
Procurement Master Agreement

Automated External Defibrillator (AED) & Accessories

Issued by

The State of Oklahoma

In collaboration with

NASPO Value Point

The Manufacturer identified below is hereby notified that a contract is being awarded in connection with solicitation number EV00000354, Oklahoma Statewide SW0300, which opened November 17, 2023.

Now, Therefore, in consideration of the foregoing and mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties have caused the Master Agreement to be duly executed and agree to terms contained herein.

**STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES**

**Phillips Healthcare, a division of Philips North
America LLC**

By: *Amanda Otis*
Amanda Otis (Aug 30, 2024 09:22 CDT)

By: *Jamie La Boda*
Jamie La Boda (Aug 29, 2024 10:23 PDT)

Name: Amanda Otis

Name: Jamie La Boda

Title: State Purchasing Director

Title: Senior Manager, Commercial Contracts

Date: 08/30/2024

Date: 08/29/2024

Reviewed & approved by

Elizabeth Vincent
OMES Legal Signature: Elizabeth Vincent (Aug 30, 2024 09:07 CDT)

OMES Legal Name: Elizabeth Vincent

Date: 08/30/2024

Procurement Master Contract

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Procurement Master Contract

Contract Summary

This State of Oklahoma Statewide Contract (“Contract”) is entered into between the state of Oklahoma by and through the Office of Management and Philips Healthcare, a division of Philips North America LLC. (“Supplier”) and is effective as of the date of last signature to this Contract. The initial Contract term, which begins on the effective date of the Contract, is two (2) years and there are three (3) additional one-year period options to renew the Contract.

Purpose

The purpose of this contract is to have established a competitive contract for use by participating entities to obtain FDA approved Automatic External Defibrillator (AED) Units and Accessories. As more particularly described in certain Contract Documents found herein. This contract will be made available to all levels of state, local and county government agencies as well as other public agencies authorized to utilize this contract. A contract may be awarded to one or more AED manufacturers.

This Contract memorializes the agreement of the parties with respect to negotiated terms of the Contract that is being awarded to manufacturer.

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. Exhibit A, NASPO ValuePoint Master Terms and Conditions
 - 2.2. Exhibit B, Scope of Work
 - 2.3. Exhibit C, Cost
 - 2.3. Exhibit D; Connected Care Product Warranty
3. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

Procurement Master Contract

EXHIBIT A: NASPO VALUEPOINT MASTER AGREEMENT TERMS AND CONDITIONS

I. Definitions:

- 1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 **Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- 1.5 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials (“NASPO”), a 501(c)(3) corporation. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- 1.8 **Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.
- 1.9 **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit

organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

1.11 Participating State means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.

1.12 Product or Products and Services means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.

1.13 Purchasing Entity means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

2.1 Initial Term. The initial term of this Master Agreement is for two (2) years. The term of this Master Agreement may be amended beyond the initial term for three (3) additional years at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance. The Lead State may, prior to execution, adjust the effective date or duration of the initial term or renewal period of any Master Agreement for the purpose of making the Master Agreement coterminous with others.

2.2 Amendment Limitations. The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.

2.3 Amendment Term. The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

3.1 Order. Any Order placed under this Master Agreement will consist of the following documents:

3.1.1 A Participating Entity's Participating Addendum ("PA");

3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;

3.1.3 A Purchase Order or Scope of Work/Specifications issued against the Master Agreement;

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- 4.4 **Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 **Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.
- 4.6 **Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 **Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- 4.8 **Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.
- 4.9 **Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of

information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.

- 4.10 **No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

- 5.1 **Applicability.** NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 **NASPO ValuePoint Fee.** Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than ninety (90) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 **State Imposed Fees.** Some states may require an additional fee be paid by Contractor directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method, and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 **Sales Data Reporting.** In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity

employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum (“Sales Data”). Contractor is responsible for reporting all sales made under this contract, whether those sales are made by distributors or the manufacturer directly. Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

- 5.3.2 **Summary Sales Data.** “Summary Sales Data” is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.
- 5.3.3 **Detailed Sales Data.** “Detailed Sales Data” is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.
- 5.3.4 **Sales Data Crosswalks.** Upon request by NASPO ValuePoint, Contractor shall provide to NASPO ValuePoint tables of customer and Product information and specific attributes thereof for the purpose of standardizing and analyzing reported Sales Data (“Crosswalks”). Customer Crosswalks must include a list of existing and potential Purchasing Entities and identify for each the appropriate customer type as defined by NASPO ValuePoint. Product Crosswalks must include Contractor’s part number or SKU for each Product in Offeror’s catalog and identify for each the appropriate Master Agreement category (and subcategory, if applicable), manufacturer part number, product description, eight-digit UNSPSC Class Level commodity code, and (if

applicable) EPEAT value and Energy Star rating. Crosswalk requirements and fields may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. Contractor shall work in good faith with NASPO ValuePoint to keep Crosswalks updated as Contractor's customer lists and product catalog change.

5.3.5 Executive Summary. Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.

5.4.2 Onboarding Plan. Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.

5.4.3 Annual Contract Performance Review. Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.

5.4.4 Use of NASPO ValuePoint Logo. The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.

5.4.5 **Competitive Pricing, Obligation to Act in Good Faith.** The parties acknowledge that this Master Agreement and its terms and pricing have been negotiated for the benefit of the parties, NASPO ValuePoint, Participating Entities, and Purchasing Entities. Apart from a Participating Addendum or Order, Contractor shall not intentionally induce a potential Participating Entity or Purchasing Entity to enter into a separate agreement, the pricing and terms of which are derived from this Master Agreement, for the purpose of avoiding compliance with Contractor's obligations under Section V. Nothing in this Section 5.4.5 shall prohibit Contractor from contracting with an entity with substantially similar pricing and terms if such pricing and terms are independently negotiated with the entity or are consistent with pricing and terms ordinarily offered by Contractor to public sector customers.

5.5 **Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if the Contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than [two years] after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.

5.6 **Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

6.1 **Pricing.** The prices contained in this Master Agreement or offered under this Master Agreement represent the not-to-exceed price to any Purchasing Entity.

6.1.1 All prices and rates must be guaranteed for the initial term of the Master Agreement.

6.1.2 Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date.

