

Philips Standard Terms and Conditions of Sale for Canadian Customers Cardiology Informatics

The products and services listed in the quotation are offered by Philips Healthcare, a division of Philips Electronics Ltd. ("Philips") only under the terms and conditions described below.

1. Price; Taxes.

The purchase price stated in the quotation does not include applicable sales, excise, use, or other taxes in effect or later levied. Customer shall provide Philips with an appropriate exemption certificate reasonably in advance of the date the product is available for delivery otherwise, Philips shall invoice Customer for those taxes, and Customer shall pay those taxes in accordance with the terms of the invoice.

2. Cancellation.

Philips' cancellation policies are set forth in the applicable schedule attached to these Terms and Conditions of Sale.

3. Payment Terms.

3.1 Unless otherwise specified in the quotation, Philips will invoice Customer, and Customer will immediately pay such invoice on receipt for each product in accordance with the payment terms set forth in the applicable schedule attached to these Terms and Conditions of Sale.

3.2 Orders are subject to Philips' on-going credit review and approval.

3.3 Customer shall pay interest on any amount not paid when due at the maximum rate permitted by applicable law. If Customer fails to pay any amount when due, in addition to any other rights or remedies available to Philips at law or in equity, Philips may discontinue the performance of services, discontinue the delivery of the product, or deduct the unpaid amount from any amounts otherwise owed to Customer by Philips under any agreement with Customer. In any action initiated to enforce the terms of the quotation following a Customer default or product cancellation under an order arising from the quotation, Philips shall be entitled to recover as part of its damages all costs and expenses, including reasonable attorneys' fees, in connection with such action.

4 Trade - In.

If Customer will be trading-in any equipment ("Trade-In"), then:

4.1 Customer represents and warrants that Customer has good and marketable title to such Trade-In;

4.2 Title to the Trade-In shall pass from Customer to Philips upon Philips making the new equipment available for first patient use. Removal of the Trade-In from Customer's site shall occur no later than the date Philips makes the new product available for first patient use, unless otherwise agreed in writing between Philips and the Customer; and

4.3 Notwithstanding anything to the contrary Customer represents and warrants that Customer has removed or de-identified all Protected Health Information ("PHI") from the Trade-In equipment as of the date the equipment is removed. To the extent Customer has not done so, Customer agrees to reimburse Philips for any out-of-pocket costs Philips incurs to remove or de-identify PHI from the Trade-In.

4.4 If (a) the condition of the Trade-In is not substantially the same when Philips removes the Trade-In (ordinary wear and tear excepted) as it was when Philips quoted the Trade-In value; or, (b) Customer delays the removal of the Trade-In, then Philips may reduce the price quoted for such Trade-In or cancel the Trade-In and Customer will pay the adjustment amount within thirty (30) days of receipt of invoice.

4.5 If Philips does not receive possession of the Trade-In, Philips will charge Customer, and Customer will pay within thirty (30) days of receipt of invoice, the amount of the Trade-In allowance.

4.6 Evidence that Customer intends to trade in an asset as part of the purchase or lease of any product(s) shall be in the form of, but not limited to: (a) receiving a trade in quote and/or authorization from Philips on the value of the asset to be traded in; (b) providing Philips with serial numbers of assets to be traded in; and/or, (c) providing Philips with a de-installation date to remove an existing asset in order to install Philips quoted equipment.

5. Leases.

If Customer desires to convert the purchase of any product to a lease, Customer will arrange for the lease agreement and all other related documentation to be reviewed and approved by Philips not later than ninety (90) days prior to the date of the availability for delivery of major components of the product. The Customer is responsible for converting the transaction to a lease, and is required to secure the leasing company's approval of all of these Terms and Conditions of Sale. No product will be delivered to the Customer until Philips has received copies of the fully executed lease documents and has approved the same.

6. Security Interest.

Customer hereby grants to Philips a purchase money security interest in the products until all payments have been made. Customer shall sign any financing statements or other documents necessary to perfect Philips' security interests in the products. Where permitted by applicable law, Customer's signature on the quotation or on a purchase order issued as a result of the quotation gives Philips the right to sign on Customer's behalf and file any financing statement or other documents to perfect Philips' security interest in the product.

