

GENERAL TERMS AND CONDITIONS OF SALE AND SOFTWARE LICENSE

("Conditions of Sale")

These General Conditions of Sale shall be the exclusive terms and conditions applicable to all sales of the product described herein.

The products are offered and sold by Philips Electronics Nederland B.V. acting through its venture "CareServant" ("Philips") only under the terms and conditions described below ("Products" or when referred to in a singular manner "Product").

1. Validity of Quotation and Conditions of Sale

Philips' quotation is open for acceptance within the period stated therein, but is subject to change or withdrawal by Philips prior to such acceptance. Any customer orders, whether or not arising from Philips' quotation, shall be subject to Philips' confirmation in writing. These Conditions of Sale shall be the exclusive terms and conditions applicable to all sales of Products. Any terms and conditions set forth on customer's purchase order or otherwise issued by the customer are hereby rejected and shall not apply to the purchase and sale of Products, unless and to the extent expressly stated otherwise in writing Philips' quotation.

2. Prices

The prices as set out in the quotation are exclusive of any applicable sales, excise, use, import or customs duties or other taxes in effect or later levied. Unless the customer provides Philips with an appropriate exemption certificate reasonably in advance of the date the Product is available for delivery, Philips shall invoice the customer for those taxes, and the customer shall pay those taxes in accordance with the terms of the invoice. The prices are based on sea transport. If other way of transport is needed due to delivery schedules, the costs will be adapted accordingly. Prices will be indexed annually and may be adapted to exchange rate changes.

3. Payment

Any amounts to be paid by customer are due within fourteen (14) days after invoice date.

Philips shall invoice

- 50% of the price indicated in the quotations on the date of order placed by customer,
- 40% of the price indicated in the quotations when the Product is ready for first patient use, or on the date when the project plan, as agreed by the parties, has been delayed by more than 4 (four) weeks due to delays attributable to the customer as described in Article 9 f), whichever is earlier; and
- 10% at final acceptance as described in Article 10.

Philips is entitled to such payment in EURO to the bank account as indicated by Philips., as agreed by the parties, Alternatively, customer has the option to pay in EURO's by means of a divisible, irrevocable, documentary and confirmed letter of credit, in a form acceptable to Philips, payable at sight against the shipping documents, at or confirmed by a first class Dutch bank acceptable to Philips and opened for the benefit of Philips, or by such other means as Philips may authorize in writing.

a) Letter of Credit. Customer shall establish the letter of credit by a first class bank, that has adopted the Uniform Customs and Practice for Documentary Credits issued by the International Chamber of Commerce, prior to shipment and in favour of Philips on the basis of 100 % of the value of the respective order.

The letter of credit must be valid for at least six (6) months from issuance, must allow for partial shipments and must allow at least thirty (30) days for presentation. The customer shall pay all bank



charges outside of The Netherlands. If the customer requests that shipment be made other than the agreed delivery conditions, the letter of credit must be drawn in an amount sufficient to pay for any additional shipping costs, if any.

b) **Delay in Payment.** Any delay in payments will incur legal interest immediately as from the due date. If customer fails to pay any amount when due, Philips may discontinue the performance of services, discontinue the delivery of the Product(s), or deduct the unpaid amount from any amounts otherwise owed to the customer by Philips or any of its affiliates under any agreement with the customer, in addition to any other rights or remedies available to Philips. Furthermore Philips, or its designated representative, will be allowed, without notice to the customer, to enter any premises in which the Products may be found and render them inoperable or remove them, and hold and sell them in accordance with the applicable law. In any action initiated to enforce these Conditions of Sale following a customer default or otherwise, Philips shall be entitled to recover as part of its damages all costs and expenses, including reasonable attorney's fees, in connection with such action.

c) **Cancellation.** If the customer cancels an order prior to the Product delivery and the customer has a legal right to do so, the customer shall pay the costs incurred by Philips up to the date of cancellation including, but not limited to, the costs to manufacture the Product, the costs to provide any training, educational, or other services to the customer in connection with the order, a nominal restocking fee, and the costs to return or cancel any product ordered from a third party. In other cases of cancellation, the agreed price remains due and payable.

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5. Retention of ownership and defaulting payments

Without prejudice to the passing of risks in accordance with the applicable trade terms as described below, Philips shall retain title to all Products until the customer has fulfilled its payment obligations in full. The customer shall provide any assistance in taking any measures required to protect Philips' property rights.

