

## EXHIBIT 3B

### ADDITIONAL TERMS AND CONDITIONS FOR IMAGING SERVICES WITH CUSTOMER'S BIOMED FIRST-LINE SUPPORT AND/OR FOR USER QUALITY CONTROL MODE (UQCM) FOR MEDICAL PHYSICISTS (Rev 25.2)

#### 1. Services.

- 1.1 User Quality Control Mode (UQCM) (image guided therapy interventional x-ray and surgical c-arms only). If the Quotation includes UQCM, the following applies: User Quality Control Mode (UQCM) is aimed at verifying and auditing the Azurion's image quality and X-ray dose performance, as well as Image representation on the displays – fast, frequently and flexibly – via the system's user interface in the control room. The UQCM measurements comply with the global industry standard as documented in NEMA XR 27. For frequent Quality Assurance purposes, a five (5)-minute verification protocol has been developed.
- 1.2 EasySwitch (MR only). If the Quotation includes EasySwitch, the following applies: EasySwitch Service Support is aimed at reducing additional service costs for recovery in case of: an item becomes stuck in the bore, magnet discharge in preparation for a disaster or magnet re-energize after a long-lasting power shutdown. It includes maintenance for EasySwitch service innovations (controls, integrated discharge and re-energize tools and redundant air-cooled compressor), remote support and guidance for EasySwitch On/Off, on-site Field Service Engineer FSE recovery (de-energize, re-energize, shim-check, re-shimming if needed). The magnet may need shimming after an EasySwitch On/Off cycle and the shim integrity must be checked. Additional charges apply in case EasySwitch is used beyond these three use cases or more than two (2) times within a single contract year.

#### 2. Service Coverage.

- 2.1 Philips will provide the Service elements included in the Agreement as indicated in the Quotation ("Service Coverage"). Customer may request service outside the Service Coverage (e.g., service outside the hours of coverage, service or repair parts that is not otherwise included in this Agreement). Subject to the availability of personnel and repair parts, Philips will provide such additional service and repair parts and invoice Customer at Philips' then current standard rates for labor and Philips' then current published list price for parts.
- 2.2 **Labor and Travel.** Labor and travel hours (on-site and remote) necessary to perform the Services are included when indicated in the Quotation.
  - 2.2.1 If 2nd response is included in the Quotation, then prior to receiving such coverage, Customer shall follow the following process. Customer's trained engineer shall attempt to resolve issue. If Customer's trained engineer is unable to resolve the issue, then Customer shall contact Philips Customer Solutions Center. If Philips Customer Solutions Center is unable to remotely resolve the issue, then Philips shall dispatch an engineer to the Site within the agreed response time. Customer engineer will be present during all such visits. If the Equipment requires any major component replacements, (for example: tubes, flat panel detectors, and coldheads), then Philips must be present for such replacements.
  - 2.2.2 If Customer has not purchased labor coverage, Customer may request service outside the Service Coverage. Subject to the availability of personnel, Philips will provide such service and invoice Customer at Philips' then-current time and material rates.
- 2.3 **Parts.**
  - 2.3.1 Philips will provide parts necessary for the maintenance of the Equipment on the Site, on Exchange Basis (as defined below), as indicated in the Quotation.
  - 2.3.2 Replacement parts provided by Philips may be refurbished. All components used are subject to Philips inspection and quality control procedures and are equivalent to new in performance.
  - 2.3.3 Parts removed for replacement, any not used spare part, become the property of Philips and Philips will remove parts from the Site ("Exchange Basis"). Customer may not resell or exchange such parts with any third party. Customer shall make such parts available and return them to Philips or Philips' subcontractor employees performing the Services. Failure by Customer to return the spare part within fourteen (14) days of receipt of new, returnable part will result in additional invoicing by Philips of the spare part value.
  - 2.3.4 If only 2nd line response is included in the Quotation, and Customer has not purchased parts coverage, Customer may request parts to maintain, service, or repair the Equipment at the Site on Exchange Basis. Subject to the availability of such parts, Philips will sell such parts and invoice Customer at Philips' then current published list price for parts.
  - 2.3.5 Unless priority delivery is included in the Quotation, all replacement parts will be shipped using Philips standard delivery, subject to availability. Other freight arrangements will be at Customer's request and expense.