- 6.1.3 Requests for a price or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement will not be effective unless approved in writing by the Lead State.
- 6.1.4 No retroactive adjustments to prices or rates will be allowed.
- 6.2 **Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Acceptance occurs upon delivery, Payment will be made within thirty (30) days following the date of Contractor invoice. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchase card with no additional charge. Contractor reserves the right to adjust customer list pricing and (or) net pricing, during the Term of the agreement, in accordance with the Consumer Price Index published by the United States Department of Labor in its website at <http://www.bls.gov/cpi>. Such adjustment in pricing requires thirty (30) day written notice, will not be retroactive, cannot start before first year of contract and will not exceed more than five percent (5%) change annually.
- 6.3 **Leasing or Alternative Financing Methods.** The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

- 7.1 **Order Numbers.** Master Agreement order and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 **Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an “as needed” basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity’s rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.

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- 7.3 **Applicable Rules.** Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.
- 7.4 **Required Documentation.** Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.
- 7.5 **Term of Purchase.** Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.
- 7.5.1 Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.
- 7.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.
- 7.5.3 Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.
- 7.5.4 Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement's terms.
- 7.5.5 Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.
- 7.6 **Order Form Requirements.** All Orders pursuant to this Master Agreement, at a minimum, must include:
- 7.6.1 The services or supplies being delivered;
- 7.6.2 A shipping address and other delivery requirements, if any;
- 7.6.3 A billing address;

- 7.6.4 Purchasing Entity contact information;
 - 7.6.5 Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;
 - 7.6.6 A not-to-exceed total for the products or services being ordered; and
 - 7.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.
- 7.7 **Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- 7.8 **Contract Provisions for Orders Utilizing Federal Funds.** Pursuant to Appendix II to Title 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VIII. Shipping and Delivery

- 8.1 **Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.
- 8.1.1 Notwithstanding the above, responsibility and liability for loss or damage will pass to the Purchasing Entity upon delivery except as to Contractor's warranty obligations.
- 8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.
- 8.3 **Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor.

Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.

- 8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

- 9.1 **Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 **Acceptance.** occurs upon delivery, Purchasing Entity shall notify Contractor if the Purchasing Entity believes the products do not conform with the provisions of the applicable commercial code, Contractor and Purchasing Entity shall review such applicable code and agree on remediation.
- 9.3.1 If there is a problem with an order, Philips wants to correct it as soon as possible. Please note the following instructions before returning merchandise to Philips.
- 9.3.2 The Customer Services Department of Philips Healthcare Supplies Center must authorize all returns. Please call 1- 800-225-0230 for a return authorization number. for guidance on any returns. If the equipment arrives damaged or does not perform to Contractor specifications, Contractor will replace the product(s) per the terms of the Philips' specific product Warranty, attached. For further information, please call Product Warranty Support at 1-(800) 263-3342.
- 9.4 **Failure to Conform.** In the event the Purchasing Entity believes the Contractor has not performed the services per the contract requirements, the Contractor and Purchasing Entity shall mutually agree on the services to be performed to conform with the contract requirements. If the Parties cannot mutually agree such defects cannot be corrected by re-performance, the Parties will mutually agree on the necessary action to ensure that future performance conforms to contract requirements of the pricing for such actions.
- 9.5 **Acceptance Testing.** Acceptance occurs upon delivery. If the equipment arrives damaged or does not perform to Contractor specifications, Contractor

will replace the product(s) per the terms of the Philips' specific product Warranty, attached. For further information, please call Product Warranty Support at 1-(800) 263-3342. The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

X. Warranty

- 10.1 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X. will apply.
- 10.2 Warranty.** The warranty is attached as Exhibit D.
- 10.3 Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves in breach of the warranty in Section 10.2, the contractor will have another opportunity to repair or replace the product if such repair or replacement does not cure the warranty issue, the contractor will refund the full amount of any payments that have been made for such product.
- 10.4 Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 10.5 Warranty Period Start Date.** Acceptance occurs upon delivery; The warranty period will begin upon shipment to the purchasing entity.

XI. Product Title

- 11.1 Conveyance of Title.** Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests.
- 11.2 Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product except due to an uncured breach of the license. If Purchasing Entity subsequently transfers title of the Product to another entity, that is not in competition with Contractor, intends to be the end user of the Product and Purchasing entity is not in breach of the license, then Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software

license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.

- 11.3 **License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual (except due to uncured breach) , royalty-free, irrevocable (except due to uncured breach) , license to use, or transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

- 12.1 **General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.
- 12.2 **Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").
- 12.2.1 The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- 12.2.1.1 provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - 12.2.1.2 specified by the Contractor to work with the Product;
 - 12.2.1.3 reasonably required to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

- 12.2.1.4 reasonably expected to be used in combination with the Product.
- 12.2.2 The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.
- 12.2.3 The Indemnified Party shall furnish, at the Contractor’s reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys’ fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.
- 12.2.4 Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.
- 12.3 IN NO EVENT SHALL EITHER PARTY. OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL CONSEQUENTIAL, OR SPECIAL DAMAGES INCLUDING WITHOUT LIMITATION, LOST REVENUES OR PROFITS BUSINESS INTERRUPTION LOSS OF DATA OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES WHETHER ARISING FROM BREACH OF THE TERMS IN THE QUOTATION, BREACH OF WARRANTY NEGLIGENCE INDEMNITY, STRICT LIABILITY OR OTHER TORT.

XIII. Insurance

- 13.1 **Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.

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- 13.2 **Class.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- 13.3 **Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:
- 13.3.1 Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence and \$2 million general aggregate;
- 13.3.2 Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.4 **Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- 13.5 **Notice of Endorsement.** Prior to the commencement of performance, Contractor shall provide to the Lead State that written notice of cancellation will be delivered Lead State within 30 days of the effective date and provides a blanket endorsement that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- 13.6 **Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- 13.7 **Furnishing of Certificates.** The contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within ten (10) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any

Participating Addendum.

- 13.8 **Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.2 The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

14.2.1 Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

14.2.2 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.3 Confidentiality, Non-Disclosure, and Injunctive Relief

14.3.1 **Confidentiality.** Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

14.3.1.1 Any and all information of any form that is marked as confidential or would by its nature be deemed confidential

obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of Purchasing Entity ("Confidential Information").

14.3.1.2 Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.

14.3.1.3 Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.

14.3.2 **Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

14.3.2.1 Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

14.3.2.2 Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if

Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.

14.3.2.3 Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.

14.3.2.4 Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.

14.3.3 **Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

14.3.4 **Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

14.3.5 **NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the

Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

14.3.6 Public Information. This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.4 Assignment/Subcontracts

14.4.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

14.4.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

14.5 Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

14.6 Independent Contractor. Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.7 Cancellation. Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records

administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

14.8 Force Majeure. Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.9 Defaults and Remedies

14.9.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

14.9.1.1 Nonperformance of contractual requirements;

14.9.1.2 A material breach of any term or condition of this Master Agreement;

14.9.1.3 Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;

14.9.1.4 Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

14.9.1.5 Any default specified in another section of this Master Agreement.

14.9.2 Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.

