

## Philips Medical Direction Terms and Conditions

The services listed in the quotation (or purchase order) are offered by Philips Healthcare ("Philips") to the customer that is described in the quotation (or purchase order), that signs below or otherwise accepts these terms and conditions ("Customer") only under the terms and conditions described below. The services described herein shall be provided only on the Philips AED(s) expressly described in the applicable quotation (or purchase order) or the Customer profile template provided by Philips ("Equipment" or "AED").

1. Medical Direction Services. If "Medical Direction Services" is purchased, then Customer is entitled to the following services provided by a licensed physician or other medical professional ("Medical Director") experienced in basic life support care and early defibrillation plan protocols:
  - a. An initial prescription for each covered AED purchased, if necessary.
  - b. Annual review of Customer's CPR/AED training program, if and as requested, with respect to frequency of training, number of persons to train and type of training.
  - c. Annual review of policies (i.e., respective responsibilities or program participants) and protocols pertaining to Customer's early defibrillation plan, if and as requested.
  - d. 24-hour pager support for clinical non-emergencies regarding the use of an AED.

Customer acknowledges that delivery by Philips of proper Medical Direction Services is contingent in part upon the material accuracy and completeness of the information provided by Customer to Philips or the Medical Director. Customer therefore agrees to promptly provide correct and complete information reasonably requested by Philips or the Medical Director for the purposes of providing Medical Direction Services or Philips may, at its option, refuse, until such inaccuracy or incompleteness is remedied, to provide Medical Direction Services. Customer agrees that Philips or the Medical Director shall have no liability to Customer under contract or tort law or otherwise for its provision of Medical Direction Services, to the extent that, such provision was adversely affected by Customer's provision to Philips of materially inaccurate or incomplete information.

Customer agrees to keep Philips and the Medical Director informed of all changes to Customer's early defibrillation plan, protocols, policies and/or training organizations. Philips or the Medical Director does not undertake to review or comment upon such plan, protocols, policies or organizations, or changes thereto, unless specifically requested to do so by Customer. Records of Customer's early defibrillation training program, training provider, and participating AED responders will be made available to Philips or the Medical Director if requested.

Customer acknowledges that it is aware that, upon termination or expiration of this Agreement or of provision by Philips of Medical Direction Services hereunder, Customer's failure to secure continued medical direction may cause Customer's AED program to be in conflict with state and local regulation and may cause said program to not qualify for Good Samaritan status that would otherwise limit liability for the AED owner and/or user.

Customer should ensure that:

- a. The Equipment covered under the terms of the Agreement will be used only by persons authorized under the law and Customer's early defibrillation plan or those who have been trained by Customer or by Customer's authorized training organization; and
  - b. All personnel authorized to use the Equipment are trained utilizing a Philips training program or a training program offered by one of the following training organizations:
    - American Heart Association
    - American Red Cross
    - American Safety and Health Institute
    - Medic First Aid International
    - National Safety Council; and
  - c. All recommendations or advice provided by the Medical Director are implemented.
2. Prices. Unless stated otherwise on the face of the quotation, the quotation will remain valid for sixty (60) days unless withdrawn or changed prior to shipment by Philips.
  3. Cancellation. Customer may cancel an order prior to delivery at no cost.
  4. Payment Terms. Unless otherwise specified in the quotation, Philips will invoice Customer, and Customer will immediately pay such invoice on receipt as follows: 100% of the purchase price shall be due thirty days from Philips' invoice date.

5. Limitation of Liability. THE TOTAL LIABILITY, IF ANY, OF PHILIPS FOR ALL DAMAGES AND BASED ON ALL CLAIMS, WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING FROM A PRODUCT, LICENSED SOFTWARE, AND/OR SERVICE IS LIMITED TO THE PRICE PAID HEREUNDER FOR THE PRODUCT, LICENSED SOFTWARE, OR SERVICE. THIS LIMITATION SHALL NOT APPLY TO THIRD PARTY CLAIMS FOR BODILY INJURY OR DEATH CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT.

