



## EXECUTIVE SUMMARY

**Recommendation that the Broward College District Board of Trustees authorize the non-standard agreement with Philips Healthcare (ITS-2024-197-YR - ULTRASOUND SYSTEM) for the purchase of Philips ECompact Ultrasound System 5300G utilizing the bid waiver exception (single/sole source). Fiscal Impact: \$71,233.76**

**Presenter(s):** Dr. Jamonica Rolle, College Provost and Senior Vice President

**What is the purpose of this contract and why is it needed?** The Ultrasound Program is requesting the purchase of a Ultrasound System 5300G that would be used for medical imaging to visualize internal structures of the body. It uses high frequency sound waves to create real time images of organs, tissues, and blood flow. Some of the common applications include examining the abdomen, monitoring pregnancy, and assessing cardiovascular conditions. This is to train our ultrasound students to use the equipment currently utilized at affiliate sites, so they have hands-on lab training experience. Plug and play item-no installation required. This Ultrasound System has been utilized widely in many major schools, hospitals, clinics, and institutions in the United States of America. The system is designed to provide a stable, efficient, and student-friendly learning environment.

**What procurement process or bid waiver was used and why?** Bid waiver exception per FLDOE SBE Rule 6A-14.0734(2)(e) and College Procedure A6Hx2-6.34: Services or commodities available only from a single or sole source. The College does not have to compete for services or commodities available only from a sole source. In this case, the value of the exemption is greater than the competitive solicitation threshold (Category Three, F.S. 287.017), so the College electronically posted ITS-2024-197-YR - ULTRASOUND EQUIPMENT with a description of the commodities or contractual services sought for a period of at least 15 business days. The ultrasound system, including its system software and transducers, are proprietary to Philips Healthcare. Philips Healthcare is the only authorized seller of this product. There are no distributors or third-party vendors authorized to sell the Philips ECompact 5300 Ultrasound System.

**Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?**  
Yes.

**What fund, cost center and line item(s) were used?** CC0087, FD100 GL.

**Has Broward College used this vendor before for these products or services?** Yes.

**Was the product or service acceptable in the past?** Yes.

**Was there a return on investment anticipated when entering this contract?** Yes, Students will be able to practice scanning for a longer period in lab scanning class which in turn will make them more competent sonographers upon graduation as they enter the workforce.

**Was that return on investment not met, met, or exceeded and how?** The return on investment will be reflected in the knowledge the student gains by getting the opportunity to work with equipment that will be utilized once they graduate and are working in the community.

**Does this directly or indirectly feed one of the Social Enterprise tactics and how?** This contract feeds the Social Enterprise tactic-Answer the Call for Healthcare Professionals and Actualize Employment tactics. It will

Provide competent sonographers upon graduation who can fill the current need in the community and provide the student with well paying workforce opportunities.

**Did the vendor amend Broward College’s legal terms and conditions [to be answered by the Legal Office] if the College’s standard contract was used and was this acceptable to the Legal Office?**

The General Counsel's office has reviewed the agreement and any deviation to the College's standard terms has been deemed acceptable.

**FISCAL IMPACT:**

Description::Estimated \$71,233.76 using the following worktags; Project #: OP-24-000002 CC0087. BU020, FD100. PG000168

**02/14/24**

**CC0087 · Dean for Health Science**

**(\$71,233.76)**


APPROVAL PATH: 11680 Philips Healthcare - Ultrasound System 5300G (ITS-2024-197-YR)

 **Workflow**

 Synchronize Routing

 Edit View

 Add Work Item

| Stage | Reviewer                           | Description   | Due Date          | Status      |
|-------|------------------------------------|---|-------------------|-------------|
| 1     | Nora Powell                        | Dean Review   |                   | ✔ Completed |
| 2     | Jamonica Rolle                     | Vice Provost Review   |                   | ✔ Completed |
| 3     | Jeffrey Nasse                      | Provost and SVP of Academic Affairs   |                   | ✔ Completed |
| 4     | Natalia Triana-Aristizabal         | Contracts Coordinator   |                   | ✔ Completed |
| 5     | Zaida Riollano                     | Procurement Approval  |                   | ✔ Completed |
| 6     | Christine Sims                     | Budget Departmental Review  |                   | ✔ Completed |
| 7     | Rabia Azhar                        | CFO Review  |                   | ✔ Completed |
| 8     | <b>Legal Services Review Group</b> | Review and Approval for Form and  |                   | ✔ Completed |
| 9     | <b>Board Clerk</b>                 | Agenda Preparation  |                   | 🕒 Pending   |
| 10    | District Board of Trustees         | Meeting   | 12/10/24 11:00 AM | 🕒 Pending   |
| 11    | <b>Electronic Signature(s)</b>     | Signatures obtained via DocuSig  |                   | 🕒 Pending   |
| 12    | Natalia Triana-Aristizabal         | Contracts Coordinator   |                   | 🕒 Pending   |

**1. Incorporation by Reference.** The District Board of Trustees of Broward College, Florida (“College”) and the undersigned party (“Vendor”) hereby incorporate this Supplemental Addendum – ESSENTIAL TERMS (the “Addendum”) into the Ultrasound Quote #00393034 between College and Vendor (the “Agreement”). If this Addendum conflicts with the Agreement’s terms, this Addendum shall control.

**2. Payment.** Vendor shall submit bills for compensation with sufficient detail. In lieu of all provisions in the Agreement pertaining to penalties for late payment, if BC does not issue payment within (30) thirty days of a proper invoice, BC shall pay Vendor an interest penalty from the date the invoice was due until it was paid at the rate established pursuant to Section 55.03(1), Florida Statutes, if the interest exceeds one dollar. BC is immune and/or exempt from the payment of taxes and shall not be responsible for the payment thereof. BC shall provide an appropriate exemption certificate.

**3. Relationship of the Parties.** Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other. Vendor is not authorized to bind College to any contracts or other obligations. College is not liable for the acts of third parties, unless an agent or subcontractor of College. Vendor represents and warrants that it is not on the Convicted Vendor List (see § 287.133, F.S.).

**4. Public Records.** College is subject to Chapter 119 of Florida Statutes, known as the Public Records Law. The Agreement, this Addendum and any related documents and/or correspondence shall also become a public record subject to the Public Records Law, regardless of any confidentiality provision outlined in the Agreement. Pursuant to § 287.058(1)(c), F.S., College may unilaterally cancel the Agreement for Vendor’s refusal to allow public access to public records related to the Agreement, except to the extent the refusal is due to preventing public access to trade secrets set forth in the Agreement which are identified as exempt under §119.0715 (2) from disclosure of a public record under §119.07(1) and 24(a), Art. 1 of the State Constitution. IF VENDOR HAS QUESTIONS REGARDING THE APPLICABILITY OF CHAPTER 119 TO VENDOR’S DUTY TO PROVIDE PUBLIC RECORDS, VENDOR MAY CONTACT BC AT (954) 201-7639, LEGALSERVICES@BROWARD.EDU, OR 111 EAST LAS OLAS BOULEVARD, #523, FORT LAUDERDALE, FL 33301.

**5. Compliance.** Vendor agrees to comply with all applicable federal, state, local laws, ordinances, regulations, rules and all other governmental requirements. Vendor will comply with any College

rules and policies to the extent provided in advance, in writing to Vendor. Vendor warrants and represents that it shall have all applicable permits, licenses, consents, and approvals necessary to perform under the Agreement. Specifically, Vendor certifies its compliance with Section 889 of the McCain National Defense Authorization Act (prohibition against use of covered telecommunications equipment), and §448.095, F.S. (Vendor’s use of the E-Verify system).

**6. Conflicts.** Vendor certifies that to the best of its knowledge no individual employed by it or subcontracted by it has an immediate relation to any employee of College who was directly or indirectly involved in the procurement of the services. Violation of this section shall be grounds for cancellation of the Agreement by College per § 112.3185, F.S. College shall consider the employment by any vendor of unauthorized aliens a violation of the Immigration and Naturalization Act.

**7. Governing Law.** The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles. College is entitled to the benefits of sovereign immunity, as further defined by the Florida Statutes.

**8 Intentionally Omitted..**

**9. Deletion.** Any term and/or condition in the Agreement on the following subject matters are hereby deleted in their entirety and declared null and void: (a) grants of exclusivity by BC to Vendor; (b) restrictions on the hiring of Vendor’s employees; (c) BC’s responsibility to pay intangible taxes, property taxes, or sales taxes; (d) automatic renewals of the term of the Agreement; (e) limitations of time to bring suit or claims; (f) granting Vendor any right to audit BC; (g) Attorneys’ or collection fees provisions; (h) arbitration and mediation clauses; and (i) indemnification of Vendor by BC.

**By signing below, Vendor’s authorized representative agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.**

**VENDOR:** Click or tap here to enter text.

By: Valerie Williams  
Name: Valerie Williams  
Title: Contract Manager  
Date: 10-Dec-2024

Electronically signed by: Valerie Williams  
Reason: I carried out the steps in this record.  
Date: Dec 10, 2024 13:14 CST



**Sold to:**

Broward College  
225 E Las Olas Blvd  
Fort Lauderdale, FL 33301-2208

**Presented By**

Catherine McKnight  
Philips Healthcare a division of Philips North  
America LLC  
414 Union Street  
Nashville, Tennessee 37219  
**Phone:** 3058496270  
**Email:** catherine.mcknight@philips.com

**Quote #:** Q-00396434

**Customer #:** 94148804

**Quote Date:** 11/07/24

**Valid Until:** 12/20/24

## The District Board of Trustees of Broward College, FL - Compact 5300 solution

The District Board of Trustees of Broward College, FL:

Thank you for investing your trust in Philips; we know that there were many options out there for you to choose from. As the industry leader in Healthcare, we also pride ourselves on providing great Customer Service.

I am pleased to submit the attached proposal for your consideration.

I trust this meets your expectation, however, should you have any queries or require further information or clarification, please do not hesitate to contact me.

To ensure a smooth purchasing experience here are a few helpful tips to keep in mind when submitting your purchase order.

- Please specify any specific delivery date requirements or shipping/delivery needs
- Ensure your purchase order references the Philips quote number
- Purchase orders must be signed digitally or physically
- or
- Complete the information on the quote Signature Page

Thank you again for considering Philips.

Regards,

Catherine McKnight

This quotation contains confidential and proprietary information of Philips Healthcare, a division of Philips North America LLC ("Philips") and is intended for use only by the customer whose name appears on this quotation. Except as otherwise required by state or federal law after strict compliance with any applicable notification and procedural requirements therein, it may not be disclosed to third parties without the prior written consent of Philips.

**IMPORTANT NOTICE:** Health care providers are reminded that if the transactions herein include or involve a loan or discount (including a rebate or other price reduction), they must fully and accurately report such loan or discount on cost reports or other applicable reports or claims for payment submitted under any federal or state health care program, including but not limited to Medicare and Medicaid, such as may be required by state or federal law, including but not limited to 42 CFR 1001.952(h).

Philips Healthcare a division of Philips North America LLC  
414 Union Street  
Nashville, Tennessee 37219



## 1. Financial Overview

| Line | Article No. | Description             | Qty |
|------|-------------|-------------------------|-----|
| 1    | 795148      | Ultrasound System 5300G | 1   |
| 2    | SP00401_RE  | Trade In: z_ImagePoint  | 1   |

**Total Section Trade In:** \$ -1.00

**Total Section Price:** \$ 71,233.76

|                        | Total Price         |
|------------------------|---------------------|
| Promotion Discount     | \$ -7,603.80        |
| Trade In               | \$ -1.00            |
| <b>Total Net Price</b> | <b>\$ 71,233.76</b> |

## 2. Quote Summary

| Line  | Article No.       | Description                           | Qty                 |
|---|-------------------|---------------------------------------|---------------------|
| <b>1</b>  | <b>795148</b>     | <b>Ultrasound System 5300G</b>        |                     |
| 1.1   | NNAV600           | Ultrasound System 5300G               | 1                   |
| 1.2   | 989801300765      | Compact 5300 - Value Limited - 1 Year | 2                   |
| 1.3   | FUS5864           | Deluxe Compact Cart                   | 1                   |
| 1.4   | NMAA029           | Shared Service Bundle                 | 1                   |
| 1.5   | FUS5874           | Linear Transducer 12-3 MHz            | 1                   |
| 1.6   | FUS5876           | Linear Transducer 12-5 MHz 50mm       | 1                   |
| 1.7   | FUS5890           | Curved Transducer 6-2 MHz             | 1                   |
| 1.8   | FUS5894           | Sector Transducer 4-2 MHz             | 1                   |
| 1.9   | FUS7000           | English Manual                        | 1                   |
| 1.10  | NNAV647           | 5300G Entitlement Text                | 1                   |
| <b>Promotion Discount:</b>  |                   |                                       | <b>\$ -7,603.80</b> |
| <ul style="list-style-type: none"> <li>• COMPACT 5300 TRADE IN PROMOTION</li> <li>• COMPACT 5000 3+ TRANSDUCER PROMOTION</li> </ul> |                   |                                       |                     |
| <b>2</b>  | <b>SP00401_RE</b> | <b>Trade In: z_ImagePoint</b>         | <b>1</b>            |
| <b>Total Section Trade In:</b>  |                   |                                       | <b>\$ -1.00</b>     |
| <b>Total Section Price:</b>   |                   |                                       | <b>\$ 71,233.76</b> |
|   |                   |                                       | <b>Total Price</b>  |
| Promotion Discount  |                   |                                       | \$ -7,603.80        |
| Trade In  |                   |                                       | \$ -1.00            |
| <b>Total Net Price</b>  |                   |                                       | <b>\$ 71,233.76</b> |