- 2.4** System Availability. Except where only 2nd line response is included in the Quotation, Philips strives to ensure availability of the Equipment for clinical use for the percentage of time indicated in the Quotation (measured on an annual basis within the contracted service window). For the avoidance of doubt, unless “Uptime Guarantee” is included in the agreement, nothing in this Agreement shall be interpreted as a warranty on system availability, uptime, or response time.
- 2.5** Equipment Maintenance Intellectual Property Right (EMIP) (also known as Customer Service Intellectual Property (CSIP)). If EMIP access is included in the Quotation, the terms and conditions of the hereto attached Schedule – Equipment Maintenance Intellectual Property License Terms apply and will be incorporated into this Agreement.

### **3. Exclusions.**

The Services do not include:

- 3.1** unless otherwise specified in the Quotation, maintaining or repairing third-party products, including but not limited to nuclear camera detector crystals, CT Tubes and radiation therapy tubes, x-ray tubes, flat panel detectors, image intensifiers, magnet replacement, magnet refrigeration system (coldhead, compressor, chillers), cryogen replacement, MR RF rooms, surface coils, HVAC systems, power conditioners, uninterruptible power supplies, special ultrasound transducers (probes) (accessory or attach), TEE probes, TV camera pick-up tubes, photo multiplier tubes, accelerator center beam lines, piped medical gases (up to the wall outlets), copier drums, electron guns, fiber optic bundles, foot/hand controls (switches, accessory, or attachment), klystrons and thyratrons, magnetrons, plumbicons, waveguides, and attachments;
- 3.2** maintenance or repair, including the cost thereof, required due to any computer viruses, Trojan horse, worms, back doors, time bombs, drop dead device, or other computer programming code or routines that are designed to disable, damage, impair, detrimentally interfere with, surreptitiously intercept or expropriate any system, computer hard- or software, data, information or telecommunications equipment or to permit unauthorized access.

### **4. Customer Responsibilities.**

- 4.1** During the term of this Agreement, Customer shall maintain the Site and operating environment in accordance with Philips’ specifications. Customer shall maintain an adequate first line response team to perform the activities it needs to perform itself. If Customer is unable to maintain this, it will approach Philips to amend the Quotation accordingly. In case any personnel of Customer is involved in the servicing of the Equipment (1st or 2nd response), Customer shall maintain the Equipment in strict compliance with the planned and corrective maintenance requirements specified by Philips, utilizing replacement parts that meet Philips’ specification. If Customer does not meet these responsibilities, then Philips may terminate any or all of the options specified above and may void any warranty provided herein.

### **5. Access to Equipment.**

- 5.1** Customer shall make the Equipment available in accordance with the planned maintenance schedule provided by Philips. If Philips cannot locate the Equipment, or the Equipment is not made available for planned maintenance when scheduled, Philips will notify Customer that Customer has ninety (90) days to make available Equipment for planned maintenance, otherwise customer waives right to service, and Philips may delete Equipment from this Agreement. Customer’s failure to do so will constitute Customer’s waiver of the scheduled planned maintenance and shall release Philips from its obligations under the Agreement without any liability whatsoever. Customer agrees to pay Philips at the then-current demand service rates for the time that Philips’ or its subcontractor’s personnel had to wait before being able to gain access to the Equipment.

### **6. Contract Administration.**

- 6.1** The Parties will introduce all Equipment listed in the Quotation into an inventory list to register and keep up to date the equipment coverage of the Agreement during the Term. Customer may request the addition of additional system(s) to such inventory list by contacting Philips. Customer and Philips will agree on a mutually agreeable price and contract start date. Such equipment will be added to this Agreement after receipt of the signed inventory list modification form. Customer may delete Equipment from the inventory list only if: (i) Customer permanently removes it from operation or (ii) it is no longer under Customer’s exclusive ownership or control; and Customer notifies Philips in writing with a three (3) months’ prior notice. Such Equipment will be deleted from this Agreement after receipt of the signed inventory list modification form.

### **7. Termination.**

- 7.1** If EMIP access is included in the Quotation, in addition to the termination rights described in the Agreement, Philips may immediately terminate this Agreement (entirely or partially) and the license granted under the hereto attached Schedule – Equipment Maintenance Intellectual Property License Terms without liability to Customer by

providing Customer written notice of termination upon any of the events listed in Section 13 (Termination) of Schedule – Equipment Maintenance Intellectual Property License Terms.