6. Delivery

Unless otherwise stated in the quotation including the installation schedule to be agreed upon by the parties, Philips shall deliver any Products CIF Philips' premises or any other premises indicated by Philips in accordance with the latest edition of the Incoterms. Should Philips and customer agree to any other terms holding Philips liable for the costs of transportation and/or insurance, any additional costs, including but not limited to costs due to rerouting and/or surcharges which are the result of circumstances or events that are beyond our reasonable control, shall be for customer's account. Furthermore, customer must provide full forwarding instructions with the order.

7. Technical changes; obsolescence of Products

Philips shall have the right to make changes in the design or specifications of the Products at any time, provided that such change shall not adversely affect the performance of said Products.

During the validity period of Philips' quotation, some of the Products might become obsolete. In such a situation, Philips shall endeavour to provide equivalent replacement Products at similar prices, but shall not be held responsible in case there would be no replacement available

8. Dispatch and delivery

Philips shall make reasonable efforts to meet any delivery dates quoted or acknowledged, but shall not be liable for failure to meet those dates. In case Philips cannot despatch the Products to their destination at the date scheduled, due to reasons outside Philips' reasonable control, such as, but not limited to, reasons attributable to customer, Philips shall be entitled to store the Products concerned at the



customer's expense and risk. In such case the warehouse receipt(s) shall serve as substitute(s) for the shipping documents in all respects and the customer undertakes to reimburse within fourteen (14) days of Philips' first demand any and all additional expenses so incurred.

The estimated date of dispatch and/or completion of the installation works, if offered, has to be calculated from the date of the bank's advice that the letter of credit and/or other payment instrument agreed upon has been established in conformity with the Conditions of Sale, and/or the advance payment, if applicable, has been received.

9. Installation

The project description ("Statement of Work") as agreed upon by the parties, shall include the details of the installation process. Any installation work by Philips shall be executed during business hours. For clarity reasons, the price for the installation activities by Philips, as indicated in the quotation, is based on the assumption that adequate and sufficient storage capacity is available at the customer's premises and that waste material can be left at customer's premises. Construction work, such as but not limited to chopping, building, digging, concrete drilling and electrical installation are excluded from the installation activities executed by Philips, unless otherwise stated in the quotation. Additional or cancelled labor requests are carried out/cancelled after an order in writing has been received

Customer shall be responsible for the following at customer's sole expense and risk:

(a) The provision of adequate and lockable storage on or near the installation site for the Products in order to ensure protection against theft and any damage or deterioration. Any item lost or damaged during the storage period shall be repaired or replaced at the customer's cost.

(b) The availability on or near the installation site of adequate and lockable rooms equipped with sanitary installations, for personnel of Philips or Philips' representative and for the storage of the personnel's tools and instruments.

(c) The timely execution and completion of the preparatory works, in conformity with any requirements that Philips shall indicate to the customer in due time. The site preparation shall be in compliance with all safety, electrical and building codes relevant to the Products and their installation. Sufficiency of such plans and specifications, specifically including, but not limited to the accuracy of the dimensions described therein, shall be the sole responsibility of customer. The installation site shall be made available to Philips or Philips' representative without obstacles in due time to enable Philips or Philips' representative to start the installation work at the scheduled date; installation personnel shall not be called upon the installation site until all preparatory work has been, in the sole opinion of Philips, satisfactorily completed.

(d) The timely provision of the permits and licenses required by the pertinent authorities for or in connection with the installation and the operation of the Products.

(e) The timely provision of all visa, entry, exit, residence, work or any other permits 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.

(f) The assistance to Philips or Philips' representative, with respect to moving the Product 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. Philips assumes that no hazardous material exists at the installation site. If any such material exists, the customer shall be responsible for the proper removal and disposal of the material at the customer's expense. In case any or all of the above conditions are not properly or timely complied with, or Philips or Philips representative has to interrupt the installation and subsequent testing for reasons not attributable to Philips, (for example but not limited to situations when rooms are not available at the time agreed or activities of a subcontractor of the customer are not completed in time) the period of



completion shall be extended accordingly and any and all additional costs resulting there from shall be for the customer's account. Furthermore, in these cases Philips may invoice "waiting time" to customer at € 80.00 per hour as indicated in the quotation. Waiting time shall mean the delays not attributable to Philips, as a consequence of which Philips cannot carry out its installation\ support activities as agreed upon with customer.