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- 14.9.3 If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
- 14.9.3.1 Any remedy provided by law;
 - 14.9.3.2 Termination of this Master Agreement and any related Contracts or portions thereof;
 - 14.9.3.3 Assessment of liquidated damages as provided in this Master Agreement;
 - 14.9.3.4 Suspension of Contractor from being able to respond to future bid solicitations;
 - 14.9.3.5 Suspension of Contractor's performance; and
 - 14.9.3.6 Withholding of payment until the default is remedied.
- 14.9.4 Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.
- 14.10 **Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement,

any Participating Addendum, or any Purchase Order.

14.11 Debarment. The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

14.12 No Waiver of Sovereign Immunity

14.12.1 In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

14.12.2 This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.13 Governing Law and Venue

14.13.1 The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

14.13.2 Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement

or the effect of a Participating Addendum will be in the Purchasing Entity's state.

- 14.13.3 If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

14.14 Assignment of Antitrust Rights. Intentionally Omitted

XV. Survivability

- 15.1 Unless otherwise explicitly set forth in a Participating Addendum or Order, the terms of this Master Agreement as they apply to the Contractor, Participating Entities, and Purchasing Entities, including but not limited to pricing and the reporting of sales and payment of administrative fees to NASPO ValuePoint, shall survive expiration of this Master Agreement and shall continue to apply to all Participating Addenda and Orders until the expiration thereof.

Procurement Master Contract

EXHIBIT B: SCOPE OF WORK

I. Master Agreement Objectives:

- A. The objective of this Contract is to maintain a full catalog offering and best value pricing for both semi and fully automated AED Units and associated accessories.
- B. Master Agreement awards will only be made to manufacturers. Manufacturers should include, as a part of their response, information of approved distributors through which Participating Entities can purchase products offered in the Master Agreement. All approved distributors must be identified using the provided form in Attachment L, Approved Distributor List and maintained with the Lead State throughout the life of the contract.

II. Master Agreement Deliverables:

- A. AED Units that are approved by the FDA:
 - Category I: Fully Automated
 - Category II: Semi-automated

- B. AED Accessories

A list of the most used consumables and accessories have been identified below:

- i. Batteries
- ii. Adult Pads (electrodes)
- iii. Pediatric Pads (electrodes)
- iv. Carrying Cases
- v. Wall Mount Kits
- vi. Fast Response Kits

C. Value-Add products and services.

III. Contractor Responsibilities

A. Contractor Point of Contact for National Cooperative.

All Contractors must identify a single point of contact, along with a direct phone line and email address they can be reached. This single point of contact shall be the primary contact for both the Lead State and any Participating Entities wishing to sign a Participating Addendum or regarding the resulting Master Agreement.

B. Ordering/Invoicing

1. There is no guaranteed minimum or maximum amount for orders. Each Purchasing Entity can order products as needed.
2. The Contractor(s) must be capable of:
 - a. Accepting verbal orders via telephone with use of State(s) purchasing card (P-card);
 - b. Accepting P-card and Purchase Orders online;
 - c. Providing the Purchasing Entity using a Purchase Order with a printable order confirmation after the order is placed, and a printable itemized invoice and receipt.
 - d. Accepting payments by check, electronic fund transfer, or with State(s) P- card. The contractor will be solely responsible for the credit card user- handling fee associated with credit card purchases.
3. Ordering instructions for entities must be described, outlined, and returned with the RFP response.

C. Delivery

1. All deliveries will be F.O.B. Destination (including Alaska, Hawaii, and all U.S. Territories), freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations. Any portion of an Order to be shipped without transportation charges and that is back ordered will be shipped without charge.
2. All deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order, unless explicitly specified otherwise. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area, such as directly to point of use or designated location. Specific delivery instructions will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight

- elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to immediately notify the Purchasing Entity placing the Order.
3. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and/or crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipping carton shall be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.
 4. Products returned because of quality problems, duplicated shipments, etc. will be sent back to the Contractor within 30 calendar days at the Contractor's expense, with no restocking charge and shall be replaced with specified products or the Purchasing Entity will be credited or refunded for the full purchase price.

D. Inspection and Acceptance

All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent

or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under the Master Agreement resulting from this RFP. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material, latent, or hidden defects subsequently revealed when goods are used. A material defect includes a nonconformity that substantially impairs value.

Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.

Acceptance Testing is the process for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity. If Acceptance Testing is prescribed, this subsection applies to applicable Products purchased under this Master Agreement, including any additional, replacement, or substitute Product(s) and any Product(s) which are modified by or with the written approval of Contractor after Acceptance by the Purchasing Entity. The Acceptance Testing period shall be thirty (30) calendar days, unless another time is identified in the Master Agreement or the Participating Addendum, starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing

Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor. Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. The warranty period shall begin upon Acceptance.

E. Product Warranty

Contractor shall include a basic warranty for all AED Units purchased that lasts for a duration of no less than one year from time of Acceptance at no additional cost to Purchasing Entities. Warranties must guarantee the safe and effective operation of devices for the duration of the warranty. The cost for repair or replacement of devices under warranty must be covered by the Contractor. In the event that an AED Unit must be repaired or replaced, the Contractor shall provide the Purchasing Entity with a loaner unit and ensure there is no gap in coverage for that location.

F. Guarantee of Equipment

Contractors shall guarantee that the equipment offered is standard new equipment and that no attachment or part has been substituted or applied contrary to the Contractor's recommendations and standard practice. Products furnished under the terms of the Master Agreement will be guaranteed against any defect due to faulty material and/or workmanship. Products must meet all federal, state, and local standards for quality and safety requirements and must be FDA approved. All equipment delivered must be first quality manufactured workmanship and finish. Contractor shall immediately notify all Participating Entities of AED recalls and provide product replacements. No remanufactured or refurbished equipment may be provided under a Master Agreement resulting from this RFP.

G. Software Updates

Contractor must provide and facilitate updates required for each AED unit to maintain full functionality over the unit's anticipated life and the methodology for performing or accessing the updates.

H. Customer Service

24/7 Call Support: Technical support via Telephone, for all items offered must always be available and must be provided for a period of no less than 3 years after purchase and acceptance.

I. Product Training

Product Documentation: All product documentation, manuals, and specifications must be provided at no additional cost.