## 3. Quote Overview

| Line     | Description                           | Qty | Included | Optional |
|----------|---------------------------------------|-----|----------|----------|
| <b>1</b> | <b>Ultrasound System 5300G</b>        |     |          |          |
| 1.1      | Ultrasound System 5300G               | 1   | ●        |          |
| 1.2      | Compact 5300 - Value Limited - 1 Year | 2   | ●        |          |
| 1.3      | Deluxe Compact Cart                   | 1   | ●        |          |
| 1.4      | Shared Service Bundle                 | 1   | ●        |          |
| 1.5      | Linear Transducer 12-3 MHz            | 1   | ●        |          |
| 1.6      | Linear Transducer 12-5 MHz 50mm       | 1   | ●        |          |
| 1.7      | Curved Transducer 6-2 MHz             | 1   | ●        |          |
| 1.8      | Sector Transducer 4-2 MHz             | 1   | ●        |          |
| 1.9      | English Manual                        | 1   | ●        |          |
| 1.10     | 5300G Entitlement Text                | 1   | ●        |          |
| <b>2</b> | <b>Trade In: z_ImagePoint</b>         | 1   | ●        |          |



## 4. Quote Details

| Line   | Description   | Qty |
|--|---|-----|
| 1  | <b>Ultrasound System 5300G</b><br><b>Article No. 795148</b>   |     |
| <b>Promotion Name</b><br>COMPACT 5300 TRADE IN PROMOTION | <b>Promotion description</b><br>Philips is pleased to offer you a special promotion. With the purchase of a new Compact 5300 ultrasound system in combination with the trade in of a Philips or competitor ultrasound system (hand-held excluded), eligible orders will receive a promotional discount value of \$6,000 toward the purchase of a Philips Compact 5300 ultrasound. The discount will be taken off the NET purchase price of the new system and is in addition to the FMV of the trade-in system. The serial number, make and model of the trade-in system will be required to take advantage of this promotion, and the system with probes must be returned to Philips Healthcare upon delivery of the new Compact 5300 ultrasound system. |     |
| COMPACT 5000 3+ TRANSDUCER PROMOTION                     | Philips is pleased to offer you a special promotion. With the purchase of a new Compact 5000 Series Ultrasound, eligible orders will receive an introductory promotional discount when purchasing THREE or more transducers. A 3% discount will be taken off the total transducer LIST price in the configuration of the Compact 5000 Series Ultrasound system.   |     |
| 1.1  | <b>Ultrasound System 5300G</b><br><b>Article No. NNAV600</b>  | 1   |
|  | <b>Introduction</b>   |     |
|  | The Philips Ultrasound System 5300G comes standard in a small compact system with a feature-rich core to help you optimize performance.   |     |
|  | Imaging<br>Anatomic MMode<br>Auto Doppler<br>AutoScan<br>Freehand 3D<br>MaxVue<br>Panoramic 2D<br>TDI   |     |
|  | <b>Details</b>  |     |
|  | Connectivity<br>Digital navigation link<br>Multi Modality Query Retrieve<br>Netlink DICOM<br>Security Plus<br>Ultrasound Query Retrieve   |     |



Workflow and Performance  
Contrast GI  
GI 3DQ  
HighQ  
IMT  
MVI  
Physio SW  
ROI  
Smart Exam  
Strain Elastography  
Strain Q

Safeguard System Security

This is a standard computer administration tool used to prevent unauthorized programs (malware) from running on the ultrasound system.

1.2 **Compact 5300 - Value Limited - 1 Year**  
**Article No. 989801300765**

2

### **Introduction**

On-site Response. Philips service goal is to be on-site the next business day. Planned maintenance coverage from 8:00 am – 5:00 pm, Monday – Friday, excluding Philips published holidays. Coverage includes activities performed according to a schedule to review safety, image quality, calibrations, equipment cleaning, performance trials and any other planned service prescribed by Philips. Planned Maintenance Inspections will be performed per Philips manufacturing specifications.

### **Details**

Some tablet or compact portable based Philips Ultrasound systems (i.e. Philips Compact 5500, 5300), do not require planned maintenance.

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.

#### **PARTS:**

Standard parts coverage. This provides coverage on parts (excluding transducers) used to maintain and repair the equipment including both hardware and software items.

Transducers coverage. One (1) transducer replacement per contract anniversary year for any of the transducers on the system due to failure or accidental damage (excluding TEE transducers) ; no roll-over from year-to-year

Additional transducers replacements due to failure or accidental damage at 50% off the Philips Service Exchange Program price. This excludes TEE transducers.

#### **LIFECYCLE:**

System software updates. This includes on-site or remote labor, travel and parts necessary to complete safety, performance and reliability modifications to existing equipment software or hardware.

35% discount on the purchase of eligible system upgrades, transducer upgrades and Clinical Education tuition purchased with the upgrade, excluding system platform exchanges.

## Includes

**CUSTOMER CARE SOLUTIONS CENTER:** Unlimited Technical telephone support. Unlimited Clinical telephone support from 8:00 am - 5:00 pm, Monday – Friday. Remote Services. This supports remote system diagnostics and monitoring, including Remote Desktop and Remote Proactive Monitoring (requires connection to Philips Remote Services network). Philips equipment is connected via an Internet secure single point of access network to our Solutions Center as described in the Terms and Conditions Exhibit. Features may vary by equipment and software release level. **SOLUTION ENHANCEMENTS:** Utilization Reports. This provides information on system utilization reports to help improve workflow. May not be available on all platforms. On-Board system diagnostics. This provides convenient access to diagnostic data located on the ultrasound system. May not be available on all platforms. **NOTE:** Philips approved printers, static probes, used on this system are covered as part of this agreement. Coverage for consumables is excluded.

- 1.3 **Deluxe Compact Cart** 1  
**Article No. FUS5864**

### Details

Deluxe compact cart with:  
Integrated keyboard in slide out drawer  
Integrated AC Adapter in bottom compartment  
Three batteries to provide additional scanning time  
Multiport Adapter provides ports for attaching up to 3 imaging transducers

- 1.4 **Shared Service Bundle** 1  
**Article No. NMAA029**

### Details

Shared Service Bundle - Vascular including TCD, Pediatric GI, Abdomen, Musculoskeletal, OB, Fetal Echo, Small Parts including Breast, Urology, GYN, Adult Cardiology and Pediatric Cardiology

Compatible with the following transducers: 3D9-3v, V6-2, C6-2, C8-5, C9-4v, D2cwc, D2tcd, D5cwc, L12-3ERGO, L12-4, L15-7io, L18-5, S4-2, S8-3, X8-2t, X7-2t

- 1.5 **Linear Transducer 12-3 MHz** 1  
**Article No. FUS5874**

## Details

L12-3 ERGO is an ergonomically designed Linear array transducer with 12 to 3 MHz extended operating frequency range for vascular applications. Also supports musculoskeletal, pediatric radiology, POC and small parts applications.

- 1.6 **Linear Transducer 12-5 MHz 50mm** 1  
**Article No. FUS5876**

## Details

Fine pitch, 256 element, high resolution linear array transducer with 12 to 5 MHz extended operating frequency range for high resolution superficial applications, including small parts, breast, vascular and musculoskeletal imaging. Can also be used for pediatric radiology, obstetrical, abdominal and POC applications.

- 1.7 **Curved Transducer 6-2 MHz** 1  
**Article No. FUS5890**

## Details

C6-2 Curved array transducer with 6 to 2 MHz extended operating frequency range. C6-2 Curved Array for high performance OB/GYN, Abdominal, Pediatric GI, Abdominal vascular and POC applications.

- 1.8 **Sector Transducer 4-2 MHz** 1  
**Article No. FUS5894**

## Details

Sector array transducer with 4 to 2 MHz extended operating frequency range for adult cardiology, pediatric cardiology, abdominal vascular, TCD and POC applications. Also supports LVO contrast examinations.

- 1.9 **English Manual** 1  
**Article No. FUS7000**  
Operation Manual

- 1.10 **5300G Entitlement Text** 1  
**Article No. NNAV647**

## Details

Customers purchasing a Compact 5300G GI (NNAV600) Ultrasound System receive:

- 1 Day Onsite Clinical Install\*
- 1 Day Onsite Clinical Support\*\*

Customers purchasing 4D Imaging (NMAA068) receive:

- 1 Day Onsite Clinical Support\*\*
- 1 Basic System Training Bundle\*\*\*\*\*

Customers purchasing AutoStrain LV (NMAA067) receive:

- 1 Day Level 1 Tuition Only\*\*\*
- US Travel Package Level 1 Offsite\*\*\*\*\*

Offsite tuition only and travel packages are not applicable to the following contracts: VA797H17D0022, SPE2D117D0014

## Features

### US Travel Package Level 1 Offsite

#### **US Travel Package Level 1 Offsite**

The Level 1 Offsite Travel Package expires six (6) months from the purchased date. This travel package is valid for one (1) registered attendee. Includes one (1) participants modest airfare from a North American customer location to a North America Philips Training Center location with modest lodging, ground transportation and meal expenses. Breakfast/dinner are provided by the hotel and lunch/breaks are catered by Philips Healthcare. All other expenses will be the responsibility of the attendee (ie. Baggage fees, meals while traveling, transportation to and from customers home airport). (Not applicable to the following contracts: VA797H17D0022; SPE2D117D0014)

### \*1 Day Onsite Clinical Install

#### **\*1 Day Onsite Clinical Install**

The Clinical Install Onsite Training expires ninety (90) days after install and is provided Mon-Fri during normal business hours between 8 AM and 5 PM. Philips Healthcare personnel are not responsible for actual patient contact or operation of equipment during education sessions except to demonstrate proper equipment operation. The training sessions should be attended by the appropriate healthcare professional as identified by the department director. Repeat training for staff non-attendance will not be accepted. Site must be patient-ready to meet training expectations. Please refer to Cancellation/Rescheduling policy.

### \*\*\*\*\*Basic System Training (BST) Bundle

#### **\*\*\*\*\*Basic System Training (BST) Bundle**

The Basic System Training (BST) Bundle expires ninety (90) days from equipment installation date or purchased date. The BST eLearning Bundle curriculum is focused on your Philips Ultrasound System. The aim of this comprehensive series is to provide the Sonographer/Echocardiographer with a comprehensive bundle of self-paced courses to familiarize you with your ultrasound system.

### \*\*\*1 Day Level 1 Tuition Only

#### **\*\*\*1 Day Level 1 Tuition Only**

The Level 1 Tuition Only expires six (6) months from equipment installation date or purchased date if sold separately. This tuition may be used for one (1) attendee to register to attend one Advanced System Training course only that is offered at a Philips Training Center. Due to travel and scheduling

requirements, a twenty-one (21) day notification of cancellation is required, or training / education entitlements will be forfeited. Curriculum is subject to change without notice. Travel is not included as part of this offering and may be purchased separately. (Not applicable to the following contracts: VA797H17D0022; SPE2D117D0014)

**\*\*1 Day Onsite Clinical Support**

**\*\*1 Day Onsite Clinical Support**

The Clinical Support Onsite Training expires ninety (90) days after install and is provided Mon-Fri during normal business hours between 8 AM and 5 PM. Philips Healthcare personnel are not responsible for actual patient contact or operation of equipment during education sessions except to demonstrate proper equipment operation. The training sessions should be attended by the appropriate healthcare professional as identified by the department director. Repeat training for staff non-attendance will not be accepted. Site must be patient-ready to meet training expectations. Please refer to Cancellation/Rescheduling policy.

| Line | Description   | Qty |
|------|---|-----|
| 2    | <b>Trade In: z_ImagePoint</b><br><b>Article No. SP00401_RE</b><br>Serial number: JP97D50689<br>TES 221234 | 1   |

## 5. Local Sales Terms and Conditions

| Line | Product Code                      | Contract Name             | Contract No. | Billing Plan |
|------|-----------------------------------|---------------------------|--------------|--------------|
| 1    | 795148 Ultrasound System 5300G    | Vizient Supply LLC XR0925 | XR0925       | 0/0/100      |
| 2    | SP00401_RE Trade In: z_ImagePoint | NONE                      | NONE         | 0/0/100      |

Payment Terms US: Net 30 Days

INCO Terms: Carriage and Insurance Paid To Destination

This is a cash price quote, which includes ACH, check, and wire transfer. Any other form of payment will result in different price, which may be higher.

Billing Terms: Are as displayed under the Billing Plan table above. For each item, X/Y/Z milestones are defined as follows (unless an Agreement specifying alternative payment terms has been negotiated between the parties):

X is the percentage invoiced upon signed acceptance of quotation or upon receipt of Customer Purchase Order  
Y is the percentage invoiced upon delivery of major components to Customer designated location or Philips warehouse.  
Z is the percentage invoiced upon completion of installation or product available for first patient use, whichever occurs first.