PHILIPS NEITHER ASSUMES LIABILITY NOR OFFERS ANY WARRANTY FOR THE FITNESS OR ADEQUACY OF THE PREMISES OR THE UTILITIES AVAILABLE AT THE PREMISES IN WHICH THE PRODUCT IS TO BE INSTALLED, USED OR STORED.

10. Acceptance

In case installation of the Products is offered, Philips shall notify the customer when the Products installed will be ready for testing and acceptance, inviting the customer to attend the standard tests or such tests as may have been agreed upon in writing to demonstrate compliance with the agreed specifications and/or to inspect the installation work. Acceptance shall take place by signing the acceptance certificate by Philips and the customer.

If the customer's representative fails to attend the testing on the date notified, the technical staff of Philips or its representative will commence with the tests according to Philips' standard test procedures and these tests shall be considered performed in the presence of the customer's inspector and acceptance shall in such case take place on the basis of the results stated in the test certificate signed by us.

In case of rejection of the Products installed for justified reasons, to be submitted to Philips in detail and in writing within ten (10) days after completion of the acceptance tests concerned, Philips shall as a sole remedy correct the shortcomings as soon as possible and the relevant parts of the acceptance test shall be repeated within a reasonable period of time in conformity with the procedures outlined above.

If within ten (10) days after completion of the acceptance test, or within 30 days after start of use of the Product by customer or within 30 days after availability of hardware and software, whichever may be the latest. Philips shall not have received the acceptance certificate signed by the customer or a report of rejection for justified reasons, or upon start of the operational use, the Products installed shall be considered as having been accepted by the customer.

Minor defects or deviations not affecting the operational use of the Products installed shall be stated in the acceptance certificate, but shall not obstruct or suspend acceptance. Philips undertakes to remedy such defects as soon as possible.

11.Complaints and returns

The customer shall notify Philips in writing and shall substantiate any complaints of erroneous despatch and/or apparent damage to the Products supplied within ten (10) days after receipt of the Products including the date and number of Philips' invoice. Philips shall issue, upon acceptance of the complaint, a return authorisation notice and customer shall return the relevant Products in accordance with Philips' instructions. All Products returned must be insured and carriage prepaid by customer and packed in their original packing.

12.Product warranty and Service

Philips warrants to the customer the good quality of any hardware Products supplied, for a period of one year as from first use by customer or three months after delivery to site whichever is earlier, against defects which appear therein under proper use, and which arise solely from faulty materials or workmanship. Furthermore this warranty is not applicable for replacement parts, hardware upgrades,



consumables and other excluded items for which specific warranty conditions apply as indicated, provided for or made accessible by Philips.

For clarity reasons this warranty with respect to the whole Product is applicable only in case the Product contains only components either provided by Philips or items provided by customer provided those items meet the specifications of the Product/components as detailed in the quotation.

Philips' obligations under any product warranty are limited, at Philips' option, to the repair or the replacement of the Product or a portion thereof, or to a refund of a portion of the purchase price paid by the customer. Any refund will be paid to the customer when the defective Product or part is returned to Philips. Any product warranty is made on condition that Philips receives written notice of a Product defect during the warranty period and within ten (10) days following the discovery of the defect by the customer, and, if so requested, the defective Products have been returned to an address or location indicated by Philips. Such defective parts shall become Philips' property as soon as they have been replaced. Philips' obligations under any product warranty do not apply to any defects resulting from: (a) improper or inadequate maintenance or calibration by the customer or its agents; (b) customer or third party supplied software, interfaces, or supplies; (c) use or operation of the Product other than in accordance with Philips' applicable Product specifications and written instructions; (d) abuse, negligence, accident, loss; (e) damage in transit; (f) improper site preparation; (g) unauthorised maintenance or modifications to the Product; or, (h) any damage to the Product – including software – or any medical or other stored data caused by an external source regardless of its nature, including but not limited to hacking, (i) viruses or similar software interference resulting from the connection of the Product to a network. Philips does not provide a warranty for any third party products furnished to the customer by Philips under this quotation; however, Philips shall use reasonable efforts to extend to the customer the third party warranty for such product. The obligations of Philips described above are Philips' only obligations and the customer's sole and exclusive remedy for a breach of a Product warranty.