7. Shipment and Risk of Loss.

7.1 The applicable schedule attached to these Terms and Conditions of Sale shall apply for delivery.

7.2 Title to any product (excluding software), and the risk of loss or damage to any product shall pass to the Customer F.O.B. destination. Customer shall obtain and pay for insurance covering such risks at destination.

8. Installation, Site Preparation, Remote Services.

8.1 **Installation.** Customer shall provide Philips full and free access to the installation site and suitable and safe space for the storage of the products before installation. Customer shall advise Philips of conditions at or near the site, including any hazardous materials, that could adversely affect the installation or pose a health or safety risk to Philips' personnel, and shall ensure that those conditions are corrected and hazardous materials removed, and that the site is fully prepared and available to Philips before installation work begins. Customer shall ensure, at no charge to Philips, that there are no obstacles preventing Philips from moving the product from the entrance of the Customer's premises to the installation site. Customer shall be responsible, at its expense, for rigging, the removal of partitions or other obstacles, and restoration work. The products will be installed during normal working hours. Philips will unpack the product, construct applicable pads (if required for certain products), connect the product to a safety switch or breaker to be installed by the Customer, and calibrate and test the product. If local labor conditions, including but not limited to a requirement to utilize union labor, require the use of non-Philips employees to participate in the installation of the product, then such participation of non-Philips employees shall be at Customer's expense. In such case, Philips will provide engineering supervision during the installation.

8.2 **Site Preparation.** Except where Philips has agreed in writing to provide construction services for a fee pursuant to a construction agreement and scope of work signed by Customer, Customer shall be responsible, at its expense, for the preparation of the installation site where the product will be installed including any required structural alterations. Customer shall provide any and all plumbing, carpentry work, conduit, wiring including communications and/or computer wiring, network equipment, power supply, surge suppression and power conditioning (except to the extent they are expressly included in the quotation), fire protection and environmental controls, ground fault and isolation system, and other fixtures and utilities required to properly attach, install, and use the product. Site preparation shall be in compliance with all safety, electrical, and building codes relevant to the product and its installation and use. The sufficiency of any installation site plans shall be the responsibility of Customer. Customer, at its expense, shall obtain all permits and licenses required by federal, provincial, or local authorities in connection with the installation and operation of the product, including any certificate of need and zoning variances. PHILIPS MAKES NO WARRANTY AND ASSUMES NO LIABILITY FOR THE FITNESS OR ADEQUACY OF THE SITE IN WHICH THE PRODUCT IS TO BE INSTALLED OR USED. CUSTOMER INDEMNIFIES PHILIPS AGAINST ANY CLAIMS, INCLUDING SUBROGATION CLAIMS, ARISING FROM CUSTOMER'S SITE PREPARATION RESPONSIBILITIES.

8.3 **Remote Services Network ("RSN").** Customer will (a) provide Philips with a secure location at Customer's premises to store one Philips remote services network router (or a Customer-owned router acceptable to Philips at Customer's option) for connection to the equipment and to Customer's network; and, (b) at all times during the warranty period provide Philips with full and free access to the router and a dedicated broadband Internet access node, including but not limited to public and private interface access, suitable to establish a successful connection to the products through the Philips RSN and Customer's network for Philips' use in remote servicing of the product, remote assistance to personnel that operate the products, updating the products software, transmitting automated status notifications from the product and regular uploading of products data files (such as but not limited to error logs and utilization data for improvement of Philips products and services and aggregation into services). Customer's failure to provide such access at the scheduled time will constitute Customer's waiver of the scheduled planned maintenance service and will void support or warranty coverage of product malfunctions until such time as planned maintenance service is completed or RSN access is provided. Customer agrees to pay Philips at the prevailing demand service rates for all time spent by Philips service personnel waiting for access to the products.

9. Product Warranty.

9.1 (a) If a separate product warranty prints as part of this quotation, that product warranty applies to your purchase and is incorporated herein; otherwise Section 9.2-9.7 shall apply unless the product is identified under 9.1 (b). (b) For Patient Monitoring, Cardiac Resuscitation and InnerCool products, the product warranty document can be found at: www.healthcare.philips.com/main/terms_conditions/, or can be provided upon request.