**8. Warranty and Warranty Disclaimer.**

- 8.1** Philips warrants that the replacement parts provided as described in Section 2.3 of this Exhibit will be free from substantial defects in material and workmanship for a period of ninety (90) days from the date of installation (when installed by Philips) or thirty (30) days from the date the parts were delivered to Customer (when not installed by Philips). For the avoidance of doubt, no such warranty applies to any replacement parts used by Philips in providing its corrective maintenance service. Certain items such as x-ray tubes, photomultiplier tubes, cathode-ray tubes, and high voltage transformers may carry separate warranties that are provided at the time of purchase. This warranty does not include any defect or failure to perform that is the direct or indirect result, in whole or in part, of accident, abuse, misuse, operation of the Equipment in which the part is installed outside of its environmental, electrical or performance specifications, power fluctuations or failures, fires, floods or other similar or dissimilar natural causes, or improper installation or calibration. If a part does not comply with this warranty, as exclusive remedy, upon Customer' prompt return of the part to Philips, Philips shall repair or replace such part. THE WARRANTIES STATED ABOVE ARE EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTY of merchantability, fitness for a particular purpose, OR NONINFRINGEMENT WITH RESPECT to anything provided by PHILIPS OR ITS SUBCONTRACTOR UNDER THIS EXHIBIT OR THE AGREEMENT. CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THIS WARRANTY IS THE REPAIR OR REPLACEMENT OF A NON-CONFORMING PART AND THE REPAIR OF COVERED EQUIPMENT FOR ANY NON-CONFORMING SERVICE.

## **Equipment Maintenance Intellectual Property (also known as Customer Service Intellectual Property (CSIP) License Terms**

This EQUIPMENT MAINTENANCE INTELLECTUAL PROPERTY LICENSE AGREEMENT ("EMIP License Agreement") begins on the effective date of the Service Agreement, "the Effective Date," between Customer (hereinafter "Licensee") and Philips, as a supplementary agreement to the Service Agreement, to set forth the conditions of Licensee's use of Philips' EMIP.

### **1.1 SECTION 1: Definitions.**

The following terms as used herein have the following respective meanings:

- 1.1.1** "Affiliate," with regard to Philips, means any corporation, company, or other entity, which: (i) is under the Control of Philips; or (ii) has Control of Philips; or (iii) is under common Control with Philips. For purposes of this Affiliate definition, "Control" means that more than fifty percent (50%) of the controlled entity's shares or ownership interest representing the right to make decisions for such entity are owned or controlled, directly or indirectly, by the controlling entity.
- 1.1.2** "Equipment Maintenance Intellectual Property" or "EMIP" means individually or collectively documentation, software, tools, know-how and any associated rights and patents, copyright, trade secret in and to such documentation, software, tools, and know-how owned by and proprietary to Philips and/or its Affiliates.
- 1.1.3** "Designated Employee(s)" means those employee(s) of Licensee's service organisation, as identified in writing according to the registration process as defined by Philips (and as may be updated from time to time in writing), designated by Licensee to receive Licensed EMIP for the Licensed Use at Designated Site(s) and that have completed and maintained training and signed the Designated Employees Non-Disclosure Undertaking as affixed to this EMIP License Agreement as Annex 1, prior to access or use of such EMIP.
- 1.1.4** "Designated Equipment(s)" means the medical equipment manufactured by Philips, as listed (and identified by serial number) in the Quotation (or in any amendment to this EMIP License Agreement signed by the authorised representatives of both Parties and referencing the terms of this EMIP License Agreement), for the servicing (as defined by the Licensed Use) of which the Licensed EMIP will be provided by Philips.
- 1.1.5** "Designated Site(s)" means the location of either Licensee or the end-user/clinical user of the Designated Equipment, as identified in the Quotation, where Designated Equipment(s) has been or will be installed.
- 1.1.6** "Licensed EMIP" means the EMIP provided by Philips to Licensee under this EMIP License Agreement for the Licensed Use.
- 1.1.7** "License Fee" has the meaning as defined in Section 4.
- 1.1.8** "License Term" has the meaning as defined in Section 3.
- 1.1.9** "Licensed Use" means the lawful use as set forth in the Quotation (or in any amendment to this EMIP License Agreement signed by the authorised representatives of both Parties and referencing the terms of this Agreement) in compliance with the usage rights and restrictions set forth in this EMIP License Agreement.

### **1.2 SECTION 2: License.**

- 1.2.1** Subject to the terms and conditions herein, Philips hereby grants to Licensee a single, limited, non-exclusive, non-transferable license, without any rights to sublicense, to use the Licensed EMIP, solely by Designated Employee(s) on the Designated Equipment(s) in the Designated Site(s) in compliance with the Licensed Use.
- 1.2.2** The license may be subject to further restrictions as set forth in Quotation.