THE WARRANTIES SET FORTH HEREIN OR IN PHILIPS' WARRANTY DOCUMENT WITH RESPECT TO A PRODUCT ARE THE ONLY WARRANTIES MADE BY PHILIPS IN CONNECTION WITH THE PRODUCT, THE SOFTWARE, AND THE TRANSACTIONS CONTEMPLATED AS A RESULT OF THIS QUOTATION OR SALE, AND ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

13. Software and Licenses

All software is and shall remain the sole property of Philips or its software suppliers. The general customer software license conditions set forth below, which form an integral part hereof, contain specific warranty arrangements with respect to any Licensed Software (as defined in the General Customer Software License Conditions).

14. Limitation of Liability

The liability, if any, of Philips and Philips' representatives for damages whether arising from breach of the terms in this quotation, breach of contract, warranty, negligence, indemnity, strict liability or other tort, or otherwise with respect to the Products is limited to an amount not to exceed the price of the Product giving rise to the liability.

a) **DISCLAIMER.** PHILIPS AND PHILIPS' REPRESENTATIVES SHALL IN NO EVENT BE LIABLE TO THE CUSTOMER FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR COVER, OR LOSS OF DATA, PROFIT, REVENUE OR USE, IN CONNECTION WITH OR ARISING OUT OF THESE CONDITIONS OF SALE OR ANY RESULTING AGREEMENT, OR



THE FUNCTIONING OR THE CUSTOMER'S USE OF, OR INABILITY TO USE PRODUCTS, INCLUDING (EMBEDDED) SOFTWARE, OR FOR ANY LIABILITY OF THE CUSTOMER TO ANY THIRD PARTY WITH RESPECT THERETO. NEITHER PHILIPS NOR PHILIPS' SUPPLIERS SHALL BE LIABLE FOR ANY LOSS OF OR INABILITY TO USE MEDICAL OR OTHER DATA STORED IN GOODS, INCLUDING (EMBEDDED) SOFTWARE OR ON OTHER MAGNETIC MEDIA, AND NEITHER PHILIPS NOR PHILIPS' REPRESENTATIVES SHALL BE RESPONSIBLE FOR RELOADING DATA IN SUCH EVENT.

b) Infringement Claims. If a third party makes, or attempts to make, a claim against the customer alleging that a Philips Product delivered hereunder infringes a valid claim under a patent, utility model, industrial design, copyright, trade secret, mask work, or trademark (collectively "Intellectual Property Right"), the customer shall (a) provide Philips prompt written notice of the claim, and (b) grant Philips full and complete information; and if Philips chooses in writing to defend, settle or negotiate the claim customer shall (i) give Philips sole control of any defence or settlement that it may undertake and (ii) provide Philips with all reasonable assistance if so desired by Philips.

Philips shall have no obligation for any claim of infringement and customer shall reimburse all reasonable costs (including, but not limited to, attorneys fees) in case a claim arises from: (a) Philips' compliance with the customer's designs, specifications, or instructions; (b) Philips' use of technical information or technology supplied by the customer; (c) modifications to the Product by the customer or its agents; (d) use of the Product other than in accordance with the product specifications or applicable written product instructions; (e) use of the Product with products not manufactured by Philips if infringement would have been avoided by the use of a current unaltered release of either the Philips Product, the third party products or both. Furthermore, Philips will not be liable for any claim where the damages sought are based directly or indirectly upon the quantity or value of products or services generated by means of the Products purchased under the quotation, or based upon the amount of use of the Product regardless of whether such claim alleges the Product or its use infringes or contributes to the infringement of such claim.

In case (a) a non-appealable judgment of a competent court having jurisdiction declares the claim to be valid or (b) the Product is believed by Philips to infringe such a claim, Philips may, at its option, (i) procure the right for the customer to continue to use the Product, (ii) replace or modify the Product to avoid infringement, or (iii) refund to the customer a reasonable portion of the Product purchase price upon the return of the original Product.

The terms in this section state Philips' entire obligation and liability for claims of infringement, and the customer's sole remedy in the event of a claim of infringement.

The provided system is not designed for diagnostic purposes (no medical device).