9.2 **Hardware/Systems.** Philips warrants to Customer that the Philips equipment (including its operating software) will perform in substantial compliance with its performance specifications, in the documentation accompanying the products, for a period of 12 months beginning upon availability for first patient use.

9.3 **Stand-alone Licensed Software.** For a period of ninety (90) days from the date Philips makes Stand-alone Licensed Software available for first patient use, such Stand-alone Licensed Software shall substantially conform to the technical user manual that ships with the Stand-alone Licensed Software. "Stand-alone Licensed Software" means sales of Licensed Software without a contemporaneous purchase of a server for the Licensed Software. If Philips is not the installer of the Stand-alone Licensed Software, the foregoing warranty period shall commence upon shipment.

9.4 If the start of the installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the product are available for delivery, the warranty period begins on the thirty-first (31st) day following that date.

9.5 Philips' sole obligations and Customer's exclusive remedy under any product warranty are limited, at Philips' option, to the repair or the replacement of the product or a portion thereof within thirty (30) days after receipt of written notice of such material breach from Customer ("Product Warranty Cure Period") or, upon expiration of the Product Warranty Cure Period, to a refund of a portion of the purchase price paid by the Customer, upon Customer's request. Any refund will be paid, to the Customer when the product is returned to Philips. Warranty service outside of normal working hours (i.e. 8:00 A.M. to 5:00 P.M., Monday through Friday, excluding Philips' observed holidays), will be subject to payment by Customer at Philips' standard service rates.

9.6 This warranty is subject to the following conditions: the product: (a) is to be installed by authorized Philips representatives (or is to be installed in accordance with all Philips installation instructions by personnel trained by Philips); (b) is to be operated exclusively by duly qualified personnel in a safe and reasonable manner in accordance with Philips' written instructions and for the purpose for which the products were intended; and, (c) is to be maintained and in strict compliance with all recommended and scheduled maintenance instructions provided with the product and Customer is to notify Philips immediately if the product at any time fails to meet its printed performance specifications. Philips' obligations under any product warranty do not apply to any product defects resulting from improper or inadequate maintenance or calibration by the Customer or its agents; Customer or third party supplied interfaces, supplies, or software including without limitation loading of operating system patches to the Licensed Software and/or upgrades to anti-virus software (except DAT file changes) running in connection with the Licensed Software without prior validation approval by Philips; use or operation of the product other than in accordance with Philips' applicable product specifications and written instructions; abuse, negligence, accident, loss, or damage in transit; improper site preparation; unauthorized maintenance or modifications to the product; or viruses or similar software interference resulting from connection of the product to a network. Philips does not provide a warranty for any third party products furnished to Customer by Philips under the quotation; however, Philips shall use reasonable efforts to extend to Customer the third party warranty for the product. The obligations of Philips described herein and in the applicable product-specific warranty document are Philips' only obligations and Customer's sole and exclusive remedy for a breach of a product warranty.

9.7 THE WARRANTIES SET FORTH HEREIN AND IN PHILIPS' WARRANTY DOCUMENT WITH RESPECT TO A PRODUCT (INCLUDING THE SOFTWARE PROVIDED WITH THE PRODUCT) ARE THE ONLY WARRANTIES MADE BY PHILIPS IN CONNECTION WITH THE PRODUCT, THE SOFTWARE, AND THE TRANSACTIONS CONTEMPLATED BY THE QUOTATION, AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, WHETHER WRITTEN, ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Philips may use refurbished parts in the manufacture of the products, which are subject to the same quality control procedures and warranties as for new products.

10. Philips Proprietary Service Materials.

Any Philips maintenance or service software and documentation provided with the product and/or located at Customer's premises is intended solely to assist Philips and its authorized agents to install and to test the products or to assist Philips and its authorized agents to maintain and to service the products under warranty or a separate support agreement with Customer. Customer agrees to restrict access to such software and documentation to Philips' employees and those of Philips' authorized agents only and to permit Philips to remove its Proprietary Service Materials upon request.