If DEMO Equipment is included in this quotation it is sold under the Contact No. Contract Name/Contract Number ("Contract") of the products/solution included in this quotation.

All amounts in this quote are in USD

Additional Terms US:

This purchase is governed by the terms and conditions applicable to Customer Member of the specific Vizient Contract number identified above, as well as any Philips Standard Terms and Conditions of Sale and Software License, set forth below, to the extent not in conflict with the applicable Vizient Contract terms.

## 6. Signature Page

**Invoice to:**

Broward College  
225 E Las Olas Blvd  
Fort Lauderdale, FL 33301-2208

|                 |              |
|-----------------|--------------|
|                 | Total Price  |
| Total Net Price | \$ 71,233.76 |

### Acceptance by Parties

Each Quotation solution is issued pursuant to and will reference a specific Contract Name/Contract Number ("Contract") representing an agreement containing discounts, fees and any specific terms and conditions which will apply to that single quoted solution. Philips Standard Terms and Conditions for Value Added Services (VAS) and Connected Care Warranty is located at <http://www.usa.philips.com/healthcare/about/terms-conditions>. Any PO for the items herein will be accepted subject to the terms of that Contract. If no Contract is shown, Philips Terms and Conditions of Sale including applicable product warranty or Philips Terms of Service ("Philips Terms") located in the Philips Standard Terms and Conditions of the quotation shall solely apply to the quoted solution. **Issuance by customer of a non-contingent signed purchase order(s) referencing the quote and master agreement (as applicable) expressly represents customer's acceptance of the quotation and the associated terms in lieu of the customer signature on this quotation.** Each equipment system and/or service listed on purchase order/orders represents a separate and distinct financial transaction.

We understand and agree that each transaction is to be individually billed and paid. This quotation contains confidential and proprietary information of Philips Healthcare, a division of Philips North America LLC ("Philips") and is intended for use only by the customer whose name appears on this quotation. Except as otherwise required by state or federal law after strict compliance with any applicable notification and procedural requirements therein, it may not be disclosed to third parties without the prior written consent of Philips. This quotation provides contract agreement discounts and does not reflect rebates that may be earned by Customer, under separate written rebate agreements, from cumulative volume purchases beyond the individual quantity being ordered under this quote. Customer is reminded that rebates constitute discounts under government laws which are reportable by Customers.

The price above does not include sales tax.

Please fill in the below if applicable:

1. Tax Status: Taxable \_\_\_\_\_ Tax Exempt \_\_\_\_\_  
If Exempt, please indicate the Exemption Certification Number: \_\_\_\_\_, and attach a copy of the certificate.
2. Requested equipment delivery date \_\_\_\_\_
3. If you do not issue formal purchase orders indicate by initialing here: \_\_\_\_\_
4. For Recurring Maintenance Service & Support Agreements with New Equipment Purchases: Our facility does issue formal purchase orders; however, due to our business/system limitation, we cannot issue a formal purchase order for the service agreement until 90 days prior to standard warranty expiration. Our facility agrees to submit the service agreement purchase order at such time. Initialed: \_\_\_\_\_

#### CUSTOMER SIGNATURE

by its authorized representative

Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

*Valerie Williams*

Valerie Williams  
 Contract Manager  
 10-Dec-2024

Electronically signed by: Valerie Williams  
 Reason: I carried out the steps in this record.  
 Date: Dec 10, 2024 13:14 CST





## 7. Philips Standard Terms and Conditions

### GENERAL TERMS AND CONDITIONS OF SALE AND SOFTWARE LICENSE ("Conditions of Sale") Rev 23

#### 1. Initial Provisions.

- 1.1 The Products (equipment, service, and software) offered on the quotation by the Philips legal entity identified thereon are subject to these Conditions of Sale.
- 1.2 The purchase prices set out on the quotation excludes all taxes. All taxes on the Products will be borne by the Customer unless Customer provides a tax exemption certification reasonably in advance of the date the Order is invoiced, otherwise, Philips will invoice Customer for those taxes and Customer shall pay those taxes in accordance with the terms of the invoice.

#### 2. Quotation, Order and Payment.

- 2.1 Any quotation on the Products will be open for acceptance within the period indicated therein and may be amended or revoked by Philips prior to Customer's acceptance. Any purchase orders shall be subject to Philips' confirmation. Any terms and conditions set forth on the Customer's purchase order or otherwise issued by the Customer shall not apply to the Products.
- 2.2 The prices and payment terms are set out on the quotation. Orders are subject to Philips' ongoing credit review and approval.
- 2.3 Interest will apply to any late payments. Customer shall pay interest on any overdue amount not actively disputed paid at the annual rate of twelve percent (12%) which may be billed monthly. If the Customer fails to pay any amounts due or breaches these Conditions of Sale, Philips will be entitled to suspend the performance of its obligations and deduct the unpaid amount from any amounts otherwise owed to Customer by Philips, in addition to any other rights or remedies available to Philips. Philips shall be entitled to recover all costs and expenses, including reasonable attorneys' fees related to the enforcement of its rights or remedies.
- 2.4 Customer has no right to cancel an order, unless such cancellation right is granted to the Customer by mandatory law.
  - 2.4.1 If the Customer cancels the order prior to the order being sent to the factor for manufacturing, then the Customer shall pay the costs incurred by Philips up to the date of cancellation or 15% of the net selling price of the product(s), whichever is less.
  - 2.4.2 If the Customer cancels the order after the order is sent to the factory for manufacturing, then Customer shall pay the full net selling price of the product(s) ordered.
  - 2.4.3 If Customer has not taken delivery date for each product contained in Philips quotation and Customer's purchase order, or in-lieu of purchase order, within 30 months from Philips' receipt of Customer's purchase order, or in-lieu of purchase order, then the product shall be deemed cancelled and Customer shall be subject to the cancellation fee in section 2.4.1.
- 2.5 Philips may make partial or early shipments and Customer will pay such invoice based on the date of invoice for each product in accordance with the payment terms set forth in the quotation
- 2.6 Payments may be made by check, ACH or wire. Philips does not accept transaction fees for any electronic fund transfers or any other payment method; Philips imposes a surcharge on credit cards of 2%, which is not greater than our cost of acceptance. All check payments over \$50,000 USD must be paid via eCheck or via Philips prepaid FedEx account with tracking to secure against fraud and misappropriation.

#### 3. Philips Security Interest until Full Payment.

- 3.1 Philips is entitled to retain a security interest in the Philips products, until Philips receives full payment.

#### 4. Technical Changes

- 4.1 Philips shall be entitled to make changes to the design or specifications of the Products at any time, provided such change does not adversely affect the performance of the Products.

#### 5. Lease and Trade In

- 5.1 If the Customer desires to convert the purchase of any Products to a lease the Customer shall within ninety (90) prior to the delivery of the Products provide all relevant rental documents for review and approval by Philips. The Customer is responsible for converting the transaction to a lease and is required to secure the leasing company's approval of all these 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. For any lease, if the lease does not fund then: (i) Customer guarantees the payment of all monies due or that may become due under these Conditions of Sale; (ii) Philips may convert the lease back to a purchase and invoice Customer accordingly; and (iii) Customer will pay all such invoiced amounts per the invoice terms. In the event that there are multiple Products on one quote, the Product with the longest period for converting the transaction to a lease shall prevail.
- 5.2 Philips may provide a rental agreement at its discretion.
- 5.3 In the event Customer will be trading-in equipment ("Trade-In"), the Customer will provide the following:
  - 5.3.1 Customer undertakes to possess good and marketable title to the Trade-In as of the date of the quotation and when Philips takes possession of

the Trade-in from Customer's site. In the event Customer is in breach of this undertaking, Customer shall not be entitled to keep a trade-in credit for such Trade-In and shall promptly refund Philips such credited amounts upon receipt of an invoice from Philips.

- 5.3.2 The trade-in value set forth on the Philips quotation is conditioned upon Customer providing Trade-In no later than the date Philips makes the new Product listed on such quotation available for first patient use. Customer shall bear the costs of any reduction in trade-in value arising due to a delay by the Customer causing the trade-in not to occur by the expected date and promptly pay the revised invoice.
- 5.3.3 In the event Philips receives a Trade-In having a different configuration (including software version) or model number than the Trade-In described on the Philips quotation, Philips reserves the right to adjust the trade-in value and revise the invoice accordingly and Customer shall pay such revised invoice promptly upon receipt.
- 5.3.4 Customer undertakes to (i) clean and sanitize all components that may be infected and all biological fluids from the Trade-In; (ii) drain any applicable chiller lines and cap any associated plumbing and (iii) delete all personal data in the Trade-In. Customer agrees to reimburse Philips against any out-of-pocket costs incurred by Philips arising from Customer's breach of its obligations herein.

## **6. Shipment and Delivery Date.**

- 6.1 Philips shall deliver the Products in accordance with the Incoterms set forth on the quotation. If Philips and the Customer agree to any other terms of delivery, additional costs shall be for the account of the Customer. Title (subject to Section 3 entitled Philips Security Interest) to any product (excluding software), and risk of loss shall pass to the Customer upon delivery to the shipping carrier. However, Philips shall pay the cost of freight and risk insurance (during transport to destination). Customer shall obtain and pay for insurance covering such risks at destination.
- 6.2 Philips will make reasonable efforts to meet delivery dates quoted or acknowledged. Failure to deliver by the specified date will not be a sufficient cause for cancellation nor will Philips be liable for any penalty, loss, or expense due to delay in delivery. If the Customer causes the delay, any reasonable expenses incurred by Philips will be paid for by Customer, including all storage fees, transportation expenses, and related costs. Customer shall pay the 80% installment payment upon delivery to Customer site or Philips warehouse. For the purposes of clarification, "Delay" in this section shall mean a date later than the Customer agreed delivery date identified via confirmation of the delivery date with Customer prior to releasing the Product for production.

## **7. Installation.**

- 7.1 If Philips has undertaken installation of the Products, the Customer shall be responsible for the following at its sole expense and risk:
  - 7.1.1 The provision of adequate and lockable storage for the Products on or near the installation site. Additionally, Customers shall consider the manufacturing labeling requirements for environmental and storage conditions. The Customer will repair or replace any lost or damaged item during the storage period.
  - 7.1.2 Philips or its affiliate's representative shall have access to the installation site without obstacle or hindrance in due time to start the installation work at the scheduled date.
  - 7.1.3 The timely execution and completion of the preparatory works, in conformity with Philips' installation requirements. The Customer shall ensure the prepared site shall comply with all safety, electrical and building codes relevant to the Products and installation thereof.
  - 7.1.4 The proper removal and disposal of any hazardous material at the installation site prior to installation by Philips.
  - 7.1.5 The timely provision of all visa, entry, exit, residence, work or any other permits and licenses necessary for Philips' or Philips' representatives' personnel and for the import and export of tools, equipment, Products, and materials necessary for the installation works and subsequent testing.
  - 7.1.6 The assistance to Philips or Philips' representative for moving the Products from the entrance of the Customer's premises to the installation site. The Customer shall be responsible, at its expense, for rigging, the removal of partitions or other obstacles, and restoration work.
- 7.2 If Products are connected to a computer network, the Customer shall be responsible for network security, including but not limited to, using secure administrative passwords, installing the latest validated security updates of operating software and web browsers, running a Customer firewall as well as maintaining up-to-date drivers, and validated anti-virus and anti-spyware software. Unauthorized Updates, as defined in the Product Schedules, may adversely affect the functionality and performance of the Licensed Software.
- 7.3 If any of the above conditions are not complied with, Philips or Philips' representative may interrupt the installation and subsequent testing for reasons not attributable to Philips and the parties shall extend the period for completing the installation. Any additional costs shall be for the Customer's account and Philips shall have no liability for any damage resulting from or in connection with the delayed installation.
- 7.4 Philips shall have no liability for the fitness or adequacy of the premises or the utilities available at the premises for installation or storage of the Products.

## **8. Product Damages and Returns.**

- 8.1 The following shall apply solely to medical consumables:  
The Customer shall notify Philips in writing substantiating its complaints within ten (10) days from its receipt of the Products. If Philips accepts the claim as valid, Philips shall issue a return authorization notice and the Customer shall return the Products. Each returned Product shall be packed in its original packaging.

## **9. Product Warranty.**

- 9.1 In the absence of any specific Product warranty attached to the quotation, the following warranty provisions will apply to the Product.