### **1.3 SECTION 3: License Term.**

- 1.3.1** The license granted pursuant to Section 2(a) shall be in effect solely for the period of the associated service agreement for each specified Designated Equipment (or in any amendment to this EMIP License Agreement signed by the authorised representatives of both Parties and referencing the terms of this Agreement) ("License Term") and is subject to termination in the event one of the following occurs prior thereto:
  - 1.3.1.1** termination of this EMIP License Agreement as set forth in Section 13;
  - 1.3.1.2** with regard to a Designated Employee, when said Designated Employee, for whatever reason, ceases to be a Designated Employee, the coverage will automatically increase to a full service agreement, however the EMIP License Agreement is restorable if a new Designated Employee is named and the full service agreement will terminate; and the License is renewable for the remaining License Term subject to Section 6(c) and (d);

- 1.3.1.3 with regard to a Designated Equipment, when Licensee ceases to service said Designated Equipment; or
- 1.3.1.4 with regard to a Designated Site, in case of the cessation of use at and by the Designated Site, however it is renewable for the remaining License Term subject to prior written notice by Licensee to Philips.

#### 1.4 SECTION 4: License Fees.

- 1.4.1 Licensee shall pay to Philips a non-refundable license fees as set forth in Annex 1 ("License Fee"). Such payment obligation shall be absolute.

#### 1.5 SECTION 5: Rights.

- 1.5.1 All EMIP, including the media on which they are embodied, shall remain the sole property of Philips.
- 1.5.2 Except as expressly permitted under this EMIP License Agreement, Licensee shall not, and shall not permit any third party to:
  - 1.5.2.1 copy, reproduce or distribute Licensed EMIP;
  - 1.5.2.2 assign, sub-license, lease, rent, loan, transfer, disclose, or otherwise make available the Licensed EMIP;
  - 1.5.2.3 modify, adapt, alter, translate, or create derivative works from any portion of the Licensed EMIP; or
  - 1.5.2.4 reverse assemble, decompile, disassemble, or otherwise attempt to derive source code of the Licensed EMIP.
  - 1.5.2.5 It is expressly acknowledged and agreed that the Licensed EMIP is licensed under copyrights only and not sold, and any and all references to "sale" or "sold" of any Licensed EMIP shall be deemed to mean a copyright license, and not as transfer of any intellectual property right.
  - 1.5.2.6 Other than the limited license granted to Licensee under Section 2, nothing in this EMIP License Agreement shall be construed as conferring any license or right to Licensee or obligation on Philips, directly or by implication.

#### 1.6 SECTION 6: Licensee's Duties.

- 1.6.1 Licensee shall use the Licensed EMIP only in the manner specified herein, and only by Designated Employee(s) on Designated Equipment(s) at Designated Site(s). Furthermore, Licensee shall inform Philips immediately of any changes with respect to Designated Employee(s) and Designated Site(s). For the avoidance of doubt, the Licensed EMIP cannot be transferred by any means to or used with any other equipment than the Designated Equipment.
- 1.6.2 Licensee warrants that all Designated Employees are Licensee's employees. For the purpose of this EMIP License Agreement, the term "employee", or other words contemplating the same relationship as "employee", will have the same meaning as when the term is used by the applicable labor law and tax laws in Licensee's country (as distinct from an "independent contractor") to determine whether there is an obligation to withhold income taxes, withhold and/or pay social security taxes, and/or pay unemployment tax on wages paid.
- 1.6.3 Prior to the disclosure or dissemination of any Licensed EMIP to Licensee's Designated Employee(s) and prior to attending training, Licensee shall deliver an original copy of the signed Designated Employees Non-Disclosure Undertaking, as attached to Annex 1, to Philips. The execution by Licensee's Designated Employee(s) of the Designated Employees Non-Disclosure Undertaking and its delivery to Philips is a CONDITION PRECEDENT to Philips' obligation to train or otherwise disclose or disseminate any Licensed EMIP to said Designated Employee(s). Under no circumstances may an employee of Customer be entitled to use EMIP prior to completion of training and signature of a Designated Employees Non-Disclosure Undertaking, as attached to Annex 1.
- 1.6.4 Licensee shall notify Philips if the Designated Employee(s) employment with Licensee terminates or Licensee assigns another employee to the Designated Equipment and/or Designated Sites. Upon Philips' request, Licensee shall provide Philips with the then current list of Designated Employee(s) on Designated Equipment(s) at Designated Site(s).
- 1.6.5 Licensee shall ensure Designated Employee(s) attends training, including any required courses to maintain training certification, and Licensee shall pay EMIP training fees for such training. Travel, lodging, and board is not included in such fees and additional cost and expenses to be incurred by Licensee's Designated Employee to attend and complete the training are at the cost of Licensee.
- 1.6.6 The training will be conducted at Philips' service training facilities, or through remote training options as defined by Philips for the applicable course. Philips may cancel or reschedule courses. Designated

Employee(s) must meet the minimum admission requirements set forth in the course syllabus and must satisfy all prerequisites prior to admission. Philips makes no warranty that any Designated Employee(s) will pass all or any portion of the training courses provided or that the training will result in any Designated Employee(s) being qualified or able to troubleshoot and repair any or all possible malfunctions that may occur in the Designated Equipment.