11. Patent Infringement Claims.

11.1 Philips shall indemnify, defend, and hold harmless Customer against any new claim that a Philips Product provided in the quotation infringes, misappropriates, or violates any third party intellectual property right, whether patent, copyright, trademark, or trade secret, provided that Customer: (a) provides Philips prompt written notice of the claim; (b) grants Philips full and complete information and assistance necessary for Philips to defend, settle, or avoid the claim; and (c) gives Philips sole control of the defense or settlement of the claim.

11.2 The provisions of this section shall not apply if the product is sold or transferred.

11.3 If (a) a Philips Product is found or believed by Philips to infringe such a claim; or, (b) Customer has been enjoined from using the Philips Product pursuant to an injunction issued by a court of competent jurisdiction, Philips may, at its option: (i) procure the right for Customer to use the product; (ii) replace or modify the product to avoid infringement; or (iii)

refund to Customer a portion of the product purchase price upon the return of the original product. Philips shall have no obligation for any claim of infringement arising from: Philips' compliance with Customer's designs, specifications, or instructions; Philips' use of technical information or technology supplied by Customer; modifications to the product by Customer or its agents; use of the product other than in accordance with the product specifications or applicable written product instructions; use of the product with any other product; if infringement would have been avoided by the use of a current unaltered release of the products; or use of the Philips Product after Philips has advised Customer, in writing, to stop use of the Philips Product in view of the claimed infringement. Philips will not be liable for any claim where the damages sought are based directly or indirectly upon the quantity or value of products manufactured by means of the products purchased under this quotation, or based upon the amount of use of the product regardless of whether such claim alleges the product or its use infringes or contributes to the infringement of such claim. The terms in this section state Philips' entire obligation and liability for claims of infringement, and Customer's sole remedy in the event of a claim of infringement.

12. Limitation of Liability.

THE TOTAL LIABILITY, IF ANY, OF PHILIPS AND ITS AFFILIATES 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:

- (a) THIRD PARTY CLAIMS FOR BODILY INJURY OR DEATH CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT.;
- (b) CLAIMS OF TANGIBLE PROPERTY DAMAGE REPRESENTING THE ACTUAL COST TO REPAIR OR REPLACE PHYSICAL PROPERTY DAMAGE;
- (c) 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; and,
- (d) 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 SHALL CONSTITUTE DIRECT DAMAGES.

13. DISCLAIMER.

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.

14. Confidentiality.

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 and/or its patients, and the quotation and its terms, including the pricing terms under which Customer has agreed to purchase the products. 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 the quotation. 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 this Agreement 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.

15. Compliance with Laws & Privacy.

15.1 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 applicable provincial and federal privacy laws.

15.2 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" means information relating to an individual, from which that individual can be directly or indirectly identified. 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 project implementation related service, warranty service and/or warranty obligations hereunder. Customer hereby agrees that it has, or will have prior to activation of the Philips' remote access to Customer's IT network, authority under applicable law, its other legal obligations and Customer policies to provide Philips with permission to process Personal Data in the manner described in this Section. If Customer cannot

provide such permission, it will notify Philips and Philips will work with Customer in good faith to determine whether and how to deliver the Services.

16. General Terms.

The following additional terms shall be applicable to the purchase of a product:

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 Governing Law. All transactions contemplated by the quotation shall be governed by the laws of the province where the equipment will be installed, without regard to that province's choice of law principles. EACH PARTY, KNOWINGLY AND AFTER CONSULTATION WITH COUNSEL, FOR ITSELF, ITS 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.

16.6 Language. This Agreement is drawn up in English pursuant to the formal request of parties. Cette entente a été rédigée en Anglais à la demande expresse des deux parties.

16.7 Entire Agreement. These Terms and Conditions of Sale, 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.

16.8 Headings. The headings in the quotation are intended for convenience only and shall not be used to interpret the quotation.

16.9 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.

16.10 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.

16.11 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.

16.12 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.

16.13 **Additional Terms.**

The Product specific schedules listed below are incorporated herein as they apply to the equipment listed on the quotation and their additional terms shall apply solely to Customer's purchase of the products specified therein. If any terms set forth in a schedule conflict with terms set forth in these Terms and Conditions of Sale, the terms set forth in the schedule shall govern.

- (a) Schedule 1: Interventional X-Ray (iXR), Diagnostic X-Ray (DXR), Computed Tomography (CT), Magnetic Resonance (MR), and Positron Emission Tomography (PET), Nuclear Medicine (NM), and Radiation Oncology

(PROS), Women's Healthcare (WHC), and Ultrasound Products.