- 9.2 Hardware Products. Philips warrants to Customer that the Product shall materially comply with its product specification on the quotation and the user documentation accompanying the shipment of such Product for a period of one year from the date of acceptance or first clinical use, whichever occurs first, but under any circumstances, no more than fifteen (15) months from the date of shipment, provided the Product has been subject to proper use and maintenance. Any disposable Product intended for single use supplied by Philips to the Customer will be of good quality until the expiration date applicable to such Product.
- 9.3 Stand-alone Licensed Software Products. Philips warrants that the Stand-alone Licensed Software shall substantially conform to the technical specification for a period of ninety (90) days from the date Philips makes such Stand-alone Licensed Software available to the Customer. "Stand-alone Licensed Software" means Licensed Software sold without a contemporaneous purchase of a server for the Licensed Software.
- 9.4 Service. Philips warrants that all services will be carried out with reasonable care and skill. Philips' sole liability and Customer's sole remedy for breach of this warranty shall be, at its option, to give credit for or re-perform the services in question. This warranty shall only extend for a period of ninety (90) days after the completion of the services.
- 9.5 Customer shall only be entitled to make a Product warranty claim if Philips receives written notice of the defect during the warranty period within ten (10) days from the Customer discovering the defect and, if required, the Product or the defective parts shall be returned to an address stated by Philips. Such defective parts shall be the property of Philips after their replacement.
- 9.6 Philips' warranty obligations and Customer's sole remedy for the Product shall be limited, at Philips' option, to the repair or replacement of the Product or any part thereof, in which case the spare parts shall be new or equivalent to new in performance, or to the refund of a pro rata portion of the purchase price paid by the Customer solely after a reasonable cure period is given to Philips.
- 9.7 Philips' warranty obligations shall not apply to any defects resulting from:
- 9.7.1 improper or unsuitable maintenance, configuration or calibration by the Customer or its agents.
  - 9.7.2 use, operation, modification, or maintenance of the Product not in accordance with the Product specification and the applicable written instructions of Philips or performed prior to the completion of Philips' validation process.
  - 9.7.3 abuse, negligence, accident, damages (including damage in transit) caused by the Customer.
  - 9.7.4 improper site preparation, including corrosion to Product caused by Customer.
  - 9.7.5 any damage to the Product or any medical data or other data stored, caused by an external source (including viruses or similar software interference) resulting from the connection of the Product to a Customer network, Customer client devices, a third-party product or use of removable devices.
- 9.8 Philips is not responsible for the warranty for the third-party product provided by Philips to the Customer and Customer shall make any warranty claims directly with such vendors. However, if Philips, under its license agreement or purchase agreement with such third party, has right to warranties and service solutions, Philips shall make reasonable efforts to extend to the Customer the third-party warranty and service solutions for such Products.
- 9.9 During the term of the warranty and any customer service arrangement the Customer shall provide Philips with a dedicated high-speed broadband internet connection suitable to establish a remote connection to the Products in order for Philips to provide remote servicing of the Products by:
- 9.9.1 supporting the installation of a Philips approved router (or a Customer-owned router acceptable for Philips) for connection to the Products and Customer network (which router remains Philips property if provided by Philips and is only provided during the warranty term).
  - 9.9.2 maintaining a secure location for hardware to connect the Products to the Philips Remote Service Data Center (PRSDC).
  - 9.9.3 providing and maintaining a free IP address within the site network to be used to connect the Products to the Customer's network.
  - 9.9.4 maintaining the established connection throughout the applicable period.
  - 9.9.5 facilitating the reconnection to Philips in case any temporary disconnection occurs.
  - 9.9.6 If Customer fails to provide the access described in this section and the Product is not connected to the PRSDC (including any temporary disconnection), Customer accepts any related impact on Products availability, additional cost, and speed of resolution.
  - 9.9.7 THE WARRANTIES SET FORTH IN THESE TERMS AND CONDITIONS OF SALE AND QUOTATION ARE THE SOLE WARRANTIES MADE BY PHILIPS IN CONNECTION WITH THE PRODUCT, ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, WHETHER WRITTEN, ORAL, STATUTORY, EXPRESS, OR IMPLIED, INCLUDING ANY WARRANTY OF NON-INFRINGEMENT, QUIET ENJOYMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PHILIPS EXPRESSLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. MOREOVER, PHILIPS DOES NOT WARRANT ANY PRODUCT USING THE CLOUD TO BE UNINTERRUPTED OR ERROR FREE.

## 10. **Limitation of Liability.**

- 10.1 THE TOTAL LIABILITY OF PHILIPS ARISING UNDER OR IN CONNECTION WITH THE PRODUCT FOR ANY BREACH OF CONTRACTUAL OBLIGATIONS, WARRANTY, NEGLIGENCE, UNLAWFUL ACT OR OTHERWISE IN CONNECTION WITH THE PRODUCT IS LIMITED TO THE ACTUAL PURCHASE PRICE RECEIVED FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.
- 10.2 PHILIPS SHALL NOT BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES AND/OR FOR ANY DAMAGES INCLUDING LOSS OF DATA, PROFITS, REVENUE, BUSINESS INTERRUPTION OR USE IN CONNECTION WITH OR ARISING OUT OF THESE CONDITIONS OF SALE, REGARDLESS OF WHETHER THEY ARE FORESEEABLE OR NOT AND WHETHER THE CLAIM IS MADE IN TORT (INCLUDING

NEGLIGENCE), BREACH OF CONTRACT, INDEMNITY, AT LAW OR IN EQUITY. NEITHER PHILIPS NOR PHILIPS' SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OR INABILITY TO USE MEDICAL OR OTHER DATA STORED ON OR BY THE PRODUCT.

10.3 THE EXCLUSION OF LIABILITY IN THESE CONDITIONS OF SALE SHALL ONLY APPLY TO THE EXTENT ALLOWED UNDER THE APPLICABLE LAW.

10.4 FOR US CUSTOMERS, THE FOLLOWING ARE NOT SUBJECT TO THE LIMITATIONS OF LIABILITY UNDER SECTION 10.1:

10.4.1 THIRD PARTY CLAIMS FOR DIRECT DAMAGES FOR BODILY INJURY OR DEATH TO THE EXTENT CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT.

10.4.2 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.

10.4.3 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 PROTECTED HEALTH INFORMATION.

10.4.4 FINES/PENALTIES LEVIED AGAINST CUSTOMER BY GOVERNMENT AGENCIES CITING PHILIPS' UNAUTHORIZED DISCLOSURE OF PROTECTED HEALTH INFORMATION AS THE BASIS OF THE FINE/PENALTY. ANY SUCH FINES OR PENALTIES SHALL CONSTITUTE DIRECT DAMAGES.

## **11. Infringement of Intellectual Property Rights to the Products.**

11.1 Philips will, at its option and expense, defend or settle any suit or proceeding brought against Customer based on any third-party claim that any Product or use thereof for its intended purpose constitutes an infringement of any intellectual property rights in the country where the Product is delivered by Philips.

11.2 Customer will promptly give Philips written notice of such claim and the authority, information and assistance needed to defend such claim. Philips shall have the full and exclusive authority to defend and settle such claim. Customer shall not make any admission which might be prejudicial to Philips and shall not enter a settlement without Philips' prior written consent.

11.3 If the Product is held to constitute infringement of any intellectual property right and its use by Customer is enjoined, Philips will, at its option and expense, either: (i) procure for Customer the right to continue using the Product; (ii) replace it with an equivalent non-infringing Product; (iii) modify the Product so it becomes non-infringing; or (iv) refund to the Customer a pro rata portion of the Products' purchase price upon the return of the original Products.

11.4 Philips will have no duty or obligation under this clause 11 if the infringement is caused by a Product being:

11.4.1 supplied in accordance with Customer's design, specifications or instructions and compliance therewith has caused Philips to deviate from its normal course of performance.

11.4.2 modified by Customer or its contractors after delivery.

11.4.3 not updated by Customer in accordance with instructions provided by Philips (e.g. software updates).

11.4.4 combined by Customer or its contractors with devices, software, methods, systems, or processes not furnished hereunder and the third-party claim is based on such modification or combination.

The above states Philips' sole liability and Customer's exclusive remedy in respect of third-party intellectual property claims.

## **12. Use and exclusivity of Product documents.**

12.1 All documents and manuals, including technical information related to the Products and its maintenance, as delivered by Philips is the proprietary information of Philips, covered by Philips' copyright, and remains the property of Philips, and as such, it shall not be copied, reproduced, transmitted, or disclosed to or used by third parties without the prior written consent of Philips.

## **13. Export Control and Product Resale.**

13.1 Customer agrees to comply with relevant export control and sanction laws and regulations, including the UN, EU or US ("Export Laws"), to ensure that the Products are not (i) exported or re-exported directly or indirectly in violation of Export Laws; or (ii) used for any purposes prohibited by the Export Laws, including military end-use, human rights abuses, nuclear, chemical or biological weapons proliferation.

13.2 Customer represents that (i) Customer is not located in a country that is subject to a UN, US or EU embargo and trade restriction; and (ii) Customer is not listed on any UN, EU, US export and sanctions list of prohibited or restricted parties.

13.3 Philips may suspend its obligation to fulfil any order or subsequent service if the delivery is restricted under Export Laws or an export/import license is not granted by relevant authorities.

## **14. License Software Terms.**

14.1 Subject to any usage limitations set forth on the quotation, Philips grants to Customer a non-exclusive, non-transferable license, without the right to grant sub-licenses, to incorporate and use the Licensed Software (as specified on the quotation, whether embedded or stand-alone) in Licensed Products and the permitted use (as referenced in the quotation) in accordance with these Conditions of Sale.

14.2 The Licensed Software is licensed and not sold. All intellectual property rights in the Licensed Software shall remain with Philips.

- 14.3 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. Customer may not reproduce, sell, assign, transfer or sublicense the Licensed Software. Customer shall preserve the confidential nature of the Licensed Software and shall not disclose or transfer any portion of the Licensed Software to any third party.
- 14.4 Customer shall maintain Philips' copyright notice or other proprietary legends on any copies of the Licensed Software. Customer shall not (and shall not allow any third party to) decompile, disassemble, or reverse engineer the Licensed Software.
- 14.5 The Licensed Software may only be used in relation to Licensed Products or systems certified by Philips. If Customer modifies the Licensed Software in any manner, all warranties associated with the Licensed Software and the Products shall become null and void. Customer installation of Philips' issued patches or updates shall not be deemed to be a modification.
- 14.6 Philips and its affiliates shall be free to use any feedback or suggestions for modification or enhancement of the Licensed Software provided by Customer for the purpose of modifying or enhancing the Licensed Software, as well as for licensing such enhancements to third parties.
- 14.7 With respect to any third-party licensed software, the Customer agrees to comply with the terms applicable to such licensed software. Customer shall indemnify Philips for any damage arising from its failure to comply with such terms. If the third-party licensor terminates the third party license, Philips shall be entitled to terminate the third party license with the Customer and make reasonable effort to procure a solution.

## **15. Confidentiality.**

- 15.1 If any of the parties have access to confidential information of the other party, it shall keep this information confidential. Such information shall only be used if and to the extent that it is necessary to carry out the concerned transactions. This obligation does not extend to public domain information and/or information that is disclosed by operation of law or court order.

## **16. Compliance with Laws and Privacy.**

- 16.1 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, but not limited to, those relating to employment practices federal and state anti-discrimination laws (including Title VII of the Civil Rights Act of 1964 as amended, the Rehabilitation Act of 1973 as amended and the Veterans Readjustment ACT of 1972 as amended), E-Verify, 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]).
- 16.2 Processing of personal data: In relation to the provision of services, Philips may process information, in any form, that can relate to identified or identifiable individuals, which may qualify as personal data. Philips and/or its affiliates will: a) process any protected health information (PHI) as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) on behalf and by instruction of the Customer, the terms, rights and responsibilities of the Parties for such processing of PHI are set forth in a Business Associate Agreement between the parties and b) process information such as log files or device parameters (which may contain personal data), to provide the services and to enable its compliance with and performance of its task as manufacturer of (medical) devices under the applicable regulations and standards (including but not limited to the performance of vigilance, post market surveillance and clinical evaluation related activities).
- 16.3 Customer agrees that Philips and/or its affiliates may use any data, other than personal data, generated by a Product and/or otherwise provided by Customer to Philips for Philips' own legitimate business purposes including, but not limited to, for data analytics activities to determine trends of usage and advise on the use of products and services, for research, product and service development and improvement (including the development of new offerings), substantiation of marketing claims and for benchmarking purposes.

## **17. Force Majeure.**

- 17.1 Each party shall not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control, including, but not limited to, acts of God, war, civil war, insurrection, fire, flood, labor disputes, epidemics, pandemic, cyber- attack, act of terrorism, governmental regulations and/or similar acts, embargoes, export control sanctions or restrictions, Philips' unavailability regarding any required permits, licenses and/or authorizations, default or force majeure of suppliers or subcontractors.
- 17.2 If force majeure prevents Philips from fulfilling any order from the Customer or otherwise performing any obligation arising out of the sale, Philips shall not be liable to the Customer for any compensation, reimbursement, or damages.

## **18. Miscellaneous.**

- 18.1 Any newly manufactured Product provided may contain selected remanufactured parts equivalent to new in terms of performance.
- 18.2 If the Customer becomes insolvent, unable to pay its debts as they fall due, files for bankruptcy or is subject to it, has appointed a recipient, is subject to a late fee on payments (temporary or permanent), or has its assets assigned or frozen, Philips may cancel any unfulfilled obligations or suspend its performance; provided that, however, the Customer's financial obligations to Philips shall remain in full force and effect.
- 18.3 If any provision of these Conditions of Sale is found to be unlawful, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall remain in full force and effect. In lieu of any provision deemed to be unlawful, unenforceable, or invalid, in whole or in part, a provision reflecting the original intent of these Conditions of Sale, to the extent permitted by the applicable law, shall be deemed to be a substitute for that provision.
- 18.4 Notices or other communications shall be given in writing and shall be deemed effective if they are delivered in person or if they are sent by courier or mail to the relevant party.