- 1.6.7** Licensee shall use, and/or cause its Designated Employee(s) to use the utmost effort and care to protect such property from access or disclosure to or use by anyone other than Designated Employee(s), including other employees of Licensee not so designated. In the event that Licensee or any of the Designated Employees, in connection with the maintenance of the Designated Equipment, has access to tangible Licensed EMIP pursuant to this Agreement, Licensee shall keep such Licensed EMIP in a lockable cabinet or box. Licensee shall be liable for unlawful use, including use by third parties such as independent service organizations that access EMIP at Licensee's Designated Site via accessing EMIP in the possession or the responsibility to maintain in confidence by Licensee's Designated Employee and provided under this Agreement.
  - 1.6.8** Except for Designated Employees, no other employee or third party shall engage in the installation, maintenance, repair and/or operation of equipment using the Licensed EMIP, unless such employee or third party has signed a separate license agreement with Philips for the use of the Licensed EMIP. EMIP not provided by Philips are illegally created and/or provided without Philips' authorization. In all cases, independent service providers must purchase a separate license from Philips and may not use a license granted to a healthcare institution.
  - 1.6.9** Licensee shall not modify, or allow the modification of, all or any part of the Licensed EMIP in any manner whatsoever. Any such unauthorized modification to the Licensed EMIP shall be solely owned by Philips and Licensee shall take all reasonable actions needed to perfect such ownership by Philips.
  - 1.6.10** Licensee agrees not to use or permit any person to use an unauthorised copy of all or any part of the Licensed EMIP.
  - 1.6.11** Licensee shall at all times use its best efforts to keep confidential any and all EMIP which it may have access to or acquire in the exercise of its rights or performance of its obligations under this EMIP License Agreement and take all necessary reasonable safeguards to prevent unauthorized use. In support thereof, Licensee shall submit its field service safeguard procedures it shall use for the Licensed EMIP and agrees that all Designated Employees are made aware of the same and abide such procedures as it applies to access and use of the Licensed EMIP. Such procedures shall also indicate the measures Licensee shall take to prevent the introduction of malware or virus software into the Designated Equipment(s) when performing maintenance as well.
  - 1.6.12** Licensee shall not disclose the existence or terms of this EMIP License Agreement, and any other information labelled as "confidential" and shared by Philips in its performance under this EMIP License Agreement, to any third party or to employees that are not a Designated Employee without the prior written consent of Philips, except as may be required by law.
- 1.7 SECTION 7: Audit, Access to Designated Equipment.**
- 1.7.1** During the Term and for a period of three (3) years thereafter, Philips, or its designated representative, shall have the right, to audit all relevant books and records of Licensee and the Designated Equipment(s), including log files to verify Licensee's compliance with the terms and conditions of this Agreement, including, without limitation, to verify the proper use and payment (if applicable) of the EMIP licensed under this Agreement. Such audit rights will extend to review of any materials needed to determine if additional EMIP should have licensed by Licensee under this (or a related) Agreement or use of the EMIP outside the scope of this Agreement. Such audits will be conducted during normal business hours. Licensee shall willingly co-operate and provide all such assistance in connection with such audit as Philips and/or its auditors may require. The audit will be conducted at Philips' expense, unless the audit reveals that Licensee has breached any of its obligations under this Agreement or that it has underpaid the amounts owed to Philips by five percent (5%) or more, in which case Licensee will reimburse Philips for all costs and expenses incurred by Philips in connection with such audit.
  - 1.7.2** Licensee shall promptly pay to Philips any amounts due, as revealed by any such audit or audit certificate. If the amount of royalties due to be paid to Philips is greater than the amount of royalties actually paid to Philips, Licensee shall promptly pay any such shortfall, together with interest at the rate of two percent (2%) per month (or part thereof) or the maximum rate permitted by applicable law, whichever is lower,



calculated from the date on which such sums were due to the date on which such sums are actually paid to Philips.