(b) Schedule 2: Xcelera, Xper IM, Cardiovascular Information System (CVIS) and TraceMasterVue EKG Storage System (TMV) Products.

(c) Schedule 3: Patient Monitoring Systems, Diagnostic Electro Cardiology (DECG), Respiration Children Medical Ventures (ChMV), Respiration Hospital Respiratory Care (HRC) and Enterprise Informatics (EI) Products (OB TraceVue, IntelliVue Clinical Information Portfolio (ICIP), CompuRecord, TraceMasterVue System (TMV), IntelliSpace Event Management System).

(d) Schedule 4: Philips Cardiac Resuscitation.

(e) Schedule 5: Medical Consumables and Sensors (MCS) and Respiration Children Medical Ventures (ChMV), and Respiration Hospital Respiratory Care (HRC).

(f) Schedule 6: iSite Products.

LICENSED SOFTWARE

1. License Grant.

1.1 Subject to any usage limitations for the Licensed Software set forth on the product description of the quotation, Philips grants to Customer a nonexclusive and non-transferable right and license to use the computer software package ("Licensed Software") in accordance with the terms of the quotation. The License shall continue for as long as Customer continues to own the product, except that Philips may terminate the License if Customer is in breach or default. Customer shall return the Licensed Software and any authorized copies thereof to Philips immediately upon expiration or termination of this License.

1.2 The License does not include any right to use the Licensed Software for purposes other than the operation of the product. Customer may make one copy of the Licensed Software in machine-readable form solely for backup purposes. Philips reserves the right to charge for backup copies created by Philips. Except as otherwise provided under section 1.6, Customer may not copy, reproduce, sell, assign, transfer, or sublicense the Licensed Software for any purpose without the prior written consent of Philips. Customer shall reproduce Philips' copyright notice or other identifying legends on such copies or reproductions. Customer will not (and will not allow any third party to) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover the product or Licensed Software by any means whatsoever.

1.3 The License shall not affect the exclusive ownership by Philips of the Licensed Software or of any trademarks, copyrights, patents, trade secrets, or other intellectual property rights of Philips (or any of Philips' suppliers) relating to the Licensed Software.

1.4 Customer agrees that only authorized officers, employees, and agents of Customer will use the Licensed Software or have access to the Licensed Software (or to any part thereof), and that none of Customer's officers, employees, or agents will disclose the Licensed Software, or any portion thereof, or permit the Licensed Software, or any portion thereof, to be used by any person or entity other than those entities identified on the quotation. Customer acknowledges that certain of Philips' rights may be derived from license agreements with third parties, and Customer agrees to preserve the confidentiality of information provided by Philips under such third party license agreements.

1.5 The Licensed Software shall be used only on the product(s) referenced in the quotation.

1.6 Customer may transfer the Licensed Software in connection with sale of the product to a healthcare provider who accepts all of the terms and conditions of this License; provided that Customer is not in breach or default of this License, the Terms and Conditions of Sale, or any payment obligation to Philips.

2. Modifications.

2.1 If Customer modifies the Licensed Software in any manner, all warranties associated with the Licensed Software and the products shall become null and void. If Customer or any of its officers, employees, or agents should devise any revisions, enhancements, additions, modifications, or improvements in the Licensed Software, Customer shall disclose them to Philips, and Philips shall have a non-exclusive royalty-free license to use and to sub-license them.

2.2 The Licensed Software is licensed to Customer on the basis that (a) Customer shall maintain the configuration of the products as they were originally designed and manufactured; and, (a) the product includes only those subsystems and components certified by Philips. The Licensed Software may not perform as intended on systems modified by other than Philips or its authorized agents, or on systems which include subsystems or components not certified by Philips. Philips does not assume any responsibility or liability with respect to unauthorized modification or substitution of subsystems or components.

Schedule 2
Xcelera, Xper IM, Cardiovascular Information System (CVIS)
and TraceMasterVue EKG Storage System (TMV)

1. Definitions.

1.1 "CVIS" includes CVIS's core modules and interfaces set forth on the quotation.