Web/Video Training: Contractor must provide online or multimedia training at no additional cost.

IV. Additional Requirements

A. **Distributors**

Contractor shall ensure the Lead State Contract Administrator is provided with up-to-date information regarding the status of approved distributors. Contractor shall notify the Lead State Contract Administrator via email in the event of a change in its distributor list. Distributors may provide the products nationally or locally. The Participating Entity may have additional procedures regarding their usage of distributors within their Participating Addendum.

B. **Sustainability**

The Contractor should promote corporate and local sustainability practices by aiming to reduce adverse effects on human health and the environment for the entire product lifecycle, including energy, water, safety, delivery, storage, packaging, and training.

C. **Cost**

1. Discounts to Remain Firm or Greater

The percentage discount from the Contractor's submitted price schedule shall not decrease for all updates or revisions of Contractor's price schedule during the life of the Master Agreement and any subsequent Master Agreement renewals; however, Contractor may increase the discount at any time. New items or replacement products are to be discounted at the same (or greater) rate as similar products or replaced items.

2. Price Negotiation During Contract Term

Contractor is expected to continuously negotiate with its suppliers to obtain improved discounts and extend improved pricing to Participating Entities. During the term of the Master Agreement Contractor must agree to negotiate in good faith to establish ceiling prices or other more favorable terms and conditions between the Contractor and its suppliers that are applicable to future orders during the term of the Master Agreement.

3. Price Lists and Updates

Contractor must furnish a physical and/or an electronic copy (at Lead State's option) of the price list(s) and periodic updates to the State of Oklahoma Lead State Administrator. Contractor must also furnish physical and/or electronic copies, at a Participating Entity's option, to all Purchasing Entities for which account numbers have been established. Contractor must distribute price lists as they become effective and in a timely manner. Price lists may be updated no more than once a quarter and price updates must be approved by the Lead State before becoming effective. Updated price lists may include new items but may not increase the price of items which previously appeared unless the price increase is requested in accordance with Section D below. Updates must be simultaneous for the entire line of products. All price lists, website access, and ordering

capabilities must be supplied to the Participating Entities at no additional cost. Contractor must not add new replacement products for the purpose of a price increase. Stock keeping units (SKUs) shall be consistent and Contractor shall document discontinued items in writing when submitting replacement products.

4. Price List Access

At any time during the life of the Master Agreement issued under this RFP and for a three (3) year period from the end date of the Master Agreement, the Lead State reserves the right to request from the Contractor access to and/or a copy of the applicable price list used for the Master Agreement's pricing basis for pricing verification. Failure to provide the requested price list within three (3) business days following the Lead State's request may result in termination of the Master Agreement.

D. Price Changes

1. Price decreases or discount increases are permitted and encouraged at anytime. Price reductions announced must be applied at the time of the announcement for the products that have not yet been delivered to the Participating Entities.
2. All discounts offered must remain firm or increase during the term of a Master Agreement issued under this RFP.
3. The Contractor or Lead State may request price adjustments no sooner than 12 months from the Master Agreement execution date and no more than once per contract year. Contractors must submit a request to the Lead State at least thirty (30) days prior to the end of the current term. Requests must be in writing and must be received 30 days prior to the contract renewal date.
 - a. If the Contractor or state fails to request a price adjustment 30 days before the Master Agreement renewal date, the adjustment will be effective 30 days after the state or Contractor receives their written request.
 - b. Price adjustments will be made in accordance with the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U)
 - c. The price adjustment rate will be determined by comparing the percentage difference between the CPI in effect for the base year six-month average (January through June); and each (January through June six-month average) thereafter. The percentage difference between those two CPI issues will be the price adjustment rate. No retroactive price adjustments will be allowed. All price adjustments must be approved by the Lead State prior to the implementation of the adjusted pricing.

Approval shall be in the form of a contract amendment issued by the Lead State.

- d. Approval for all price increases is dependent upon full compliance with the terms of the Master Agreement including reporting requirements.

V. Optional Services and Product Support:

Offerors may propose optional value-add services. Services included in this section are considered in addition to the minimum requirements set forth in this scope of work.

A. Service Plan

1. Offerors may propose a service agreement to provide maintenance and repair on their proposed devices. Offerors Service Agreement will should include, but is not limited to, the following services:
 - Semi-annual physical inspection of AED's
 - Battery replacement program
 - Data tracking of serial numbers, expiration dates, etc.
 - Additional software enhancements and/or updates
 - Hardware updates
 - Assurance of compliance of the AED unit with local, state, and federal regulations.
2. Offerors must be aware of local requirements for the States in which they will be servicing
3. All work performed under a Service Agreement must meet the specifications for that device.
4. Offerors may submit additional information on any additional types of service agreements they may offer, to provide maintenance and repair on their devices, i.e., standard service agreement or premier service agreement. No pricing information should be included in the technical response.

B. Product Training

1. Optional On-site Training: Offerors shall provide on-site training, as requested. The cost for on-site training should be reflected in the Offerors' cost proposal

(Attachment H, Value-Add) as a separate rate.

C. Extended Warranty

Offerors may propose an extended warranty past the term of the basic warranty provided under the Master Agreement. Offerors must include a complete description of the coverage provided under the extended warranty in their cost proposal.

D. Additional Value-Add Options

Offerors may include in their Proposal additional Value-Add options not specifically requested in the scope of work. Value-Add options should not deviate from the nature of products and services requested in the scope of work and should include a thorough description of the option and how it brings value to the State. Examples include battery replacement plans, unconventional training options, alternative maintenance plans, and other services not specified.

Award of Value-Add options is subject to the approval of the Lead State.