- 1.7.3** During the License Term and for a period of three (3) years thereafter, Licensee shall not make any attempt, neither allow a third party, to circumvent or undermine Philips' ability to access Designated Equipment for the above purpose.

**1.8 SECTION 8: Disclaimer of Warranty and Limitation of Liability.**

The Licensed EMIP is provided to, and is accepted by, Licensee 'AS IS' without warranty of any kind. Philips expressly disclaims any and all warranties, express or implied, including, but not limited to, any implied warranties of merchantability, fitness for a particular purpose, non-infringement, or that all problems in the Designated Equipment(s) will be diagnosed or corrected with the use of the EMIP, or that the EMIP is error free.

Except as otherwise prohibited by law, Licensee agrees to indemnify and hold Philips, harmless from any claims, losses, liabilities, damages, costs, penalties, fines and expenses, including, without limitation, reasonable attorneys' fees, brought against, or suffered by, Philips arising directly or indirectly as a result of the use of the Licensed EMIP, or properly maintain the Designated Equipment, by Licensee, except to the extent damage arise from the negligent act or omission of Philips. IN NO EVENT SHALL PHILIPS, OR ANY OF ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS LOSS OF REVENUE, LOSS OF BUSINESS OPPORTUNITY, BUSINESS INTERRUPTION OR DAMAGE TO REPUTATION) IRRESPECTIVE OF WHETHER SUCH DAMAGES RESULT FROM CLAIMS BASED ON TORT (INCLUDING NEGLIGENCE), WARRANTY, CONTRACT, INDEMNITY, OR ANY OTHER LEGAL THEORY, EVEN IF PHILIPS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Philips' total liability, if any, is limited to an amount not to exceed the License Fee payable for the Licensed EMIP that is the basis for the claim. THIS LIMITATION SHALL NOT APPLY TO THIRD PARTY CLAIMS FOR BODILY INJURY OR DEATH PROXIMATELY CAUSED BY PHILIPS' NEGLIGENCE.

**1.9 SECTION 9: Infringement of Philips' Rights.**

Licensee shall promptly notify Philips in writing of any unauthorised use, disclosure, transfer, copying or other activity constituting a violation of Philips' rights to which Licensee is or becomes aware. In the event such violation of Philips' rights is committed by a third party, Licensee agrees to cooperate to assist Philips in rectifying any such violations of Philips' rights and in defending Philips's property rights in the EMIP. In the event a Designated Employee is in violation of this EMIP License Agreement or any related agreement, Licensee shall take all necessary action to enjoin further violating activity and to prevent additional occurrences of such activity.

**1.10 SECTION 10: Remedies and Liquidated Damages.**

Licensee hereby acknowledges and agrees that the use, disclosure, transfer and copying of all or any portion of the EMIP by Licensee, the Designated Employee(s), or any of Licensee's employees, agents, or representatives, except as expressly permitted in this EMIP License Agreement, or use without purchasing the required licenses without the express written consent of Philips shall be considered a breach of this EMIP License Agreement.

In the event of breach of this EMIP License Agreement, Philips shall be entitled to all available remedies including without limitation compensation for all damages out of or resulting from said breach, and including without limitation, all consequential damages and attorneys' fees incurred by Philips. All remedies under are cumulative and not exclusive.

Considering the substantial investment that Philips and its Affiliates have in the EMIP, Licensee further agrees that a violation by or for it or any of its Designated Employees of any provision of this EMIP License Agreement will cause irreparable injury to Philips and that Philips shall be entitled, in addition to any other rights or remedies Philips may have at law or in equity, to an injunction enjoining and restraining Licensee and/or Designated Employee(s) from doing or continuing to do any such violation or threatened violations of this EMIP License Agreement, without need of posting of a bond prior to the issuance thereof.

Furthermore, except as otherwise provided by law, Licensee agrees to indemnify and hold Philips and its Affiliates harmless from any and all damages resulting from Licensee's or a Designated Employees' breach of this EMIP License Agreement.

Without prejudice to any rights or remedies Philips may have under this Agreement or at law, in any case of unauthorized use of any EMIP by Licensee (including also, but not limited to using EMIP not supplied by Philips), Licensee shall incur liquidated damages of \$100,000 USD (one hundred thousand U.S. Dollars) to be paid to Philips for each instance of unauthorized use and, such amount, subject to a multiplier of the number of unlawful uses, including without limitation use on the same equipment and by the same person. Licensee hereby acknowledges

and agrees that such liquidated damages are a genuine pre-estimate of Philips' loss suffered as a result of the Licensee's breach and is not meant as a sole, exclusive remedy.