15. Use and ownership of documents

All technical information in relation to the Products and their maintenance are Philips proprietary information, covered by Philips copyrights and remain Philips' property and may not be copied, reproduced, transmitted or communicated to or utilized by third parties without Philips' prior written consent. Data such as but not limited to illustrations, catalogues, colours, drawings, dimensions, statements of weight and measurements made available as (printed) information are an approximation only and customer cannot derive any rights based on these data.

16. Export Control

The delivery of any Product may be subject to the granting of governmental export licenses. In the event that such licenses or an end-user statement are required, Philips will contact the customer immediately and the customer shall provide Philips with such documents on first written request. In case the delivery of Products becomes restricted or forbidden due to changed export control laws, Philips



may suspend or terminate at its option the execution of its obligations under any agreement without incurring any liability towards customer other than reimbursing any amounts received.

The customer acknowledges that it is familiar with such export control regulations. The customer furthermore agrees that it will not deal with the Products and/or documentation in violation of such regulations, and more specifically will not (re-)export or otherwise dispose of such goods without the applicable, prior written authorization of the competent authorities. Such export control regulations shall include without limitation U.S. statutes and regulations regarding embargoes and prohibiting the participation in unsanctioned international boycotts.

17. Confidentiality

Each party shall maintain as confidential any information furnished or disclosed to one party by the other party, whether disclosed in writing, electronically or disclosed orally, relating to the Products and business of the disclosing party, its customers and/or its patients, and this quotation or sale and its terms, including any pricing information. Each party shall use the same degree of care to protect the confidentiality of the disclosed information as that party uses to protect the confidentiality of its own like information, but not less than reasonable care. Each party shall disclose such information only to its employees having a need to know such information to perform the transactions contemplated by this quotation. The obligation to maintain the confidentiality of such information shall not extend to information in the public domain at the time of disclosure, and/or information that is required to be disclosed by law or by court order.

18. Force majeure

Each party is entitled to suspend the performance of its obligations as a result of any delay or default caused by events beyond its reasonable control including, but not limited to, acts of God, war, civil war, insurrection, fires, floods, labor disputes, epidemics, governmental regulations and/or similar acts, freight embargoes, Philips' non-availability of any permits, licenses and/or authorizations required, defaults or force majeure of suppliers or subcontractors.

If force majeure prevents Philips from filling any order from customer or otherwise performing any obligation arising out of the sale, Philips shall not be liable for any compensation, reimbursement or damages whether for direct, indirect or consequential loss or otherwise.

19. Taxes

All taxes including withholding taxes, duties, levies and similar expenses, which are or become due in connection with our quotation, any order or agreement resulting therefrom, and the carrying out thereof are for the account of Philips as far as they are due in the supplier's country, and for the account of the customer as far as they are due in customers country or in such other country or countries for which the Products are destined or in which any services will be performed, irrespective of which party (including its representatives/employees) will be held to pay such taxes.

20. Miscellaneous

(a) If the customer becomes insolvent, is unable to pay its debts when due, files for bankruptcy, is the subject of involuntary bankruptcy, has a receiver appointed, or has its assets assigned or frozen, Philips may cancel any unfulfilled obligations, or suspend performance; however, the customer's financial obligations to Philips shall remain in effect.

(b) The customer may not assign any rights or obligations in connection with the transactions contemplated by this quotation or sale without the prior written consent of Philips, and any attempted assignment without such consent shall be of no force or effect.

(c) All transactions contemplated by this quotation or sale shall be governed by the laws of the Netherlands without regard to the principles of choice of law. Customer and Philips shall submit any dispute that cannot be solved amicably to the exclusive jurisdiction of the relevant court in Amsterdam,



the Netherlands. Notwithstanding the foregoing, Philips shall always be permitted to bring any action or proceedings against Customer in any court of competent jurisdiction and Customer hereby irrevocably waives any objection to the jurisdiction, process and venue of any such court and to the effectiveness, execution and enforcement of any order or judgment (including but not limited to default judgement) of any such court in relation to this Conditions of Sale, to the maximum extent permitted by the law of any jurisdiction, the laws of which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.

(d) The terms and conditions in this quotation or sale together with these Conditions of Sale constitute the entire understanding and agreement by and between the parties with respect to the transactions contemplated by this quotation or sale, and supersede any previous understandings or agreements between the parties whether written or oral regarding the transactions contemplated by this quotation or sale. The pricing in this quotation or sale is based upon the terms and conditions in this quotation or sale. No additional terms, conditions, consents, waivers, alternations, or modifications shall be binding unless in writing and signed by the parties. The customer's submission of a purchase order shall evidence the customer's agreement to these terms and conditions.