- 18.5 The failure by the Customer or Philips at any time to require compliance with any obligation shall not affect the right to require its enforcement at any time thereafter.
- 18.6 Philips may assign or novate its rights and obligations in whole or in part, to any of its affiliates or may assign any of its accounts receivable to any party without Customer's consent. Customer agrees to execute any documents that may be necessary to complete Philips' assignment or novation. The Customer shall not, without the prior written consent of Philips, transfer or assign any of its rights or obligations.
- 18.7 The Customer's obligations do not depend on any other obligations it may have under any other agreement or arrangement with Philips. The Customer shall not exercise any offset right in the quotation or sale in relation to any other agreement or arrangement with Philips.
- 18.8 These Conditions of Sale shall be governed by the laws of the country or state wherein the Philips legal entity identified in the quotation is situated, and the parties submit to the exclusive jurisdiction of the courts of that country or state, provided that Philips will be entitled to start legal proceedings against the Customer in any other court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA), in any form, is expressly excluded.
- 18.9 Customer will report immediately to Philips any event of which Customer becomes aware that suggests that any Products provided by Philips, for any reason:
- 18.9.1 may have caused or contributed to a death or serious injury, or
- 18.9.2 have malfunctioned where such malfunctions would likely cause or contribute to a death or serious injury if the malfunction were to occur again. Additionally, Customer will also report to Philips complaints it receives from its personnel and patients or any other person regarding the identity, quality, performance, reliability, safety, effectiveness, labels, or instructions for use of the Products provided by Philips. Philips shall be solely responsible for submitting any filings or reports to any governmental authorities with respect to the Products provided by Philips hereunder, unless otherwise required by law.
- 18.10 To the extent applicable to your country or state, Philips and Customer shall comply with the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and it's implementing regulations (42 CFR, Part 420). Philips agrees that until the expiration of four (4) years after furnishing Products pursuant to these Conditions of Sale, 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 Conditions of Sale 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 Conditions of Sale 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 Products 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 Conditions of Sale. If Section 1861(v) (1) (1) should be found to be inapplicable, then this paragraph shall be deemed inoperative and without force and effect.
- 18.11 As of the date of the sale of this Product, 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 Products provided under these Conditions of Sale (an "Excluded Provider"). Philips shall promptly notify Customer if it becomes aware that Philips or any of its employees or subcontractors providing Products 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 order by express written notice for Products not yet shipped or rendered prior to a date of exclusion.
- 18.12 To the extent applicable to your country or state, it is Customer's responsibility to notify Philips if any portion of the order is funded under the American Reinvestment and Recovery Act (ARRA). To ensure compliance with the ARRA regulation, Customer shall include a clause stating that the order is funded under ARRA on its purchase order or other document issued by Customer.
- 18.13 To the extent applicable, Customer acknowledges it shall comply with all Medicare, Medicaid or state cost reporting requirements, including discounts afforded to Customer under these Conditions of Sale, for any Products purchased hereunder.
- 18.14 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.

## 19. Product specific terms.

Product specific schedules are incorporated herein as they apply to the Products listed in the quotation and their additional terms shall apply solely to the Products specified therein. If any terms set forth in the Product specific schedules conflict with terms expressly set forth in these Conditions of Sale, the terms set forth in the Product specific schedule shall govern in such instance.

**Schedule 2**  
**Ultrasound Systems Portfolio (UL) Rev 23**

| Product Category        | Products  |
|-------------------------|---|
| Ultrasound Systems (UL) | Cardiovascular Ultrasound (CV UL)<br>General Imaging Ultrasound Systems (GI UL)<br>Women’s Health Care (WHC UL)<br>Point of Care (POC UL) |

**1. Payment Terms.**

- 1.1 Unless otherwise specified in the quotation, Philips will invoice Customer and Customer will pay such invoice on receipt for each Product as follows:
  - 1.1.1 100% of the purchase price shall be due thirty (30) days from Philips’ invoice date.
- 1.2 Support Services, if any, shall be invoiced and paid as set forth on the quotation.
- 1.3 Payment terms are subject to credit approval.

**2. Additional Terms Related to sales of Ultrasound Products.**

- 2.1 The ultrasound system’s memory (hard drive, solid state memory, etc.) should not be used as a data repository or central archive to store images and reports. This has led to Customer’s losing data in the past. In no event shall Philips be liable for loss of data on an ultrasound equipment. It is the responsibility of Customer to make daily back-up copies of data residing on this equipment. This can be performed by sending images and reports generated by the use of the ultrasound equipment to a Picture Archive and Communication System (PACS) or via another medium that is automated for back-up retrieval. Costs associated with data restoration from a backing-up images and reports to a non-automated source is Customer’s entire responsibility and at Customer’s sole risk. Data retrieval and restoration from these methods may be time consuming and a non-automated system process may result in further data loss by itself and is not recommended by Philips.

**3. Prior Validation of Operating System (OS) Updates and/or Upgrades.**

- 3.1 Patches introduced by operating system Original Equipment Manufacturers (OEM) or upgrades to anti-virus software can impact the performance and functionality of the applications that run on them and affect patientsafety. Philips shall perform validation testing of certain Microsoft operating systems and McAfee anti-virus software during the warranty period. Philips shall have no obligation to validate any other third-party operating system or anti-virus software. Customer shall not install or use:
  - 3.1.1 operating system patches, updates or upgrades;
  - 3.1.2 anti-virus updates (except to the DAT files, i.e., virus definitions); or,
  - 3.1.3 upgrades to anti-virus search engines, collectively (a) and (b) prior to validation testing and approval by Philips (“Unauthorized Updates”).
- 3.2 Philips shall have no liability, including, without limitation, for warranty claims, arising from use of the Licensed Software with Unauthorized Updates. In the event Philips discovers that Customer is using an Unauthorized Update with the Licensed Software, Philips shall have the right to require Customer to roll back to the most recently validated versions of operating systems and anti-virus, prior to performing any support.

**4. Lumify.**

- 4.1 If Customer’s purchase includes a Lumify Ultrasound Solution or Bundle, then the following terms apply in addition to the Philips Standard Terms and Conditions of Sale:
  - 4.1.1 Compatible Smart Devices.
    - 4.1.1.1 Use of the Lumify Ultrasound Solution or Bundle for Android requires the following components: A Philips Lumify transducer and cable, a compatible smart device, and the Lumify Software Application (SW App). The compatible smart device is an off-the-shelf consumer tablet or phone meeting Lumify compatibility specification. Philips may change the published compatible device list from time-to-time.
    - 4.1.1.2 Use of the Lumify Ultrasound Solution or Bundle for iOS requires the following components: A Philips Lumify transducer, the Lumify Software Application (SW App), and the Lumify Power Module (LPM), Rigid. Connector (to be used with Philips provided custom Thule case), flexible cable, mounting plate (to be used without the Philips provided custom Thule case), and a charging cable.
    - 4.1.1.3 Philips does not provide any maintenance or repair services for Customer’s smart devices. Philips does not provide anti-virus software for Customer’s smart device; Customer is responsible for purchasing anti-virus software or apps and for managing all virus issues in connection with Customer’s smart devices. The Lumify Ultrasound Solution does not include any security software for Customer’s smart devices. Customer is responsible for managing and maintaining firewalls or other appropriate security and privacy measures for data residing on Customer’s smart devices.
  - 4.1.2 If Customer selected the Lumify: Outright Purchase, the following terms apply:
    - 4.1.2.1 Customer will purchase at their own expense a smart device from the approved list published on the Lumify website, and Customer will install the Lumify SW App from the commercial play store on the smart device.



- 4.1.2.2 Customer acknowledge that the purchase of a Lumify Ultrasound Solution does not include the required smart device.
  - 4.1.3 If Customer selected the Lumify System Bundle option, Customer's shipment will include a compatible Android device with the Lumify app pre-installed and the following terms apply:
    - 4.1.3.1 Customer authorizes Philips to accept on their behalf the applicable end user license agreement, which can be found at:
    - 4.1.3.2 for Samsung devices: [http://www.samsung.com/us/common/software\\_eula.html](http://www.samsung.com/us/common/software_eula.html), and for other devices: a link will be provided upon request.
    - 4.1.3.3 Customer authorizes Philips to perform basic setup steps and install Lumify SW on the tablet.
    - 4.1.3.4 Customer agrees to the limited replacement-only warranty coverage for the smart device as identified in the warranty agreement.
    - 4.1.3.5 After the warranty period for the tablet, Philips shall not be responsible for the performance or functionality of the Lumify application following any customer installation of OEM operating system patches, updates or upgrades to the tablet.
  - 4.2 License to Lumify SW App. The license granted to use the Lumify SW App is limited to use with the Lumify transducer on one or more computers or smart devices that are listed on the approved hardware list published on the Lumify website. The Lumify SW App is available via the Google Play Store and the Apple App Store. When downloaded, the Lumify SW App is in demonstration mode, but it will be fully enabled if Customer purchases and register the transducer with Philips.
  - 4.3 Internet connectivity is not required to use the Lumify Ultrasound Solution but is required to download the Lumify SW App and to register each unique configuration including the smart device, OS updates to the smart device, Lumify App SW versions, and Lumify transducer).
  - 4.4 As part of the Lumify Ultrasound Solution, Philips periodically collects system log information; Customer agrees to such collection when Customer purchases a Lumify Ultrasound Solution. See the Privacy Notice for more details.
5. Xtend Service Coverage.
- 5.1 Services Provided. If applicable, the Xtend Coverage (the "Coverage") on the systems listed in the quotation (the "Covered Systems") are offered by Philips North America LLC ("Philips") under the Xtend Coverage terms and conditions described below or otherwise confirmed by Philips in writing. It is a service bundle offer that includes RightFit Value Limited service and Technology Maximizer Essential Service
    - 5.1.1 Repair Service. Commencing on the effective date and subject to the repair limitation below, Philips or Philips' subcontractors will provide repair services for Covered Systems for material defects. Philips will provide all replacement parts, which may be refurbished, and labor necessary to repair Covered Systems. All components used are subject to Philips' inspection and quality control procedures and shall be warranted to the same extent that a non-refurbished component is warranted. Parts removed for replacement become the property of Philips and Philips shall remove parts from Customer's Site. Philips may increase its contract prices if a Covered System is upgraded or reconfigured.
    - 5.1.2 Planned Maintenance Service. Philips will provide Customer a planned maintenance schedule for each Covered System. Philips will provide such planned maintenance during the Service Coverage hours (as defined in the Quotation) at a time that is mutually agreed upon. Customer will make Covered.
    - 5.1.3 Systems available in accordance with this schedule. Philips or its subcontractors will provide planned maintenance on each Covered System at scheduled intervals. If Philips cannot locate a Covered System, or a 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 such Covered System for planned maintenance, otherwise customer waives right to service, and Philips may delete such Covered System from the list of Covered Systems in the Quotation. If Philips Technology Maximizer Essential service purchased under this Agreement as part of Xtend coverage and the requirements of the Agreement are satisfied, then Philips will upgrade the Equipment as is outlined in Technology Maximizer Essential Service section.
  - 5.2 Exclusions. Unless specifically included in the Quotation, the Coverage does not include:
    - 5.2.1 servicing a Covered System if contaminated with blood or other potentially infectious substances;
    - 5.2.2 any service necessary due to: a design, specification or instruction provided by Customer or Customer representative;
    - 5.2.3 the failure of anyone to comply with Philips' written instructions or recommendations;
    - 5.2.4 any combining of a Covered System with other manufacturers product or software other than those recommended by Philips, except for products delivered by Philips and sold under the applicable Quotation;
    - 5.2.5 any alteration or improper storage, handling, use or maintenance of a Covered System by anyone other than Philips' subcontractor or Philips;
    - 5.2.6 damage caused by an external source, regardless of nature, unless caused by Philips or Philips' subcontractor;
    - 5.2.7 any removal or relocation of a Covered System;
    - 5.2.8 neglect or misuse of a Covered System;
    - 5.2.9 any cost of materials, supplies, parts, or labor supplied by any party other than Philips or Philips' subcontractors;
    - 5.2.10 any rigging or structural alteration incident to the Services;