Procurement Master Contract

Exhibit C – Cost

Offeror Name: Philips							
Validity Period:		Start/End: Discount rate offered will remain in effect throughout the term of agreement including extensions. Pricing adjustments/increases will align with requirements listed in section 6.1 of the sample master agreement, "all prices and rates must be guaranteed for the initial term of the Master Agreement , Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date".					
Category II: AED Units - Semi Automated							
Item Number	Product Description	UOM	QTY per UOM	List Price	% Discount	Net Price	Current Estimated Delivery Times
861282_CO2	OnSite AED + OnSite Slim Carry Case	EA	1	\$ 1,569.00	35%	\$ 1,019.85	3 - 4 weeks
861282_CO1	OnSite AED + OnSite Standard Carry Case (space for spare battery, spare pads cartridge)	EA	1	\$ 1,648.00	35%	\$ 1,071.20	3 - 4 weeks
861282_RO1	OnSite AED + OnSite Ready-Pack (includes: Standard Carry Case, Spare Adult SMART Pads Cartridge. Device and spare pads are pre-installed in carry case.)	EA	1	\$ 1,698.00	35%	\$ 1,103.70	3 - 4 weeks
861282_CO3	OnSite AED + OnSite Plastic Waterproof Shell Carry Case	EA	1	\$ 1,778.00	35%	\$ 1,155.70	3 - 4 weeks
861304_CO1	FRx AED + FRx Standard Carry Case	EA	1	\$ 2,254.00	35%	\$ 1,465.10	4 - 5 weeks
861304_RO1	FRx AED + FRx Ready-Pack (includes: Standard Carry Case, Spare Adult SMART Pads II Cartridge. Device and spare pads are pre-installed in carry case.)	EA	1	\$ 2,294.00	35%	\$ 1,491.10	4 - 5 weeks
861304_CO3	FRx AED + FRx Plastic Waterproof Shell Carry Case	EA	1	\$ 2,348.00	35%	\$ 1,526.20	4 - 5 weeks
861304_A01	FRx AED + FRx Aviation Bundle with Aviation Carry Case (zippered), Standard Battery replaced with FRx Aviation Battery	EA	1	\$ 2,279.00	35%	\$ 1,481.35	4 - 5 weeks
861304_RO2	FRx AED + FRx Ready-Pack Aviation Bundle with Aviation Carry Case (zippered) and Spare Adult SMART Pads II, Standard Battery replaced with FRx Aviation Battery).	EA	1	\$ 2,319.00	35%	\$ 1,507.35	4 - 5 weeks

[Add additional rows as needed.]



Offeror Name: Philips							
Validity Period: Start/End Discount rate offered will remain in effect throughout the term of agreement including extensions. Pricing adjustments/increases will align with requirements listed in section 6.1 of the sample master agreement, "all prices and rates must be guaranteed for the initial term of the Master Agreement. Following the initial term of the Master Agreement, any request for a price or rate adjustment must be for an equal guarantee period and must be made at least 30 days prior to the effective date".							
AED Accessories							
Item Number	Product Description	UOM	QTY per UOM	List Price	% Discount	Net Price	Current Estimated Delivery Times
989803219841	AED Remote Monitor, 1-Yr. Software License	EA	1	\$ 232.00	28%	\$ 167.04	4 - 5 Weeks
989803219851	AED Remote Monitor, 3-Yr. Software License	EA	1	\$ 644.00	28%	\$ 463.68	4 - 5 Weeks
989803219821	AED Remote Monitor, OnSite Remote Monitor Hardware (fits into standard OnSite carry case only)	EA	1	\$ 572.00	28%	\$ 411.84	4 - 5 Weeks
989803219831	AED Remote Monitor, FRx Remote Monitor Hardware (fits into standard FRx carry case only)	EA	1	\$ 572.00	28%	\$ 411.84	4 - 5 Weeks
989803121381	OnSite/FRx Battery, Long-Life LiMnO2	EA	1	\$ 189.00	32%	\$ 128.52	3 Weeks
989803121431	Standard Carry Case for HeartStart HS1	EA	1	\$ 144.00	32%	\$ 97.92	3 Weeks
989803121441	Slim Carry Case for HeartStart HS1	EA	1	\$ 123.00	32%	\$ 83.64	3 Weeks
861291	HS1 Adult SMART Pads Cartridge	EA	1	\$ 79.00	32%	\$ 53.72	3 Weeks
861292	HS1 Infant/Child SMART Pads Cartridge	EA	1	\$ 115.00	32%	\$ 78.20	8 Weeks (expected Through Q1/2024 then 3 wks)
861293	HS1 Adult Training Pads Cartridge	EA	1	\$ 129.00	32%	\$ 87.72	3 Weeks
861294	HS1 Infant/Child Training Pads Cartridge	EA	1	\$ 115.00	32%	\$ 78.20	3 Weeks
989803139261	HeartStart SMART Pads II	EA	1	\$ 64.00	32%	\$ 43.52	3 Weeks
989803139301	Aviation Battery, FRx Defibrillator	EA	1	\$ 195.00	32%	\$ 132.60	3 Weeks
989803139311	Infant/Child Key, FRx Defibrillator	EA	1	\$ 115.00	32%	\$ 78.20	3 Weeks
861306	HeartStart FRx Trainer	EA	1	\$ 525.00	32%	\$ 357.00	3 Weeks
989803138601	Quick Reference Guide, FRx, English	EA	1	\$ 18.00	32%	\$ 12.24	3 Weeks
989803138731	Owner Manual, FRx, English	EA	1	\$ 26.00	32%	\$ 17.68	3 Weeks
989803139271	HeartStart Adult Training Pads II Kit	EA	1	\$ 139.00	32%	\$ 94.52	3 Weeks
989803139291	Replacement Training Pads II	EA	1	\$ 55.00	32%	\$ 37.40	3 Weeks
989803139321	Training Toolkit, FRx Defib, US Eng NTSC	EA	1	\$ 41.00	32%	\$ 27.88	3 Weeks
989803139341	Training Video, FRx Defib, US Engl NTSC	EA	1	\$ 26.00	32%	\$ 17.68	3 Weeks
989803129851	External Manikin Adapter	PK	5	\$ 115.00	32%	\$ 78.20	3 Weeks
989803130441	Internal Manikin Adapter	EA	1	\$ 44.00	32%	\$ 29.92	3 Weeks
989803110251	Carrying Case, Plastic Waterproof Shell	EA	1	\$ 273.00	32%	\$ 185.64	3 Weeks
989803139251	Carrying Case, FRx Defibrillator	EA	1	\$ 164.00	32%	\$ 111.52	3 Weeks
989803139531	HeartStart FRx Trainer Carry Case	EA	1	\$ 33.00	32%	\$ 22.44	3 Weeks
989803130431	HeartStart Trainer Replacem. Carry Case	EA	1	\$ 33.00	32%	\$ 22.44	3 Weeks
989803108821	Reference Guide for M3864A	EA	1	\$ 23.00	32%	\$ 15.64	3 Weeks
989803149981	SMART Pads III, 1 set	EA	1	\$ 62.00	32%	\$ 42.16	3 Weeks
989803149991	SMART Pads III, 5 sets	PK	5	\$ 258.00	32%	\$ 175.44	3 Weeks
989803150031	Infant/Child Key, FR3	EA	1	\$ 119.00	32%	\$ 80.92	3 Weeks
989803179161	Philips Soft System Case w/o Auto-On FR3	EA	1	\$ 181.00	32%	\$ 123.08	3 Weeks
989803179181	Philips Small Soft Case w/o Auto-On, FR3	EA	1	\$ 175.00	32%	\$ 119.00	3 Weeks
989803150111	Fast Response Kit, FR3	EA	1	\$ 72.00	32%	\$ 48.96	3 Weeks
989803150161	Primary Battery, FR3	EA	1	\$ 298.00	32%	\$ 202.64	3 Weeks
861467_A01	AED Trainer 3 (includes Case, Pads, Cable, Key)	EA	1	\$ 617.00	32%	\$ 419.56	3 Weeks
989803150181	Replacement Training Pads III	EA	1	\$ 51.00	32%	\$ 34.68	3 Weeks
989803150201	Interconnect Cable, Training Pads III	EA	1	\$ 26.00	32%	\$ 17.68	3 Weeks
989803171631	Remote Control for AED Trainer 3	EA	1	\$ 67.00	32%	\$ 45.56	3 Weeks
989803137771	EKG Monitoring Electrodes, 20 3-packs	BX	20	\$ 59.00	32%	\$ 40.12	3 Weeks
989803149941	QCPR METER, BUNDLE ASSY	EA	1	\$ 1,295.00	32%	\$ 880.60	3 Weeks
861431_A01	Event Review Pro 5 (A01 Single-PC License)	EA	1	\$ 2,730.00	32%	\$ 1,856.40	3 Weeks
861431_A03	Event Review Pro 5 (A03 Sitewide License)	EA	1	\$ 6,175.00	32%	\$ 4,199.00	3 Weeks
861431_A06	A06 Multi-download License	EA	1	\$ 6,440.00	32%	\$ 4,379.20	3 Weeks
861436_A01	ER Pro 5 Upgrade from 4.x (A01 Single-PC License)	EA	1	\$ 1,110.00	32%	\$ 754.80	3 Weeks
861436_A03	ER Pro 5 Upgrade from 4.x (A03 Site-Wide License)	EA	1	\$ 2,220.00	32%	\$ 1,509.60	3 Weeks
861451_A01	HeartStart Data Messenger (A01 - Single PC License)	EA	1	\$ 232.00	32%	\$ 157.76	3 Weeks
861451_A03	HeartStart Data Messenger (A03 - Site License)	EA	1	\$ 4,430.00	32%	\$ 3,012.40	3 Weeks
861487_A01	HeartStart Config Software (A01 Configure - United States)	EA	1	\$ 82.00	32%	\$ 55.76	3 Weeks
989803136471	Adult Pad Placement Guide	EA	1	\$ 47.00	32%	\$ 31.96	3 Weeks
989803139281	HeartStart Inf./Ch. Pad Placement Guide	EA	1	\$ 59.00	32%	\$ 40.12	3 Weeks
989803108521	Secure Pull Seal for Wall Mount, 10 pack	BX	10	\$ 13.00	32%	\$ 8.84	3 Weeks
989803110031	AED Cabinet, Semi-recessed	EA	1	\$ 629.00	32%	\$ 427.72	3 Weeks
989803110041	AED Cabinet, Wall Surface Mounted	EA	1	\$ 629.00	32%	\$ 427.72	3 Weeks
989803136531	Defibrillator Cabinet - Basic	EA	1	\$ 350.00	32%	\$ 238.00	3 Weeks
989803169181	Defibrillator Cabinet, BLANK, Basic	EA	1	\$ 309.00	32%	\$ 210.12	3 Weeks
989803170891	AED Wall Mount	EA	1	\$ 109.00	32%	\$ 74.12	3 Weeks
861476	AED Awareness Posters	PK	4	\$ 24.00	32%	\$ 16.32	3 Weeks
861477	AED Wall Mount and Signage Bundle	EA	1	\$ 165.00	32%	\$ 112.20	3 Weeks
861478	AED Signage Bundle	EA	1	\$ 78.00	32%	\$ 53.04	3 Weeks
989803170901	AED Awareness Placard, red	EA	1	\$ 39.00	32%	\$ 26.52	3 Weeks
989803170921	AED Wall Sign, red	EA	1	\$ 40.00	32%	\$ 27.20	3 Weeks