(e) The headings in these Conditions of Sale are intended for convenience only, and shall not be used to interpret the content of the clauses as set out herein.

(f) If any provision of these Conditions of Sale is deemed to be illegal, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions shall not be affected or impaired, and shall continue in full force and effect. In substitution for any such provision deemed to be illegal, unenforceable, or invalid, in whole or in part, a provision reflecting the original intent hereto to the extent permissible under applicable law shall be deemed to substitute said provision.

(g) Notices or other communications shall be in writing, and shall be deemed served if delivered personally, or if sent by facsimile transmission, by overnight mail or courier, or by certified mail, return receipt requested and addressed to the relevant party.

(h) The failure of the customer or of Philips at any time to require the performance of any obligation will not affect the right to require such performance at any time thereafter. The course of dealing, course of performance, course of conduct, prior dealings, usage of trade, community standards, industry standards, and customary standards and customary practice or interpretation in matters involving the sale, delivery, installation, use, or service of similar or dissimilar products or services shall not serve as references in interpreting the terms and conditions of these Conditions of Sale.

(j) The customer's obligations are independent of any other obligations the customer may have under any other agreement, contract, or account with Philips. The customer will not exercise any right of offset in connection with the terms and conditions in this quotation or sale, or in connection with any other agreement, contract, or account with Philips.

(k) When the product provided by Philips to customer under these terms and conditions includes any "audiovisual content" (such as but not limited to entertainment videos, training videos etc.) which is copyright protected and furnished to Philips by its third party suppliers, Philips arranges for the needed license or authorisation of authors/third party suppliers, needed of for the use of such audiovisual content by customer. The terms of use of such audiovisual content may be attached to this quotation. Philips has the right to change terms of use of such audiovisual content by customer in accordance with the license or authorisation received from the authors/third party suppliers, as well as to replace such audiovisual content or the suppliers thereof at anytime.



GENERAL TERMS AND CONDITIONS OF SALE AND SOFTWARE LICENSE

("License")

This License is entered into by and between Philips Electronics Nederland B.V. acting through its venture "CareServant" ("Philips") and each customer who is a purchaser of Philips' software ("Licensee"), and is entered into as part of the sale of certain products identified on the face of this quotation or sales document attached to this License. This License does not supersede or replace any terms of the quotation or sales agreement and any document attached to or part of the quotation or sales agreement, or support agreements applicable to the products.

Philips has not authorized any employee or agent to grant any licenses other than as set forth herein or other rights with respect to any patent application, patent, copyright, trademark, trade secret, proprietary right, or other property right of Philips or any of its suppliers.

21. Definitions

The following terms used hereinafter shall have the meaning set forth below:

A. "Affiliate" means, with respect to Philips, any entity which controls, is controlled by or under common control with Koninklijke Philips Electronics N.V. of The Netherlands.

B. "Agreement": means the sales agreement, based on which a right and license to use software in the Products is provided by Philips to the Licensee on the basis of these General Customer Software License Conditions ("License")

C. "Designated Hardware": *means the hardware, with which the Licensed Software is designed to work.* "

D. "Functional Specification": means the description of functionality of a specific software product, version, update, upgrade or option, as described by Philips.

E. "Identified Software" means Publicly Available Software and, without limitation, any other software which is licensed pursuant to terms that (1) create, or purport to create, obligations for Philips, its Affiliates or its suppliers with respect to the Licensed Software or any other software furnished with any Designated Hardware or other Philips product or which is a derivative work of the Licensed Software or such other software, or (2) grant, or purport to grant, to any third party any rights or immunities under Philips', its Affiliates' or its suppliers' intellectual property or proprietary rights in such software, the Designated Hardware or other Philips product or any derivative work of the above mentioned software.

F. "Licensed Software": means the computer programs provided pursuant to the Agreement to be operated on the Designated Hardware (as defined hereinafter) covering application, system and test functions, furnished on magnetic or fixed media, including the supporting documentation necessary to effectively use the computer programs. Test functions are understood to cover measurement to verify that the Designated Hardware are in good working condition, but excluding any further diagnostic functions such as but not limited to troubleshooting and verification after repair. This License does not extend to any maintenance or service software shipped (separately or with the Product) to or located at Licensee's premises which is intended to assist Philips' employees or agents in the installation, testing, service, and maintenance of the Designated Hardware.