- 5.2.11 consumable items and supplies (such as biomedical laser tubes and patient used pads), cryogenics, Positron Emission Tomography (PET) calibration sources, film, batteries, cassettes;
  - 5.2.12 cosmetic repairs;
  - 5.2.13 the cost of factory reconditioning, rebuilds, or overhauls if repairs cannot maintain a Covered System in satisfactory operating condition;
  - 5.2.14 disposing hazardous, infectious, or biomedical waste or materials;
  - 5.2.15 providing service to any Covered 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.
  - 5.2.16 unless otherwise specified in the Quotation, maintaining or repairing Philips and/or third-party products including but not limited to nuclear camera detector crystals, Computed Tomography (CT) Tubes and radiation therapy tubes, x-ray tubes, flat panel detectors, image intensifiers magnet replacement, magnet refrigeration system (coldhead, compressor, chillers), Magnetic Resonance (MR) radio frequency (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; and
  - 5.2.17 unless otherwise specified in the Quotation: arthroscopy instruments, blood pressure cuffs (accessory or attachment), centrifuge motor brushes, electronic thermometer probes, electrosurgical instruments (pencils & pads), general or surgical instruments, laboratory glass, laser tubes, phaco hand pieces (cataract extraction units, accessory or attachment), non-electrical surgical equipment, rigid & semi-rigid scopes.
- 5.3 Customer Responsibilities. During the term of the Coverage, Customer will:
- 5.3.1 ensure that the Site is maintained in a clean and sanitary condition; and that each Covered System, product or part is decontaminated prior to service, shipping or trade-in as per the Instructions in the User manual;
  - 5.3.2 dispose of hazardous or biological waste generated;
  - 5.3.3 maintain operating environment within Philips' specifications for the Site (including temperature and humidity control, incoming power quality, incoming water quality, and fire protection system);
  - 5.3.4 use Covered Systems in accordance with the published manufacturer's operating instructions;
  - 5.3.5 if applicable, attend a start-up meeting at Customer's facility, prior to the effective date of the Coverage, so Philips can explain the Coverage to the Customer's management and selected staff;
  - 5.3.6 provide a secure dedicated space within Customer's main facility and at each additional facility or location as necessary for the resident Philips staff;
  - 5.3.7 provide Philips with broadband internet or Wi-Fi access for business purposes;
  - 5.3.8 for any non-Philips system, provide Philips with the Covered System's service manuals;
  - 5.3.9 maintain all software licenses applicable to each Covered System;
  - 5.3.10 for Philips use in remote servicing of Covered Systems, provide Philips a secure location for hardware to connect Covered Systems to Philips Remote Service Network ("RSN");
  - 5.3.11 the RSN hardware remains Philips' property and is only provided during the term of the Coverage;
  - 5.3.12 provide Philips and its vendors full and free access to the RSN hardware to enable Philips to remotely access the Covered System or non-Philips System;
  - 5.3.13 provide Philips at each Site, at all times during the term of the Coverage, a dedicated broadband Internet access node, including public and private interface access, suitable to establish a successful connection to the Covered Systems at the Site through the RSN and Customer network; and,
  - 5.3.14 if the Covered System cannot be connected to the RSN and Customer fails to provide Philips with reasonably requested access, then Customer waives its rights to Coverage on such Covered System and any uptime guarantee.
- 5.4 System Availability. If Customer schedules service and a Covered System is not available at the agreed upon time, then Philips may cancel the service or charge the Customer at the prevailing demand service rates for all time spent by Philips' service personnel waiting for access to a Covered System.
- 5.5 Coverage. To the extent a repair issue cannot be remedied remotely, Philips will provide services on-site during the hours listed in the quotation, excluding Philips observed holidays, unless otherwise set forth in attachments or exhibits ('Service Coverage'). Customer may request service outside of the Service Coverage or service that is not otherwise included in this Agreement and, subject to the availability of personnel and repair parts, Philips will provide such service at Philips's then-current preferred rates and for material and labor. Customer will be charged a minimum of three hours on-site time plus applicable travel charges and expenses per service visit.
- 5.6 Documentation. Upon Customer's written request, Philips will provide repair and planned maintenance records for each Covered System.
- 5.7 Term and Termination. The term of this Agreement shall be set forth in the Quotation and incorporated herein.
- 5.8 This Agreement is non-cancelable and will remain in effect for the term specified in the Quotation.
- 5.9 Warranty Disclaimer. Philips' full contractual Coverage obligations to Customer are described in this Schedule. Philips provides no additional warranties

under this Agreement. All service and parts to support the Coverage under this Schedule are provided AS IS. NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO ANYTHING PROVIDED BY PHILIPS' SUBCONTRACTOR OR PHILIPS.

- 5.10 Independent Contractor. Philips is Customer's independent contractor, not Customer's employee, agent, joint venture, or partner. Philips' employees and Philips subcontractors are under Philips' exclusive direction and control. Philips has no liability or responsibility for and does not warrant customer's or customer's employees' act or omissions related to any services that are performed by customer's employees under this agreement.
- 5.11 Subcontracts. Philips may subcontract to service contractors of Philips' choice any of Philips' Coverage obligations to Customer or other activities performed by Philips under this Quotation. No such subcontract will release Philips from those obligations to Customer.
- 5.12 Rules and Regulations. To the extent made known in writing to Philips, Philips and its subcontractors will comply with Customer's rules and regulations provided such rules and regulations do not conflict with established Philips policies.
- 5.13 Solicitation of Philips Employees. For the duration of the Coverage and for one year following the expiration or termination of the Coverage, Customer and its affiliates will not directly or indirectly solicit any employee of Philips or its affiliates engaged in providing the services.
- 5.14 Philips Maximizer (Technology Upgrades PTU). If Maximizer is purchased under this Agreement, then Philips will upgrade the Covered System's software as follows:
  - 5.14.1 Philips will provide the latest available system software upgrades, if any, when available and approved by Philips, to the Covered System operating system software, basic application software, and software options purchased with the Covered System.
  - 5.14.2 Upgrades do not include functionality, applications, options or the like that were not purchased with the System, including but not limited to virus protection software. Customer may not resell, transfer, or assign the right to such Upgrades to any third party. In addition to these terms and conditions, all upgrades to a Covered System's software provided under this Section are subject to the licensing terms and conditions included in the purchase of the Covered System from Philips.

## 6. Philips Technology Maximizer Service Package.

If Philips Technology Maximizer ("Technology Maximizer") is purchased under this Agreement and the requirements of the Agreement are satisfied, then Philips will upgrade the Equipment and include the following as is outlined below.

### 6.1 **Technology Maximizer Essential**

- 6.1.1 Maintain Operating System at Philips current standard as follows:
- 6.1.2 Philips software updates for licensed software.
- 6.1.3 Operating system upgrades.
- 6.1.4 Safety and security critical patches approved and communicated by Philips as part of the core release.
- 6.1.5 Provide application training limited to upgraded new or enhanced functionality of licensed software running on the updated system.
- 6.1.6 Computer hardware replacement to support software upgrade is not included unless specially included in the Quotation.
- 6.1.7 Philips will provide the latest available upgrades, if and when made commercially available, and as determined by Philips, to the Equipment operating system software, basic application software and software options purchased with the Equipment or purchased separately from Philips for the Equipment.

### 6.2 **Conditions.**

The upgrades provided under Technology Maximizer:

- 6.2.1 are available only for the Equipment at the Site.
- 6.2.2 unless explicitly described otherwise in the Quotation do not include new functionality, applications, options or the like that were not purchased with the Equipment or purchased separately from Philips for the Equipment.
- 6.2.3 may not be sold, transferred, or assigned to any third party.
- 6.2.4 are subject to the terms and conditions of the Agreement and any licensing terms and conditions included in the purchase of the Equipment from Philips or as communicated by Philips.
- 6.2.5 Parts removed for the purpose of upgrade become the property of Philips on an Exchange Basis as defined in the Exhibit Additional Terms and Conditions for Imaging Services.
- 6.2.6 In case Customer refuses the installation of an upgrade, or in case no upgrade is provided by Philips (for any reason, e.g., not made available commercially) during the Term of the Agreement, no credit for any already paid amounts is carried forward or eligible for refund.

### 6.3 **Termination.**

If the Agreement is terminated due to the fault of Customer or Customer defaults under the Agreement after any upgrades under this Technology Maximizer have been provided by Philips, then Customer shall pay Philips the list price of the so provided upgrades within thirty (30) days of such termination or default. No paid amount is eligible for a refund.

### 6.4 **Clinical Education Training.**

- 6.4.1 Training Coverage. Philips will provide the clinical education and product applications training ("Training") that customer has selected from the Philips' course catalog(s) (Course Catalog(s)).
- 6.4.2 Exclusions. Training does not include (a) maintenance or diagnostic related technical training or (b) clinical applications training on hardware or software not installed or provided by Philips.
- 6.4.3 Scheduling. Training must be scheduled at least eight (8) weeks in advance except for on-line training. Changes to scheduled Training must be received in writing by Philips at least two (2) weeks prior to scheduled delivery.
- 6.4.4 Attendance. Philips will train the number of Customer employees (Trainee(s)) for the course specified in the quotation, when space is available. Trainee(s) must meet the minimum admission requirements set forth in the course syllabus, must satisfy all prerequisites prior to admission, and may be required to sign or acknowledge Philips safety checklist prior to receiving Training.
- 6.4.5 Course Location. Training may be conducted at Philips' training facilities, the Customer location(s) described in this Agreement (Customer Site(s)), through on-line or remote training, or at a third-party location determined by Philips.
- 6.4.6 Payment Options.
  - 6.4.6.1 Flexible Spending Accounts. If Customer purchased Flexible Spending Account option, the initial account balance is specified in the quotation. The account balance is reduced by the list price for the specified course per attendee. When the balance is depleted, Customer may add funds to their account. If the account balance is negative, then Customer shall promptly pay Philips the balance due. Account balances will not carry over from year to year. Any remaining account balance at the end of the year will not be refunded.
  - 6.4.6.2 Direct Course Purchase. Customer may purchase individual courses at then current prices.
- 6.4.7 Travel. Philips' travel expenses for all Training delivered at the Customer Site are included in the price described in the applicable Course Catalog(s). Unless otherwise indicated in the Course Catalog(s), all travel and living expenses incurred by the Trainee(s) are the Customer's responsibility.
- 6.4.8 Warranty Disclaimer. PHILIPS MAKES NO WARRANTY THAT ANY TRAINEE WILL PASS ALL OR ANY PORTION OF THE TRAINING COURSES PROVIDED OR THAT THE TRAINING WILL RESULT IN ANY TRAINEE BEING QUALIFIED OR ABLE TO OPERATE THE SYSTEM.

**Schedule 2-A  
Collaboration Live or Reacts Rev 23**

| Product Category | Products                         |
|------------------|----------------------------------|
| Ultrasound       | Collaboration Live and/or Reacts |

The following Schedule 2-A shall apply to Collaboration Live and/or Reacts offered in connection with the purchase of an Ultrasound System. If your purchase includes a license to Collaboration Live or the Reacts Platform (the "Software Services"), then the following terms apply in addition to the Philips Standard Terms and Conditions of Sale:

**1. Definitions.**

- 1.1 "Account" means a Reacts User Account. A Reacts User Account includes the Account Information.
- 1.2 "Account Information" means the personal information related to a specific User, the User Content, the Account settings, as well as the Usage Information residing on the Reacts Platform.
- 1.3 "Administrator" means a Philips support agent (the "Philips Administrator") or a Customer Account holder (the "Customer Administrator") that has been granted certain administrative permission(s), such as but not limited to the management of: (i) Accounts, and (ii) Subscriptions.
- 1.4 "Subscription" means an access purchased by the Customer to the Software Services.
- 1.5 "Usage Information" means the information associated with the Software Services.
- 1.6 "User" means an individual accessing any of the Software Services.
- 1.7 "User Content" means any data provided by the User or shared with the User contained in the User's Reacts Library or secure messaging including text, photos, videos, graphics, items, or other materials, all of which will be subject, as applicable, to the Philips Privacy Notice.

**2. Customer Responsibilities.**

- 2.1 Customer is responsible for its own and each of its User's acts and omissions, including compliance with the end-User License Agreement ("EULA") currently available online at <https://reacts.com/legal/terms>, use of the Software Services, and ensuring adequate security to prevent unauthorized access to Accounts, User Content, and any confidential information including protecting any client devices such as tablets and laptops with anti-virus and appropriate cyber security.
- 2.2 Customer will obtain and retain all necessary consents, including from patients, before using or granting access to the Software Services for medical purposes, and processing personal information for the purposes of providing the Software Services.
- 2.3 Customer will ensure that the Users use the Software Services in accordance with all applicable laws and comply with all requirements related to the use of personal health information, including medical data. Customer will ensure that the Software Services are not used by patients.
- 2.4 Customer will obtain the consent of its Users to grant Philips access to the Usage Information.
- 2.5 Customer will obtain and maintain all required authorizations, permit(s) and/or register with their local agencies, as necessary, to use the Software Services.
- 2.6 Customer will follow the Collaboration Live Pre-Implementation IT Checklist, which Philips will provide to the Customer.

**3. Access to the Software Services.**

- 3.1 Customer acknowledges that before using the Software Services, each of its User must agree to the EULA. Philips makes such terms available to be agreed upon by each User through a click-wrap process enabled at the time such User creates their account information.
- 3.2 Customer acknowledges that the Software Services are administered by Philips or its affiliate(s) in Canada and that Personal Data may be processed by Philips and/or its affiliate(s) in Canada. Customer is responsible for its own, and its Users, compliance with any local laws, including those laws that permit the processing of Personal Data in Canada.
- 3.3 Customer acknowledges that Philips does not need any medical data to operate any of its Software Services.
- 3.4 Customer will designate individual(s) to serve as Customer Administrator(s) and alternate(s), who will serve as Philips' primary support contacts. The Customer Administrator(s) shall manage all Accounts. Philips Administrator(s) can act on behalf of the Customer to administrate the Services.
- 3.5 Software Services may be interrupted for maintenance, upgrades, or as a result of telecommunication failures or other reasons that are beyond Philips' control. Accordingly, Philips does not warrant the Software Services to be uninterrupted or error-free and will have no liability for any disruptions or downtime. Therefore, the primary on-site patient care provider performing the ultrasound procedure must be sufficiently qualified independent of the Software Services to perform an ordered patient procedure.
- 3.6 Philips may modify the Software Services, or any portion thereof. You agree that Philips shall not be liable to you or anyone else if Philips does so.
- 3.7 Abusive or excessive usage of the Software Services may result in the temporary or permanent suspension of your and/or any User's access to the Software Services and/or termination of applicable Subscriptions. Philips, in its reasonable discretion, will determine what constitutes abusive or excessive usage of



its Software Services.