Procurement Master Contract

Exhibit D – Connected Care 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 and applies to the Connected Care Portfolio Products (Product) listed on the quotation. 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' Connected Care 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 V30 BiPap Solution, then the above warranty extends to the V30 for a period of twenty-four (24) months after completion of installation or availability for first patient use, whichever occurs first.

1.3 If your purchase includes a SureSigns or EarlyVue, then a twenty-four (24) month return to bench warranty or a thirty-six (36) month parts-only warranty is included.

1.4 For all products that do not require installation, the warranty period begins on the date of invoice.

1.5 Any glassware or flat detectors provided with the System is subject to special warranty terms set forth below.

2. Planned Maintenance.

2.1 During the warranty period, Philips' personnel will schedule planned maintenance visits, in advance, at a mutually agreeable time on weekdays, between 8:00am and 5:00pm local time, excluding Philips' observed holidays.

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.

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. Customer must sign all such license agreements prior to or upon the delivery of the System.

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.

5. Medical Consumables and Sensors (MCS) Warranty.

5.1 Philips warrants reusable supplies products against defects in materials and workmanship for one year.

5.2 For single patient use (SPU)/disposable items, Philips guarantees that they will work out of the box.

5.3 If applicable, please also refer to the product for the manufacturer's warranty.

6. MR Patient Care (MRPC) Warranty.

6.1 Philips warrants MR Patient Care products against defects in materials and workmanship for the period defined on Classification Table 2.

6.2 For single patient use (SPU)/disposable items, Philips guarantees that they will work out of the box.

6.3 If applicable, please also refer to the product for the manufacturer's warranty.

6.4 MR Patient Care (MRPC) Patient Monitors are supported both onsite and at the bench.

7. Warranty Exclusions.

7.1 Philips does not warrant Connected Care Products to operate error free or without interruption.

7.2 Philips does not warranty third party hardware including hardware component upgrades; third party software including software upgrades; third party operating systems or operating system patches, fixes and updates (with the exception of certain Technology Solutions products)

7.3 Network hardware components, network operating systems, and network wires are not covered by this warranty document.

7.4 Consumables used in the operation of the Connected Care Product, such as, but not limited to storage media, are not covered under this warranty document.

7.5 Any fixes, patches, updates or upgrades to the software, including without limitation, any professional services are not covered by any warranty or condition, express, implied, or statutory.