G. "Licensor": means Philips.

H. "Publicly Available Software" means any software that requires as a condition of use, modification and/or distribution of such software that other software incorporated into, derived from or distributed with such software be (1) disclosed or distributed in source code form; (2) be licensed for the purpose of making derivative works; or (3) be redistributable at no charge .

22. License

(a) Upon taking the Licensed Software in operation, and subject to fulfillment of the terms and conditions contained herein, Licensor grants to Licensee a personal non-transferable and non-exclusive



right, without the right to sublicense, to use the Licensed Software in connection with the operation of the Designated Hardware.

(b) Unless otherwise agreed between the parties, the Licensed Software shall be installed by Licensor or by its authorized agents. Licensee undertakes not to use the Licensed Software or cause or allow the Licensed Software to be used prior to the execution of the customer acceptance certificate.

(c) The Licensed Software shall be used only on the Designated Hardware and at the site of the Licensee specified in the Agreement, unless it pertains to a mobile system. A separate license is required per each Designated Hardware or central processing unit on which the Licensed Software is to be used.

(d) The Licensee shall use the Licensed Software only for the purpose(s) agreed to and shall not rent, electronically distribute or timeshare the Licensed Software or market it by interactive means or remote processing services or otherwise distribute or allow access to the Licensed Software other than specified herein or set out in the Agreement.

(e) Licensee acknowledges and agrees that the Licensed Software may include or incorporate technology owned or certified by Licensor suppliers ("Embedded Software") and that this License does not convey a license or imply a right under any patent, copyright, trade secret, or other intellectual property right of any such Licensor suppliers to use the Embedded Software so incorporated. If so required by such supplier(s), Licensee agrees to obtain a separate license from such supplier(s).

(f) Licensee shall hold Licensor harmless from any liability arising out of any unauthorized use of the Licensed Software.

(g) Except as expressly set out herein, no other rights in and to the Licensed Software or any other intellectual property right of Philips are granted to the Licensee pursuant to this License.

23. License fee

The license fee shall be specified in the Agreement either separately or as part of the price of the Products.

24. Reservations

(a) The Licensed Software, including any copies thereof and any Intellectual Property Rights related thereto, shall at all times remain the sole and exclusive property of Licensor and Licensor's suppliers, even if the Licensed Software was developed by or on behalf of Licensor, specifically for use by the Licensee.

(b) Licensee acknowledges that the Licensed Software is unique to the Designated Hardware configuration and expressly assumes the risks associated with any unauthorized use or attempt to use the Licensed Software on equipment other than the Designated Hardware.

(c) Licensee may copy or have one copy available in machine readable form for backup/archival purposes only as is necessary to support Licensee's own use of the Licensed Software on the Designated Hardware. Licensee agrees not to copy or otherwise reproduce the Licensed Software or any part thereof for other purposes without prior written authorization from Licensor. In as far as copying is allowed under this License, Licensee shall not erase, delete or otherwise remove Licensor or Licensor's supplier(s) copyright notice(s) and other proprietary legend(s), if any, contained on the Licensed Software to such reproductions or copies. All restrictions in this License relating to the use and disclosure of the Licensed Software shall apply to any such reproduction or copies of the Licensed Software.

(d) The Licensed Software (other than documentation) is to be used in machine readable form only.

(e) Licensee shall not cause or permit the Licensed Software, or any part thereof, to be used by any person other than either Licensor's service personnel or the officers, employees, and agents of Licensee engaged in the activities of Licensee. Licensee agrees that it shall cause each authorized person who uses the Licensed Software to adhere to the terms and conditions as contained herein.

(f) If Licensee uses the Licensed Software to access or utilize the services or functionality of Microsoft's Windows NT Server (all editions or successor versions) or similar software or uses the Li-



censed Software to permit workstation or computing devices to access or utilize the services or functionality of Microsoft's NT Server or similar software, Licensee may be required (i) through Philips to obtain a Client Access License for the Licensed Software and/or each such workstation or computing device from Microsoft, or (ii) to obtain - in the event similar software is used – the necessary license from the relevant third party for each such workstation or computing device.

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