3.8 The access to the Software Services starts when the Subscriptions are created, not when they are assigned.

3.9 The ability to access the Software Services may require payment of third-party fees, such as telephone toll charges, mobile carrier fees, ISP, data plan, etc. Philips and its Affiliates have no connection to or responsibility for such fees.

**4. Further use of System Data.**

4.1 Customer agrees that Philips may use aggregated data to analyze the performance of its Services. Only when strictly necessary, Philips may use the following Personal Data, IP address and User ID, to ensure that the Services are functioning as intended, are maintained to ensure the appropriate security controls are in place and to meet Philips' regulatory and legal obligations.

**5. Retention of the Account Information and User Content.**

5.1 Philips will retain and grant the Customer or other persons access to Account Information and User Content only to fulfil its obligations under this Agreement or as required or permitted by applicable laws. Once deleted by Philips, the Customer, or the Users, Account Information and User Content cannot be restored.

**Schedule 2 - B**  
**Fetview Product Rev 23**

| Product Category | Products |
|------------------|----------|
| Ultrasound       | FetView  |

In addition to the Conditions of Sale, the following terms, and conditions in this Schedule 2 - B, apply. In the event terms set forth herein conflict with terms expressly set forth in the base agreement, the terms set forth in this Schedule shall govern in such instance.

The Product is an online application available to Customers under a one-time subscription service model.

**1. Requirements for use**

- 1.1 The analysis of the examination and the communication with Product take place via the Internet browser with 256-bit encryption (HTTPS). Product can be connected to an ultrasound system with network connection and DICOM TLS interface, which shall be provided by Customer. In case the TLS connection is not available on the ultrasound system, a VPN router is required and needs to be provided by Customer.
- 1.2 Product is not for use with a mobile client device nor with products other than the ultrasound system set forth in the Documentation. Below are the minimum technical requirements for permissible client devices:

**1.2.1 Minimal Client Side Hardware Requirements**

- Operating system: MacOS, Windows, Linux, or any operating system that can support browsers (see below)
- Processor: Intel Core i5 or better
- RAM: 4 GB or higher

**1.2.2 Supported Browsers**

- Google Chrome 67 or higher
- Mozilla Firefox 60 or higher

**2. Subject matter**

- 2.1 The subject matter comprises the use of Product under a subscription service model, which includes the provision of associated storage space, subject to Section 9.3 below, as a cloud-based software service.
- 2.2 Subject to payment and appropriate use of the Product in accordance with the Agreement, Philips grants Customer access to Product for transmission and storage of patient data and ultrasound images. Product is made available to Customer online over a secure Internet connection (HTTPS) during the Subscription Period (as defined below).
- 2.3 Philips grants Customer the technical possibility and authorization to access Product, which is hosted on a central server, over the Internet and to use the functionality of Product in accordance with the terms and scope of this Agreement. The Customer is not granted any additional rights to Product.
- 2.4 Customer shall use Product only for its intended purpose(s) as described in the documentation provided by Philips in Product relating to the operation and functions of Product, as may be updated from time to time by Philips (hereinafter referred to as "Documentation"). Any use of Product by a third party (except as set forth in Section 7.3 of this Schedule) other than Customer is prohibited. The Customer is authorized to set up separate patient accounts for Customer's patients for the use of images or documents released by Customer in Product. Patients are authorized to use Product via the personal patient accounts set up by Customer. Any delays arising from such patient and Customer interactions are solely the responsibility of Customer.
- 2.5 The actual connection to the Internet is not part of this Agreement.
- 2.6 Customer is aware that the maximum transfer rate may be limited by the Customer's existing Internet connection and that the use of the Internet may cause additional costs not related to Philips.
- 2.7 Product cannot be used and/or considered as a permanent archiving system.

**3. Term, Termination and Acceptance**

- 3.1 The duration of any Agreement subscription period shall be set forth in the quotation but shall not be less than twelve (12) months (the "Subscription Period"). The start date of the Subscription Period will be communicated by Philips to the Customer after order confirmation. Acceptance occurs upon Customer's receipt of the log-in link for Product.

**4. Effect of Expiration or Termination of the Agreement**

- 4.1. After termination of the Agreement:
  - 4.1.1. Philips shall not be obliged to continue to keep data (retrieve or add) in connection with the Product which Customer has saved on Philips' servers in accordance with the terms of the Agreement. This shall also apply to data which the Customer has released for a patient account.
  - 4.1.2. Regardless of the reason, the parties shall be obliged to conclude the contractual relationship in a proper manner. For this purpose, Philips agrees to allow Customer, after termination or expiration of the Agreement, a reasonable period to transfer or delete any data saved in Product from Customer's account, but in no event more than thirty (30) days from the date of termination or expiration. Once this deadline has expired, Philips shall be entitled to permanently delete all data held in the Customer's account.
  - 4.1.3. Customer's data, which must be retained by Philips for legal purposes, shall be locked. This data shall no longer be available for further use. Other than the foregoing, all personal data shall be deleted, provided Customer has not explicitly agreed to processing and use of the data.
  - 4.1.4. Except as otherwise specified in 4.1.2, Customer shall immediately cease using Product and permanently delete all documents and other software documentation in Customer's possession relating to Product and Philips' services under this Agreement.

**5. Costs**

- 5.1. Unless otherwise agreed, the subscription fee for Product is specified on the quotation (hereinafter the "Subscription Fee") and shall be invoiced in advance, at the beginning of the Subscription Period (as defined in Section 3 above and always subject to earlier termination as set in the Conditions of Sale). The Subscription Fee includes the maintenance of Product during the Subscription Period as specified in this Schedule 2 - B. The Subscription Fee is calculated based on the number of single user accounts and the number of connected ultrasound systems.



- 5.2. Unless otherwise agreed, the invoice amounts will become due for payment, without deduction, from date of invoice.
- 5.3. Customer may have Customer's single user account(s) deleted or deactivated at any time by written request, during the term of the Agreement. However, there shall be no refund of pro-rata fees for non-use or deactivation of single user account(s) during the term of the Agreement. In particular, neither the deletion, deactivation of single user accounts, nor a reduction in the number of connected ultrasound systems during the term of the Agreement shall have any effect on the continuation of the Agreement or the amount of Subscription Fees paid. Philips Subscription Fee is calculated based on spreading its fixed costs over the number of single user account(s) and connected ultrasound systems set forth on the quotation.

## 6. Access to Product

- 6.1. For the first use of a Product, Customer will receive the ordered number of single user account(s) from Philips upon start of the Subscription Period. Customer will receive a log-in link to set-up its accounts with access ID and password ("Access Details"). If the password is entered incorrectly three times in a day, the respective account will automatically be blocked for a few hours for security reasons. Philips shall have no responsibility for delays arising from this security feature.
- 6.2. Customer shall ensure that the Access Details communicated to Customer are not disclosed to any unauthorized third parties. Customer undertakes to promptly inform Philips for damage mitigation purposes if Customer suspects that Customer's user account or password is used by unauthorized parties.

## 7. Right to use Product

- 7.1. Within the scope of the Agreement and limited in time to the Subscription Period, Philips grants Customer a mandatory-fee-based, non-exclusive, non-transferable, non-sublicensable (except for patient accounts) right to use Product for the contractual purpose in accordance with the terms of the Agreement. A single user account for the use of Product may not be used by or shared among multiple users at Customer site. If Customer wishes to use Product for more than one independent user, it must order the appropriate number of single user accounts.
- 7.2. Product is not surrendered to Customer. If Philips provides new versions, updates, or upgrades to the Product during the term of the Agreement, the aforesaid right of use shall apply to the foregoing in the same way. However, Philips is under no obligation to provide new versions, updates, or updates unless this is necessary for the elimination of defects, or this has been agreed otherwise elsewhere in the Agreement.
- 7.3. Without the prior written approval of Philips, Customer is not permitted to transfer Product or the access to Product to third parties, especially not to sell or lease it or to grant unauthorized third parties free or fee-based access to Product via Customer's single user account(s). This does not apply to patient accounts. Non-independent use by Customer's employees or other third parties under the authority of Customer within the scope of the intended use through single user account(s), is permitted.

## 8. Special aspects of the patient account

- 8.1. Within the scope of patient accounts, Customer may grant its patients access to data released by Customer. Customer alone is responsible for complying with the applicable data protection regulations and protection of medical confidentiality. Customer is solely responsible for communication issues received from patients, including fielding account patient set-up questions or data to be retrievable by Customers patients via Product.
- 8.2. Customers may authorize patients with patient accounts to store data made available by Customer via Product to patients in such patient account. To the extent that patients store their own data in their patient accounts, Customer shall be fully responsible to its patients for the contents and storage of these data. Any data-back up obligation of Customer include data and images in patient accounts. Contents uploaded to patient accounts will not be checked or reviewed by Philips. Customer is responsible for informing the patient about their respective responsibilities for the patient's stored data in any patient account.
- 8.3. Customer acknowledges and agrees that the patients shall not store any data that breach applicable laws. In the event of a culpable breach, Philips may promptly deactivate or delete the account.
- 8.4. By storing data in their patient accounts set up by Customer, the patients do not grant Philips or Customer any rights to utilize these data.
- 8.5. Philips is not responsible to the patients for the backup of their data. Customer agrees to inform its patients about their responsibility to regularly back up their data and to make backup copies.

## 9. Cooperation obligations

- 9.1. To ensure the operability of Product, Customer shall, without delay, report any identified and suspected operating malfunctions to Philips by e-mail or telephone, providing any error messages with their original wording and a description of the application environment, and cooperate in the search for their causes and elimination if necessary.
- 9.2. By means of a plan of back-up measures and a failure concept, Customer shall ensure that any dangers or disadvantages to their patients are avoided in the event of malfunction.
- 9.3. Customer shall regularly back up the data transmitted to Philips as often as needed under consideration of the risk, but at least once a day, and create Customer backup copies to ensure recovery of the data and information in case these are lost. The liability of Philips for restoration of data shall be limited to the actual costs of recovery of data from its data backup system.
- 9.4. Customer shall set up and operate Customer systems and programs in such a way that the security, integrity, and availability of Philips' systems are not impaired.

## 10. Liability of the Customer/Data Protection/Medical Confidentiality

- 10.1. The Customer indemnifies Philips against all patient claims arising from the Product. Philips does not indemnify Customers in the same manner as originally written here.
- 10.2. The Customer alone shall be responsible for the content and/or accuracy and/or correctness of Customer's transmitted data.
- 10.3. The Customer alone shall be fully liable for compliance with medical confidentiality and obligatory documentation requirement.
- 10.4. The opening of an individual patient's account by or with Customer's patient through Customer's account does not result in any direct contractual liability or relationship between Philips and the individual patient.
- 10.5. Insofar as Customer collects, processes, or uses personal data directly or through Philips, Customer shall be responsible for making sure that Customer is authorized to do so according to the applicable legal or regulatory provisions, especially under data protection law, and indemnifies Philips against any and all third-party claims in the event of a breach.
- 10.6. Customer expressly acknowledges and agrees that Philips is not engaged in the practice of medicine and Product is an information tool only and not a substitute for professional judgement of healthcare providers in the process of diagnosing and treating patients. Customer alone shall be fully liable for Customer diagnostic and therapeutic activities.

## 11. Rights and obligations of Philips

- 11.1. Philips shall operate the central telecommunication infrastructure in a secure environment.
- 11.2. Philips shall employ firewalls as a mitigation safeguard technical control to reduce the potential for unauthorized access to the data and transmission of harmful data, to the extent that this is possible with a reasonable economic and technical overhead. In no event shall this measure be viewed as a guarantee from such possibility. It is strictly a reasonable mitigation control measure.
- 11.3. Philips may fully or partially block access to Product if the security, integrity or availability of networks, servers, software, or data of Philips are endangered by Customer.
- 11.4. Philips does not guarantee that the Product is suitable for Customer's intended requirements and purposes nor the Product and service be uninterrupted or error free. No guarantee is given that Product cooperates with other programs of Customer.
- 11.5. Philips is not obliged to verify the correctness of the transmitted and automated data.
- 11.6. Philips is not responsible for data backup on an external medium and does not assume any liability.
- 11.7. Product/Service Exclusions. Philips shall have no liability for corrupt, incomplete, or missing data arising from the ultrasound system or issues arising from Customers IT infrastructure, downtime of the network or inability to use the Product by patients.