8. Warranty Limitations.

8.1 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.

8.2 Any refund will be paid to the Customer when the product is returned to Philips.

8.3 Warranty service outside of normal working hours (i.e. 8:00am - 5:00pm, Monday through Friday, excluding Philips' observed holidays), will be subject to payment by Customer at Philips' standard service rates.

8.4 This warranty is subject to the following conditions: the product:

8.4.1 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);

8.4.2 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

8.4.3 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.

8.5 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, 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.

8.6 Philips does not provide a warranty for any third party products (with the exception of certain Technology Solutions 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.

8.7 The obligations of Philips described herein are Philips' only obligations and Customer's sole and exclusive remedy for a breach of a product warranty.

8.8 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.

8.9 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.

9. Philips' Remote Services Network (RSN).

9.1 Customer will:

9.1.1 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

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- 9.1.2 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).
- 9.2 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 RSN access is provided.
- 9.3 Customer agrees to pay Philips at the prevailing demand service rates and material rates for all time spent by Philips' service personnel waiting for access to the products.
10. Transfer of Product.
- 10.1 At Philips' discretion, if Customer transfers or relocates the Connected Care installable Product, or any portion thereof, all obligations under this warranty document will terminate unless Customer receives the prior written consent of Philips for the transfer or relocation.
- 10.2 At Customer's request, Philips, at its discretion, will re-locate the Connected Care Product and shall re-certify the Connected Care Product, at the Customers expense.
11. Limitation of Liability
- 11.1 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.
- 11.2 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, 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.
- 11.3 THE EXCLUSION OF LIABILITY IN THESE CONDITIONS OF SALE SHALL ONLY APPLY TO THE EXTENT ALLOWED UNDER THE APPLICABLE LAW.

11.4 FOR US CUSTOMERS, THE FOLLOWING ARE NOT SUBJECT TO THE LIMITATIONS OF LIABILITY UNDER SECTION 11.1:

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

11.4.2 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.

11.4.3 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.

11.4.4 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.

12. Disclaimer

12.1 IN NO EVENT SHALL PHILIPS OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST REVENUES OR PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, OR THE COST OF SUBSTITUTE PRODUCTS OR SERVICES WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT.

13. Force Majeure

13.1 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.

CONNECTED CARE PRODUCT WARRANTY CLASSIFICATION TABLE 1

(Numbers in parenthesis refer to Notes referenced on the last page of Table 1)

WARRANTY NAME	WARRANTY DESCRIPTION	SERVICE LOCATION	WARRANTY PERIOD	PERIOD of COVERAGE	RESPONSE TIME	MONITORING PRODUCTS Product Number/Description
1 Year	Customer Site Repair	Onsite		7x24	Maximum Next Day Onsite	IntelliVue Patient Monitors MX400, MX450, MX500, MX550, MX750, MX850, MX40, X3 [867030], MX100 [867033], MP5, MP5SC IntelliVue Active Displays AD75, AD85 IntelliVue Dock [867043] IntelliVue Telemetry System {1.4GH} IntelliVue Wireless Infrastructure [802.11] Philips IntelliVue Information Center iX C Hardware [866424] Philips IntelliVue Information Center iX 4 Hardware [866424] EPM PC CAXA0 Tablet [867365] Network Firewall [867336] Avalon FM20, FM30, FM50 TMX428 Treadmill - The TrackMaster Model

WARRANTY NAME	WARRANTY DESCRIPTION	SERVICE LOCATION	WARRANTY PERIOD	PERIOD of COVERAGE	RESPONSE TIME	MONITORING PRODUCTS Product Number/Description
1 Year	Customer Site Repair	Onsite		8am – 5pm, Monday – Friday (6)	Maximum Next Business Day	<p>IntelliVue FMS-4 [865243]</p> <p>InelliVue FMX-4 (866468)</p> <p>IntelliVue MMX [867036]</p> <p>Flexible Module Rack [M8048A]</p> <p>Hemodynamic Extension [867039], Capnography Extension [867040] Microstream Extension [867041]</p> <p>PageWriter TC70 Cardiograph [860315] Most repairs can be completed remotely. Occasional onsite support only if required.</p> <p>PageWriter TC50 [860310] Most repairs can be completed remotely. Occasional onsite support only if required. This is an optional warranty purchased with the TC50 as an option if desired.</p> <p>ST80i Treadmill [TKM42500]</p> <p>Parameter Modules: Cardiac Output (M1012A), Pulse Oximetry (M1020B), Invasive Pressure (M1006B), Temperature (M1029A)</p> <p>IntelliBridge EC10 Module [865115]</p> <p>Respironics HRC EV300 Ventilator</p> <p>Tempus Pro Monitor [989706000032, 989706000082, 989706000001, 989706000031, 989706000051, 989706000081, 989706000101, 989706002081, 989706012180, 867420, 867421, 867422, 867423]</p>
						<p>Expression Patient Monitor (MR200) - 866120 (2)(9)</p> <p>Expression Patient Monitor (MR400) - 866185 (2) (9)</p> <p>MR Patient Care Portal 5000 - 866162</p>

WARRANTY NAME	WARRANTY DESCRIPTION	SERVICE LOCATION	WARRANTY PERIOD	PERIOD of COVERAGE	RESPONSE TIME	MONITORING PRODUCTS Product Number/Description
Bench	Repair and Return of Customer Unit	Philips Customer Repair Ctr.	1 Year	8am – 5pm, Monday – Friday (6)	Typical 3 Business Days (5)	[865353] (9) Bilichek Advanced System (2) Respironics Cough Assist T70 [1098160]
Bench	Repair and Return of Customer Unit	Philips Customer Repair Ctr.	2 Year	8am – 5pm, Monday – Friday (6)	Typical 5-7 Business Days (5)	Holter Recorders
Bench	Repair and Return of Customer Unit (with Loaner) (2)	Philips Customer Repair Ctr.	2 Year	8am – 5pm, Monday – Friday (6)	Typical 3 Business Days (5)	860310 PageWriter TC50 Cardiograph (7) This is the standard warranty but can be changed to a one-year on-site warranty through the purchase of a product option. Tempus Pro Monitor [989706000032, 989706000082, 989706000001, 989706000031, 989706000051, 989706000081, 989706000101, 989706002081, 989706012180, 867420, 867421, 867422, 867423]
Bench	Repair and Return of Customer Unit	Philips Customer Repair Ctr.	2 Year	8am – 5pm, Monday – Friday (6)	Typical 3 Business Days (5)	EarlyVue VS30
Bench	Repair and Return of Customer Unit	Philips Customer Repair Ctr.	5 Year; 3 Year parts only is optional	8am – 5pm, Monday – Friday (6)	Typical 3 Business Days (5)	860437 PageWriter TC35
Bench	Repair and Return of Customer Unit (with Loaner) (2)	Philips Customer Repair Ctr.	5 Year	8am – 5pm, Monday – Friday (6)	Typical 3 Business Days (5)	