**1.11 SECTION 11: Third Party Rights.**

The Licensed EMIP may be accompanied by certain open source software. Such open source software is only governed by its own license conditions. To the extent Philips has provided the Licensee with a copy of these license conditions, Licensee shall comply with them.

**1.12 SECTION 12: FEEDBACK.**

Philips and its Affiliates hereby have the unrestricted right to use, without charge, any feedback provided by Licensee to Philips relating to the Licensed EMIP, in any manner and for any purpose.

**1.13 SECTION 13: Termination and Effect of Termination.**

**1.13.1** Without prejudice to any other right or remedy of Philips, Philips may, by written notice to Licensee, terminate this EMIP License Agreement and/or the license granted hereunder with immediate effect if:

**1.13.1.1** Licensee fails to make any payment under this EMIP License Agreement to Philips when due; or

**1.13.1.2** Licensee violates or breaches any of the provisions of this EMIP License Agreement (by, including but not limited to, use of Licensed EMIP on non-Designated Equipment; use of Licensed EMIP by non-Designated Employees; use of Licensed EMIP at non-Designated Sites; use of any non-Licensed EMIP; use of Licensed EMIP by Designated Employee who has not taken or maintained the requisite training. For the avoidance of doubt, each of the above actions constitutes material breach of this EMIP License Agreement;

**1.13.1.3** a petition in bankruptcy or winding up petition is filed against Licensee, any proceedings in insolvency or bankruptcy are initiated against Licensee, a trustee or receiver is appointed over Licensee, or any assignment is made for the benefit of creditors of Licensee;

**1.13.1.4** a change of control occurs, meaning (a) the sale of all or substantially all assets of Licensee, or (b) a merger, consolidation or other reorganization of Licensee which results in more than 50% of the voting stock of the resulting or surviving entity being owned or held by persons other than those owning or holding the voting stock in Licensee on the Effective Date, or (c) the sale by one or more stockholders of Licensee, in a single transaction or series of related transactions, of more than 50% of the voting stock of Licensee to one or more third parties who are at the time of such sale unaffiliated with any stockholders of Licensee. Licensee shall inform Philips immediately of any such (anticipated) change of control;

**1.13.1.5** Licensee challenges or attempts to challenge, directly or indirectly the ownership or validity of any Philips EMIP, or otherwise institutes a cause of action or proceeding involving Philips' EMIP;

**1.13.1.6** Licensee misappropriates or infringes, or accesses or attempts to access any Philips equipment without authorization to obtain access to any EMIP;

**1.13.1.7** in Philips' opinion, the Licensed EMIP is likely to become, the subject of an intellectual property rights infringement claim; or

**1.13.1.8** there is a substantial business reason for Philips to terminate;  
Philips shall not be liable to Licensee by virtue of such termination.

**1.13.2** Termination of this EMIP License Agreement for any cause shall not be construed to release any party from any obligation matured to the effective date of such termination. Obligations matured prior thereto shall survive termination.

**1.13.3** Upon expiration of any license pursuant to Section 3 above, or termination of this EMIP License Agreement, Licensee shall immediately cease use of any and all Licensed EMIP and, all Licensed EMIP embodied on any tangible media and any device used to access Licensed EMIP shall be immediately returned to Philips including any and all copies or reproductions thereof. An officer of Licensee's institution shall certify that all EMIP has been destroyed promptly upon termination of the Agreement pursuant to Subsection (a) of this Section 13.

**1.13.4** No portion of the License Fee will be refunded to Licensee in the event of termination of this EMIP License Agreement or the license based on Subsection (a).

**1.13.5** The provisions of Section 1, 5, 6 (h)-(l), 7, 8, 10, 11, 12, 13 and 14 shall survive the expiration or termination of this EMIP License Agreement.

**1.14 SECTION 14: Miscellaneous.**

**1.14.1** Binding Effect and Assignment. This EMIP License Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Licensee may not assign any of its rights or privileges under this EMIP License Agreement License without the prior written consent of Philips.