## 12. Troubleshooting and maintenance

- 12.1. Philips will endeavor to rectify, within a reasonable time, errors and faults in Product which materially affect use of Product according to the Documentation ("software update"), provided that Customer logs any errors and/or faults arising, including the circumstances in which they occurred, clearly and adequately and makes these documents available to Philips for the purpose of error and/or fault analysis.
- 12.2. Rectification of the following errors and/or faults is not included in the software maintenance activities: errors and/or faults that are attributable to (i) improper handling or use contrary to this Agreement and/or (ii) the actions of third parties, force majeure or other influences for which Philips is not responsible. However, Philips can rectify such errors and malfunctions on request and against separate payment.
- 12.3. The Product is subject to regular maintenance and further development. Therefore, the utilization possibilities may be impaired temporarily.
- 12.4. Scheduled maintenance work will be announced one week in advance by e-mail. Philips shall endeavor to limit the maintenance work to the extent necessary.
- 12.5. In urgent cases in which immediate reaction is necessary to ensure the operation of the Product, the maintenance may be performed even outside the schedule. In this case, Philips shall promptly inform the Customer via the portal and/or by e-mail.
- 12.6. Philips shall provide software upgrades that represent a new change to the left of the first decimal point and trigger feature enhancements, to the extent such are made commercially available by Philips to Customers during a Subscription Period having coverage by Customer. Philips only has an obligation to perform support on the most current major version and one prior version during Subscription Period.



## 8. Warranty

### ULTRASOUND (UL) SYSTEMS PRODUCT WARRANTY

This product warranty document is an addition to the terms and conditions set forth in the quotation to which this warranty document is attached. Unless specifically listed below, this warranty does not apply to replacement parts. The terms and conditions of the quotation are incorporated into this warranty document. The capitalized terms herein have the same meaning as set forth in the quotation.

#### **1. Twelve (12) Month System Warranty.**

- 1.1 Philips Healthcare, a division of Philips North America LLC (Philips) warrants to Customer that the Philips' Ultrasound Systems (System) will perform in substantial compliance with its performance specifications, in the documentation accompanying the System, for a period of twelve (12) months after completion of installation and availability for first patient use.
- 1.2 If your purchase includes a new Lumify Ultrasound Solution, then the above warranty extends to cover all standard transducers purchased as part of the solution, for a period of sixty (60) months from the date of shipment of the System to the Customer.
  - 1.2.1 If your purchase includes a Diamond Select Lumify Ultrasound Solution the standard twelve (12) Month System Warranty applies.
- 1.3 If your purchase includes a Rugged Lumify System Bundle Solution, then the above warranty extends to the Lumify Transducer and the associated Rugged Tablet for a period of sixty (60) months from the date of shipment to the Customer.
- 1.4 In addition, if your purchase includes a Lumify System Bundle (including transducer (s), commercial off the shelf smart device and smart device sleeve), then the warranty extends to cover the included smart device for a period of twelve (12) months from the date shipment of the System to the Customer.
- 1.5 If your purchase includes a Sparq or CX50 Ultrasound Solution, then the above warranty extends to cover all standard transducers purchased with the System for a period of sixty (60) months after completion of installation or first patient use, whichever occurs first (not applicable in Canada).
- 1.6 If your purchase includes an Xperius Ultrasound Solution, then the above warranty extends for a period of Sixty (60) months from the date that is ten (10) calendar days after shipment of the System to the Customer.
- 1.7 If your purchase includes an InnoSight Ultrasound Solution, then the above warranty extends for a period of thirty-six (36) months from the date that is ten (10) calendar days after shipment of the System to the Customer.

#### **2. Planned Maintenance.**

- 2.1 During the warranty period, Philips' service personnel will schedule planned maintenance visits in advance at a mutually agreeable time on weekdays, between 8:00am and 5:00pm, excluding Philips' observed holidays.
- 2.2 If your purchase includes a Lumify Ultrasound Solution, Lumify System Bundle, or Innosight solution, then planned maintenance is not required and any technical support is provided remotely.
- 2.3 If your purchase includes an Xperius Ultrasound Solution, then Planned Maintenance is not required.

#### **3. System Options, Upgrades or Accessories.**

- 3.1 Any Philips' authorized options, upgrades, or accessories for the System which are delivered and/or installed on the System during the original term of the System warranty shall be subject to the same warranty terms contained in the first paragraph of this warranty, except that such warranty shall expire on the later of:
  - 3.1.1 upon termination of the initial twelve (12) month warranty period for the System on which the option, upgrade or accessory is installed; or
  - 3.1.2 after ninety (90) days for parts only from the date of installation.
- 3.2 If your purchase includes a Lumify Ultrasound Solution or Lumify System Bundle, accessories are covered for a period of twelve (12) months from the date of shipment of the System to the Customer.
- 3.3 System upgrades for a Lumify Ultrasound Solution or a Lumify System Bundle are only available in the form of software updates.

#### **4. System Software and Software Updates.**

- 4.1 The software provided with the System will be the latest version of the standard software available for that System as of the ninetieth (90th) day prior to the date the System is delivered to Customer.
- 4.2 Updates to standard software for the System that do not require additional hardware or equipment modifications will be performed as a part of normal warranty service during the term of the warranty.
- 4.3 All software is and shall remain the sole property of Philips or its software suppliers.
- 4.4 Use of the software is subject to the terms of a separate software license agreement.
- 4.5 No license or other right is granted to Customer or to any other party to use the software except as set forth in the license agreements.

- 4.6 Any Philips' maintenance or service software and documentation provided with the System and/or located at Customer's premises is intended solely to assist Philips and its authorized agents to install and to test the System, to assist Philips and its authorized agents to maintain and to service the System under a separate support agreement with Customer, or to permit Customer to maintain and service the System.
- 4.7 Customer agrees to restrict the access to such software and documentation to Philips' employees, those of its authorized agents and its authorized employees of Customer only.
- 4.8 If your purchase includes a Lumify Ultrasound Solution, installation of software licenses and updates are not performed by Philips.
- 4.9 If your purchase includes a Lumify System Bundle, the Lumify Software Application will be pre-installed by the Philips' factory.
- 4.10 Software updates and upgrades for a Lumify System Bundle will be available via the GooglePlay store or Apple App store.

## 5. Warranty Limitations.

- 5.1 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.
- 5.2 Any refund will be paid, to the Customer when the product is returned to Philips.
- 5.3 Warranty service outside of normal working hours (i.e. 8:00am - 5:00pm in the time zone where the Customer is located, through Friday, excluding Philips' observed holidays), will be subject to payment by Customer at Philips' standard service rates.
- 5.4 This warranty is subject to the following conditions: the product:
  - 5.4.1 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);
  - 5.4.2 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
  - 5.4.3 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.
- 5.5 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 running in connection with the Licensed Software without prior approval by Philips; use or operation of the product other than in accordance with Philips' applicable product specifications and written instructions; abuse, negligence, (such as cuts, bites, punctures, submersion, and improper cleaning), 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.
- 5.6 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.
- 5.7 The obligations of Philips described herein are Philips' only obligations and Customer's sole and exclusive remedy for a breach of a product warranty.
- 5.8 Limitation of Remedies for Xperius or InnoSight: Customer's remedy for damage to a Xperius or InnoSight Transducer or Tablet that affects its functionality and that is covered by the warranty (e.g., excluding damage resulting from abuse or misuse or cosmetic issues) is limited to repair or replacement of each the Xperius or InnoSight Transducer and Tablet not more than once in any twelve (12) month period.
- 5.9 Limitation of Remedies for Sparq or CX50 Ultrasound Transducer(s): Customer's remedy for damage to a standard transducer (excludes TEE and Specialty Transducers) ordered with the Sparq or CX50 that affects its functionality and that is covered by the warranty (e.g., excluding damage resulting from abuse or misuse, or cosmetic issues) is limited to repair or replacement of any standard transducer ordered with the Sparq or CX50 Solution not more than twice in any twelve (12) month period.
- 5.10 Limitation of Remedies for Lumify Ultrasound Transducer(s) (including Rugged Lumify System Bundle Solution): Customer's remedy for damage to a Lumify Transducer or Rugged Tablet that affects its functionality and that is covered by the warranty (e.g., excluding damage resulting from abuse or misuse or cosmetic issues) is limited to repair or replacement of each the Lumify Transducer and Rugged Tablet not more than once in any twelve (12) month period.
- 5.11 THE WARRANTIES SET FORTH HEREIN 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.
- 5.12 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.

## 6. Philips' Remote Services (PRS) also known as Philips' Remote Services Network (RSN).

- 6.1 Customer will (a) provide Philips with a secure location at Customer's premises to store one Philips' Remote Services Network router and provide full and free access to this router, (or a Customer-owned router acceptable to Philips) for connection to the equipment and to Customer's network; or (b) provide Philips with outbound internet access over SSL; at all times during the warranty period provide full and free access to the equipment and the Customer 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).

- 6.2 Customer's failure to provide such access 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 PRS/RSN access is provided.
- 6.3 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.
- 6.4 Warranty service for remote support only products like Lumify and InnoSight Ultrasound Solutions will be available only via phone between 8:00am - 5:00pm Eastern Standard Time (EST).

## **7. Transfer of System.**

- 7.1 In the event Customer transfers or relocates the System, all obligations under this warranty will terminate unless Customer receives the prior written consent of Philips for the transfer or relocation.
- 7.2 Upon any transfer or relocation, the System must be inspected and certified by Philips as being free from all defects in material, software and workmanship and as being in compliance with all technical and performance specifications.
- 7.3 Customer will compensate Philips for these services at the prevailing service rates in effect as of the date the inspection is performed.
- 7.4 Any System which is transported intact to pre-approved locations and is maintained as originally installed in mobile configurations will remain covered by this warranty.
- 7.5 For the Lumify Ultrasound Solution, this warranty is made only to the original purchaser of the Lumify Ultrasound Solution or, if the seller is an authorized Philips' distributor or sub-distributor, this warranty is made to the initial end user of the Lumify Ultrasound Solution.
- 7.6 In either case, any subsequent sale or transfer of the Lumify Ultrasound Solution will void the warranty.

## **8. Xtend Coverage and Maximizer Package.**

- 8.1 As a supplement to the terms attached for Xtend Coverage the following shall apply:
  - 8.1.1 Transducer coverage. Each year if one standard probe (excluding TEE and laparoscopic transducers) purchased with the system requires replacement due to failure or accidental damage, then Philips will replace such probe. If any additional transducers (excluding TEE and laparoscopic transducers) require replacement due to failure or accidental damage, Philips will provide such replacement at 50% off the Philips Service Exchange Program price.
- 8.2 As a supplement to the terms attached for Maximizer Package, the following shall apply:
  - 8.2.1 Software options that are purchased separately from Covered System are not included.
  - 8.2.2 Upgrades include software options that are contained within subsequent core operating system software releases.

## **9. Limitation of Liability.**

- 9.1 THE TOTAL LIABILITY OF PHILIPS ARISING UNDER OR IN CONNECTION WITH THE PRODUCT FOR ANY BREACH OF CONTRACTUAL OBLIGATIONS, WARRANTY, NEGLIGENCE, UNLAWFUL ACT OR OTHERWISE IN CONNECTION WITH THE PRODUCT IS LIMITED TO THE ACTUAL PURCHASE PRICE RECEIVED FOR THE PRODUCT THAT GAVE RISE TO THE CLAIM.
- 9.2 PHILIPS SHALL NOT BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES AND/OR FOR ANY DAMAGES INCLUDING, LOSS OF DATA, PROFITS, REVENUE, BUSINESS INTERRUPTION OR USE IN CONNECTION WITH OR ARISING OUT OF THESE CONDITIONS OF SALE, REGARDLESS OF WHETHER THEY ARE FORESEEABLE OR NOT AND WHETHER THE CLAIM IS MADE IN TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, INDEMNITY, AT LAW OR IN EQUITY. NEITHER PHILIPS NOR PHILIPS' SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OR INABILITY TO USE MEDICAL OR OTHER DATA STORED ON OR BY THE PRODUCT.
- 9.3 THE EXCLUSION OF LIABILITY IN THESE CONDITIONS OF SALE SHALL ONLY APPLY TO THE EXTENT ALLOWED UNDER THE APPLICABLE LAW.
- 9.4 FOR US CUSTOMERS, THE FOLLOWING ARE NOT SUBJECT TO THE LIMITATIONS OF LIABILITY UNDER SECTION 9.1:
  - 9.4.1 THIRD PARTY CLAIMS FOR DIRECT DAMAGES FOR BODILY INJURY OR DEATH TO THE EXTENT CAUSED BY PHILIPS' NEGLIGENCE OR PROVEN PRODUCT DEFECT.
  - 9.4.2 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.
  - 9.4.3 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 PROTECTED HEALTH INFORMATION.
  - 9.4.4 FINES/PENALTIES LEVIED AGAINST CUSTOMER BY GOVERNMENT AGENCIES CITING PHILIPS' UNAUTHORIZED DISCLOSURE OF PROTECTED HEALTH INFORMATION AS THE BASIS OF THE FINE/PENALTY, ANY SUCH FINES OR PENALTIES SHALL CONSTITUTE DIRECT DAMAGES.

## **10. Force Majeure.**

10.1 Philips and Customer shall each 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, health pandemics, acts of any civil, military, or government authority, fire, floods, war, embargoes, labor disputes, acts of sabotage, riots, accidents, delays of carriers, voluntary or mandatory compliance with any government act, regulation, mandatory direction, or request. For clarity, Customer requests shall not be considered 'government' requests under this section.

Philips' system specifications are subject to change without notice.

*Ultrasound Product Warranty Rev 23*