WARRANTY NAME	WARRANTY DESCRIPTION	SERVICE LOCATION	WARRANTY PERIOD	PERIOD of COVERAGE	RESPONSE TIME	MONITORING PRODUCTS Product Number/Description
Exchange	Product Exchange	N/A	1 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	Exergen Temporal Scanner [867095] BIS Module [M1034B]; EEG Module [M1027B] IntelliVue NMT Module [865383] Invasive Blood Pressure Module [M1006B] Masimo Rainbow SET IV Module [867191] IntelliBridge ECS ID-Module [865114] Avalon CL [866074, 866075, 866076, 866077] Stress System ST80i [860343] ST80i Upgrade Kit [860351] Wide Range POD (866487) Fetal & Maternal POD (866488) Wired Avalon transducers (867245, 867246, 867247)
Exchange	Repair or Replace	Philips/ Respironics Customer Repair Ctr.	2 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	Tempus LS Defibrillator [989706001681]
Exchange	Repair or Replace	Philips/ Respironics Customer Repair Ctr.	1 Year	8am - 5pm, Monday – Friday (6)	Typical Next Business Day	Respironics CapnoStat 5 [1015928] Respironics C5LoFlo [1022054]
Exchange	Product Exchange	N/A	5 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	HeartStart FR3 Text AED (861388) HeartStart FR3 ECG AED [861389]
Exchange	Product Exchange	N/A	8 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	HeartStart OnSite AED (M5066A) HeartStart Home AED (M5068A) HeartStart FRx AED (861304)
Exchange	Product Exchange	N/A	1 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	AED Remote Monitor (860461)

WARRANTY NAME	WARRANTY DESCRIPTION	SERVICE LOCATION	WARRANTY PERIOD	PERIOD of COVERAGE	RESPONSE TIME	MONITORING PRODUCTS Product Number/Description
Media Replacement Only		N/A	90 Days (3)	N/A	N/A	Philips IntelliVue Information Center iX C Software 866389, 866390 Philips IntelliVue Information Center iX 4 Software 866389, 866390 IntelliBridge Enterprise [866183] IntelliVue Guardian Software [866009] IntelliSpace Perinatal [867061] IntelliSpace ECG 860426 {Software Application Only} Holter Software System including Software Upgrades [860331]
Biomed	In-house Biomedical Parts	Customer Site	3 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	VS30 (7) Tempus Pro Monitor [989706000032, 989706000082, 989706000001, 989706000031, 989706000051, 989706000081, 989706000101, 989706002081, 989706012180, 867420, 867421, 867422, 867423]
Biomed	In-house Biomedical Parts	Customer Site	5 Year	8am – 5pm, Monday – Friday (6)	Typical Next Business Day	

Notes:

1. These devices offer optional warranties; the Customer must select one at the time of order or the default of the one (1) year warranty will be applied.
2. Philips will provide a loaner for period of time product is under repair.
3. Warranty applies to media only.
4. Most repairs can be completed remotely. Occasional onsite support may be required.
5. 3-7 days does not include transportation to and from Philips Customer Repair Center.
6. Excluding scheduled Philips' holidays.
7. These devices offer optional warranties in addition to the default warranty; the Customer must select one of the optional warranties at the time of order or the default warranty will be applied. Note: the EarlyVue VS30 offer purchasable warranties for extended years of service as well.
8. Demo equipment will receive the same warranty as new equipment.
9. When supplied by Philips, a ninety (90) day warranty will be offered on the internal and detachable battery.
10. Tempus Pro has 3 warranty options selectable at time of sale: 1 Year OnSite, 2 Year Bench (with loaner) & 3 Year In House Biomedical Parts.

MONITORING PRODUCT WARRANTY CLASSIFICATION TABLE 2

Part Number	Part Description	Warranty Period (from delivery date)	Support Route
866185	Expression Patient Monitor (MR400)	1 year	1
866162	MR Patient Care Portal 5000	1 year	1
866120	Expression Patient Monitor (MR200)	1 year	1
989803192761	Wireless ECG Patient Module (Gen 3) 1-5	1 year (when purchased commercially or with MR400)	1
989803194341	Wireless ECG Patient Module (Gen 3) 6-10	1 year (when purchased commercially or with MR400)	1
989803192771	Wireless SPO2 Patient module (Gen 3) 1-5	1 year (when purchased commercially or with MR400)	1
989803194331	Wireless SpO2 Patient Module (Gen 3) 6-10	1 year (when purchased commercially or with MR400)	1
989803161991	Quick Connect SpO2 Probe, MRI	1 year	2
989803166531	Adult SpO2 Clip	1 year	2
989803166541	Pediatric SpO2 Clip	1 year	2
989803193721	Wide ECG 3.0 Cable AAMI	6 months	2
989803193731	Standard ECG 3.0 Cable AAMI	6 months	2
989803193741	Neonatal ECG 3.0 Cable AAMI	6 months	2
989803194511	FLEXTEMP II SENSOR	6 months	2
989803182641	Adult NBP Cuff (reusable)	6 months	2
989803182541	Adult NBP Cuffs (10) (disposable)	3 months	2
989803183221	Adult Pressure Interconnect Hose	6 months	2
989803183231	Neonatal Pressure Interconnect Hose	6 months	2
989803191031	Module Battery Charger	6 months	2
989803191341	Battery, Module (Gen 3)	1 year;	2
989803152881 (9065)	Battery, Module (Gen-2) / BATT.3.7V,WRLS.PAT.MDLE. ROHS	6 months	2
N/A	Reusable accessories	6 months	2
N/A	Disposable accessories	3 months	2

ECG and SPO2 Modules have a warranty Period of twelve (12) months.

Not all consumables have been included in this list.

Reusables have a warranty period of six (6) months and disposables have a warranty period of three (3) months.

MR Patient Care (MRPC) Patient Monitors are supported both onsite and at the bench.

Support Routes:

1. Customer Care Solutions Center 800-722-9377 option
2. <https://forms.office.com/e/R9Yqmr30KL>