1.2 "Project Implementation Plan" shall mean the project management implementation plan, mutually agreed to by the parties, that sets timetables and the order of project rollout for the work scope set forth in the Statement of Work ("SOW"), applicable to the products purchased.

1.3 "Authorized Users" of the product shall mean persons performing patient care or those requiring administrative access, to patient records, as authorized by Customer, in support of performance of such services on patients admitted to Customer's facility.

2. Payment Terms.

2.1 Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice on receipt for each product as follows:

10% of the purchase price shall be due with Customer's acceptance of the quotation.

70% of the purchase price shall be due on delivery of the major components of the product. Product installation will not begin until Customer has paid this portion of the purchase price.

20% of the purchase price shall be due when the product is available for first patient use. Available for first patient use means the product has been installed and substantially meets Philips' systems verification functionality set forth in the installation manual. .

2.2 If the start of installation is delayed for any reason beyond the control of Philips for more than thirty (30) days following the date that Philips notifies Customer that the major components of the product are available for delivery the unpaid portion of the purchase price shall be due on the thirty-first (31st) day following such date.

3. Cancellation.

The quotation is subject to change or withdrawal prior to written acceptance by Customer. All purchase orders issued by Customer are subject to acceptance by Philips. If Customer cancels an order prior to product delivery, Customer shall pay the costs incurred by Philips up to the date of cancellation including, but not limited to, the costs to manufacture the product, the costs to provide any training, educational, or other services to Customer in connection with the order, a nominal restocking fee, and the costs to return or cancel any product ordered from a third party on Customer's behalf.

4. Delivery.

4.1 Philips will use reasonable efforts to ship the product to Customer: (a) by the mutually agreed upon shipment date; or (b) by the date stated in the quotation; or, (c) as otherwise agreed in writing. Philips will ship the product according to Philips' standard commercial practices. Philips will deliver the equipment during normal working hours, 8:00 – 5:00 PM, in the time zone where the Customer is located. Philips may make partial shipments. Philips will pay shipping costs associated with product shipment.

4.2 Prior to the shipment of any product, Philips may change the construction or the design of the product without notice to the Customer so long as the function, footprint, and performance of the product are not substantially altered.

4.3 If Customer requests a delay in the date major components of the product are available for delivery, then Philips will place the product in storage and the unpaid portion of the purchase price shall be due. Customer will reimburse Philips for all storage fees incurred upon receipt of invoice.

5. Product Warranty.

5.1 Except for the additional limitations set forth in this section and Section 7 of this Schedule, the warranty set forth in Sections 9.2-9.7 of Philips Terms and Conditions of Sale is the sole warranty for the Philips products subject to this Schedule 2.

5.2 For upgrades to Xper IM, TMV, CVIS and for Xcelera Licensed Software sold without a concurrent server purchase, the following warranty terms shall apply and shall supersede Section 9.2 of the Philips Terms and Conditions of Sale:

(a) **Xper IM, TMV, and Xcelera Licensed Software Upgrades.** For a period of ninety (90) days from the date that a Licensed Software upgrade is available for first patient use, Philips warrants that such Licensed Software upgrade shall substantially conform to its documentation. Licensed Software upgrades do not include hardware costs.

(b) **Xper IM, TMV, and Xcelera Hardware Upgrades.** Philips warrants that any Philips-provided hardware purchased as a system upgrade or as a replacement part, with the exception of patient cables and/or disposable items (which have no warranty), shall be free from material defects in material and workmanship under normal use and service for a period of ninety (90) days from the date available for first patient use.

(c) **CVIS.** Section 9.1 of Philips Terms and Conditions of Sale shall not apply to CVIS Licensed Software or hardware. Section 9.2 of Philips Terms and Conditions of Sale shall apply to CVIS Licensed Software and hardware, except for the warranty periods set forth therein. This schedule modifies the warranty periods set forth in Section 9.2 as follows: (i) CVIS core module shall have a warranty period of ninety (90) days from the date Philips makes the first CVIS Licensed Software clinical module and interface, as applicable, implemented under the project, available to Customer for first patient use. Server hardware shall have a warranty period of one (1) year from the date Philips makes the first CVIS Licensed Software clinical module and interface, as applicable, implemented under the project, available to Customer for first patient use; and, (ii) CVIS clinical module and associated interface specific to such module, if applicable, shall have a warranty period of ninety (90) days from the date that Philips makes such items available to Customer for first patient use.

