision

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is in addition to, and independent of, any indemnification provision in any related or other agreement between the Parties.

**5.9 Applicability of Terms.** This BAA applies to all present and future Service Agreements and Business Associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

**5.10 Insurance.** Business Associate maintains adequate levels of insurance based on current industry standards for the services provided. Business Associate's insurance coverage shall include coverage for any and all claims, liabilities, demands, damages, losses, costs and expenses arising from the negligent acts, errors and omissions of Business Associate, its officers, employees, agents and Subcontractors under this BAA. A copy of the certificate of insurance form shall be provided as evidence of Business Associate's standard insurance coverage. Business Associate's current insurance limits are shown below and Business Associate agrees that it shall continually maintain insurance coverage as evidenced:

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS IN USD UNLESS OTHERWISE INDICATED	
A	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY OCCURRENCE	GLD12308-04	31-Dec-2016	31-Dec-2017	GENERAL AGGREGATE	\$6,000,000
					PRODUCTS - COMP/OP AGG	\$6,000,000
					PERSONAL AND ADV INJURY	\$2,000,000
					EACH OCCURRENCE	\$2,000,000
					MED EXP (ANY ONE PERSON)	\$10,000
					DAMAGE to RENTED PREMISES (Ea. Occurrence)	\$500,000
B	AUTOMOBILE LIABILITY ANY AUTO	CAS4047561	31-Dec-2016	31-Dec-2017	COMBINED SINGLE LIMIT (each Accident)	\$2,000,000
					BODILY INJURY (PER PERSON)	
					BODILY INJURY (PER ACCIDENT)	

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					PROPERTY DAMAGE	
B B	WORKERS COMPENSATION / EMPLOYERS LIABILITY	LDS4047559 (AOS) PS4047560 (WT)	31-Dec-2016 31-Dec-2016	31-Dec-2017 31-Dec-2017	WORKERS COMP LIMITS EL EACH ACCIDENT EL DISEASE - POLICY LIMIT EL DISEASE - EACH EMPLOYEE	Statutory \$2,000,000 \$2,000,000 \$2,000,000
B	EXCESS WORKERS COMPENSATION	SP4056203 (OH, WA)	31-Dec-2016	31-Dec-2017	SIR \$500,000	\$1,500,000

**5.11 Legal Actions.** Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

**5.12 Audit or Investigations.** Promptly, but no later than five (5) business days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

**BUSINESS ASSOCIATE**

**COVERED ENTITY**

By: Judy Hiramine  
 Print Name: Judy Hiramine  
 Print Title: HIPAA Coordinator  
 Date: July 3, 2017

By: Kristen Aldrich  
 Print Name: Kristen Aldrich for Gary R Gray  
 Print Title: Deputy Purchasing Agent  
 Date: 11-15-17

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