6. Disclaimer. IN NO EVENT SHALL PHILIPS 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.

7. Confidentiality. Customer shall maintain as confidential any information furnished or disclosed you by Philips, whether disclosed in writing or disclosed orally, relating to the business of Philips, its customers and/or its patients, and the quotation and its terms, including the pricing terms under which Customer has agreed to purchase the services. Customer shall use the same degree of care to protect the confidentiality of the disclosed information as that it uses to protect the confidentiality of its own information, but in no event less than a reasonable amount of care. Customer may disclose such confidential information only to its employees having a need to know such information to perform the transactions contemplated by the quotation. The obligation to maintain the confidentiality of such information shall not extend to information in the public domain at the time of disclosure, and/or information that is required to be disclosed by law or by court order.

8. Compliance with Laws and Privacy. 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 the purchase includes a discount or loan, 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]).

In the course of providing project implementation related services and/or warranty services to Customer, hereunder, it may be necessary for Philips to have access to, view and/or download computer files from the products that might contain Personal Data. "Personal Data" shall mean information relating to an individual, from which that individual can be directly or indirectly identified. Personal Data can include both personal health information (e.g., images, heart monitor data, medical record number) and non-health information (e.g., date of birth, gender). Philips will process Personal Data only to the extent necessary to fulfill its project implementation related service warranty service and/or warranty obligations hereunder.

9. General Terms. The following additional terms shall be applicable to the purchase of a product:

- a. Force Majeure. Each party shall be excused from performing its obligations (except for payment obligations) arising from any delay or default caused by events beyond its reasonable control including, but not limited to, acts of God, acts of third parties, acts of any civil or military authority, fire, floods, war, embargoes, labor disputes, acts of sabotage, riots, accidents, delays of carriers, subcontractors or suppliers, voluntary or mandatory compliance with any government act, regulation or request, shortage of labor, materials or manufacturing facilities.
- b. Bankruptcy. If Customer becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned, Philips may cancel any unfulfilled obligations, or suspend performance; however, Customer's financial obligations to Philips shall remain in effect.
- c. Assignment. Customer may not assign any rights or obligations in connection with the transactions contemplated by the quotation without the prior written consent of Philips, which consent shall not be unreasonably withheld, and any attempted assignment without such consent shall be of no force or effect.
- d. Export. Customer shall assume sole responsibility for obtaining any required export authorizations in connection with Customer's export of the products from the country of delivery.
- e. Governing Law. All transactions contemplated by the quotation shall be governed by the laws of the state where the services are provided, 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.
- f. Entire Agreement. These Medical Direction Terms and Conditions, the terms and conditions set forth in the quotation and the applicable Philips' product-specific warranty constitute the entire understanding and agreement by and between the parties with respect to the transactions contemplated by the quotation, and supersede any previous understandings or agreements between the parties, whether written or oral, regarding the transactions contemplated by the quotation. The pricing in the quotation is based upon the terms and conditions in the quotation. No additional terms, conditions, consents, waivers, alterations, or modifications shall 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 shall not apply to the transactions contemplated by the quotation.
- g. Headings. The headings in the quotation are intended for convenience only and shall not be used to interpret the quotation.
- h. Severability. If any provision of the quotation 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.
- i. Notices. Notices or other communications shall be in writing, and shall be deemed served if delivered personally, or if sent by facsimile transmission, by overnight mail or courier, or by certified mail, return receipt requested and addressed to the party at the address set forth in the quotation.

- j. 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 sale, delivery, installation, use, or service of similar or dissimilar products or services shall not serve as references in interpreting the terms and conditions of the quotation.
- k. Obligations. Customer's obligations are independent of any other obligations the Customer may have under any other agreement, contract, or account with Philips. Customer will not exercise any right of offset in connection with the terms and conditions in the quotation or in connection with any other agreement, contract, or account with Philips.