- 1.14.2** Export Control. EMIP is subject to export laws and restrictions, including prohibitions from shipping, delivering or providing access to embargoed countries or individuals. Licensee agrees and warrants that it will comply with all applicable international and national export control laws and regulations and that it will not export or re-export, directly or indirectly, any EMIP to any country for which the European Union or the United States of America or any other country, at the time of export or re-export, requires an export license or other governmental approval, without first obtaining such license or approval.
- 1.14.3** Notices. Any notice required under this EMIP License Agreement to be sent by either party shall be given in writing by means of a letter, facsimile or electronic mail directed to the respective addresses as indicated in Annex 1 or such other address as may have been previously specified in writing by either party to the other.
- 1.14.4** Severability. If any of the provisions of this EMIP License Agreement is determined to be invalid or unenforceable by any court of competent jurisdiction, such finding shall not invalidate the remainder of this EMIP License Agreement which shall remain in full force and effect as if the provision(s) determined to be invalid or unenforceable had not been a part of this EMIP License Agreement. In the event of such finding of invalidity or unenforceability, the parties will endeavor to substitute forthwith the invalid, or unenforceable provision(s) by such effective provision(s) as will most closely correspond with the original intention of the provision(s) so voided.
- 1.14.5** Entire Agreement. This EMIP License Agreement sets forth the entire understanding and agreement between the parties as to the subject matter of this EMIP License Agreement and supersedes, cancels and merges all prior agreements, negotiations, commitments, communications and discussions between the parties relating to the subject matter hereof. No variation of this EMIP License Agreement shall be binding upon either party unless made in writing and signed by an authorized representative of each of the parties hereto.
- 1.14.6** No Waiver. Neither the failure nor the delay of either party to enforce any provision of this EMIP License Agreement shall constitute a waiver of such provision or of the right of each party to enforce each and every provision of this EMIP Agreement.
- 1.14.7** Independent contractor. Nothing in this Agreement shall be construed as creating any relationship of agency or partnership between the Parties. Licensee agrees not to represent or imply to any third party that Licensee is an authorized service representative of Philips. Philips and Licensee are independent contractors.
- 1.14.8** Applicable Law and Jurisdiction. This EMIP License Agreement shall be governed by and construed in accordance with the laws of the country where Licensor is located without giving effect to its conflict of law provisions.  
Any dispute between the parties arising out of or in connection with this EMIP License Agreement (including any question regarding its existence, validity, or termination) shall be submitted to the competent courts of country where Licensee is located.
- 1.14.9** Annexes. The following Annex is incorporated into this EMIP License Agreement:

Annex 1  
Designated Employees Non-Disclosure Undertaking

Name of Designated Employee

Residence Address

In consideration of the information received or to be received by me from Philips, in my role as “Designated Employee” under the EMIP license agreement signed by my current employer (“Employer”) and Philips and in further consideration of Philips’ disclosure to me of its proprietary information, I agree to and undertake the following:

- 1. “Philips Proprietary Information” means information disclosed to me, known by me, or acquired by me or in my subsequent use of such information in the installation, service, maintenance, or repair of Philips branded equipment(s), including any oral, written, or electronically recorded information, any documentation, software, tools, and/or know-how.
- 2. I acknowledge that, in the maintenance of the branded equipment(s), I may receive the benefit of Philips’ substantial investment in the Philips Proprietary Information which is not available outside of Philips.
- 3. I will treat the Philips Proprietary Information in strict confidence, and will not, directly or indirectly, disclose, reverse engineer, decompile, modify, adapt, translate, create derivative works, disassemble, disseminate, lecture upon, publish, copy, or duplicate any such information without Philips’ prior, express, written consent. This obligation to maintain the confidentiality of Philips Proprietary Information will endure permanently.
- 4. Upon my employment with my Employer terminating, prior to or upon my retirement, or upon a change in my employment responsibilities wherein my use of the Philips Proprietary Information is no longer required, I will turn over to a designated individual employed by the Employer, all Philips Proprietary Information then in my possession, custody, or control. I will not retain any copies or reproductions of correspondence, memoranda, reports, notebooks, drawings, photographs, excerpts, or any other documents relating in any way to the Philips Proprietary Information that are entrusted to me at any time during my employment with the Employer. If Employer does not designate an employee or agent to accept the surrender of the information and material as required above, I will immediately inform Philips of these circumstances.
- 5. This undertaking and all matters relating to the construction, interpretation, and enforcement thereof will be governed by the country of my residence, without regard to principles of choice of law.
- 6. If any provision of this undertaking is determined by a court of competent jurisdiction to be unenforceable, the unenforceable provision may be stricken without affecting the remainder of this undertaking.
- 7. By signing this confidentiality undertaking, I acknowledge, agree and accept that Philips has the right to enforce this confidentiality undertaking directly against me irrespective of any other rights or remedies which Philips may have relating to the Philips Proprietary Information under the EMIP license agreement between Philips and my Employer.

Dedicated Employee's Signature		Date