6. Warranty Limitations.

The following additional warranty exclusions shall apply under Section 9.4(b) of Philips Terms and Conditions of Sale: (a) use of an Xper IM or Xcelera with a client device with less than a 100mbit connection to the server software for such products; or (b) use of the Xcelera, Webforum, on a workstation without a 3-D video card as required in the quotation.

7. Customer Room Preparation Responsibilities.

7.1 Customer is responsible for all activities and costs necessary to prepare the facility for installation of the product by Philips. Customer's obligations include, but are not limited to, running all cable in procedure room and network cable to workstations prior to installation. For CVIS, Customer's obligations also include procuring the server to the specifications recommended by Philips prior to the date that the installation process commences per the Project Implementation Plan, mutually agreed to between the parties.

7.2 Prior to acceptance of the quotation, Customer shall obtain from the applicable Philips Implementation team any other additional Customer installation preparation requirements in connection with the implementation resulting from unique attributes of Customer's environment and the size of the implementation.

8. Archive Requirement.

Customer is required to have an archive for any Xcelera system provided hereunder. If Customer provides its own storage, Customer is responsible for procuring any specialty software or hardware (fiber channel or host bus adapter ("HBA")) necessary to manage storage and allow the system to access the storage. Customer is responsible for providing fiber channel switches, port upgrades, and other telecommunications and/or network hardware required for the Philips products to physically connect to the storage, regardless of whether Philips provides the storage.

9. Certified Hardware.

Philips shall install the Licensed Software solely on certified hardware pursuant to Philips' specifications where such certified hardware is identified on the SOW, which the parties will execute and attach to the quotation. Customer shall not use the Licensed Software with any uncertified hardware.

10. Storage Sizing.

Upon request, Philips will provide Customer with estimates of image study sizes for different types of studies that Customer can use as a general aide to calculate and determine its near-term and long-term storage requirements for Cardiology. Customer is responsible to determine what storage archive device types and sizes are required to support its Xcelera solution, whether through procurement from Philips or utilization of Customer's own existing storage solutions. Customer acknowledges that use of storage varies greatly based on its unique utilization of the system and based on factors that are outside Philips' control. Therefore, Customer is solely responsible to determine what storage archive device is best suited to meet its needs. As part of its decision making process in connection with archive device storage size, Customer should consider that study sizes are affected greatly by (a) changes in the types and amount of modality equipment used, (b) technician discretion in file size creation, and (c) clinical protocols within a department. Customer is solely responsible for system administration for the Xcelera solution, which includes monitoring the storage archive device for its utilization levels and planning any necessary storage changes as Customer's requirements change.

11. Unauthorized Patches and Anti-Virus Updates.

Customer's installation or use of (a) operating system patches, updates or upgrades; (b) anti-virus updates (except to the DAT files i.e. virus definitions); or, (c) upgrades to anti-virus search engines without prior validation testing and approval by Philips ("Unauthorized Updates") may adversely affect the functionality and performance of the Licensed Software. Philips shall perform validation testing of certain Microsoft operating systems, and MacAfee and Symantec's anti-virus software during the warranty period. Philips shall have no obligation to validate any other third party operating system or anti-virus software. If Customer installs or uses Unauthorized Updates, Philips shall have no liability or responsibility for performance of the Licensed Software and the warranty shall be void.. If Customer is using Unauthorized Updates when requesting service support or an Unauthorized Update is discovered by Philips after commencing the technical support process, then, prior to being obligated to perform warranty support services during a service period, Philips may require

Customer to roll back to the most recent operating system and anti-virus search engine versions that have been validated by Philips as posted on the Philips service internet site.

12. Interfaces.

12.1 Xper IM & Xcelera Interfaces. Philips' obligation to provide any Xper IM, Xcelera, or TMV interfaces is expressly conditioned upon Customer enabling its Hospital Information System ("HIS") system to send and receive HL7 messages to and from the applicable Philips products by the date the products are available for first patient use. If Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate any interface obligations and refund any pre-paid amounts for interfaces against the applicable purchase order. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Upon Philips issuance of a refund in accordance with this section, Customer shall be deemed to have accepted the applicable Philips products. Any interfaces terminated shall be re-evaluated under a separate new sales contract.

12.2 CVIS Interfaces. Philips' obligation to provide any interfaces to a CVIS core module is expressly conditioned upon Customer meeting its interface obligations by the date set forth in the Project Implementation Plan. In the event Customer has not fulfilled its interface obligations by such time, Philips may, at its discretion, terminate such interface obligations and refund any pre-paid amounts for interfaces and their associated clinical modules against the applicable purchase order. Customer will execute any documentation reasonably requested by Philips to document such terminated interfaces. Any interfaces and CVIS clinical modules terminated shall be re-evaluated under a separate new sales contract.

13. Customer Controlled Workflow Tools.

Certain Philips Products contain customer-maintained tools used in the creation and maintenance of interfaces, forms, screens, reports, data mappings, and calculations ("Customer Controlled Workflow Tools"). Because these tools control what information is presented to the end-user and how the information is presented, Customer must thoroughly test and validate each interface, form, screen, report, mapping, and calculation after making any changes to the Product or to external systems that supply data to the Philips Product. Failure to do so could result in information being presented to the end-user in a manner different than originally configured, less desirable to the patient care giver and negatively impacting patient care outcomes. Therefore, prior testing of any of the above changes by the Customer is recommended by Philips. In all cases, Customer is solely responsible for data field population in Philips products directly arising (i) from Customer's use of the Customer Controlled Workflow Tools or (ii) through the receipt of information delivered from a non-Philips information system that has been modified post project implementation test. These factors are not within Philips control.

14. Frequent Data Backup/Disaster Recovery Responsibility.

Philips is not responsible for the development or execution of a business continuity/disaster recovery plan or backing up the data and images processed by the system. Philips is also not responsible for backing up the data in the CVIS core data database and any associated files. Customer is responsible for performing frequent backups of any data, patient information or images residing on the repository database, on Philips products, or an archive.

15. Statement of Work ("SOW").

Professional services in connection with Xcelera shall be performed pursuant to a SOW, which the parties will execute and attach to this quotation, subject to the terms set forth in this quotation.

16. Support Services.

16.1 During the applicable product warranty period, Philips shall provide, at no charge to Customer, Philips' then-current in-warranty service for the products. Customer shall use Philips Remote Service Network ("RSN") service to enable Philips to access the system to perform its support obligations.

16.2 Warranty exclusions set forth Section 9.4 also apply to Support Services. The conditions that resulted in the exclusion of product warranty coverage, set forth in Section 9.4, shall also apply to any service provided during an in-warranty or post warranty coverage period.

17. Migration.

Philips standard migration tool set-up service ("Migration Tool Set-Up Service") consists of Philips installing a migration solution tool, configuring the migration interface, testing the migration solution tool, and training the Customer to operate and manage the migration tool for Customer to perform the data migration ("Migration Set-up Tool Activities"). For the purposes of clarification, Migration Set-Up Activities do not include Philips performing the migration, including starting and stopping the migration tool process, loading off-line media, monitoring the process, and correcting the migrated data.

Unless Customer purchases a separate data migration project management consulting service from Philips and signs an SOW clearly indicating that Philips will be performing and managing the data migration on the Customers behalf ("Data Migration Project Management Consulting Service"), Philips is responsible solely to perform the Migration Set-Up Activities.

In all instances, Philips shall have no responsibility under either its Migration Tool Set-Up Service or Data Migration Project Management Consulting Service to: (a) locate missing studies; (b) fix corrupt media or studies; or, (c) repair failed Customer legacy hardware discovered during the migration service. Philips shall have no responsibility under the migration services to migrate studies affected by the foregoing events. Additionally, Customer shall have the sole responsibility to estimate the number of studies required to be migrated and to pay any additional costs that result from an inaccurate estimate.

18. Systems Administration Requirement.

Customer, at all times, shall have a designated systems administrator that has completed systems administration for the version of the product running at Customer's site. Systems administration training set forth on the quotation is at no charge. However, any training, beyond that set forth in the quotation, shall be at customers' sole expense.