

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

23-880

SAP Number

4400010059

### Arrowhead Regional Medical Center

<b>Department Contract Representative</b>	<u>William L. Gilbert</u>
<b>Telephone Number</b>	<u>(909) 580-6150</u>
<b>Contractor</b>	<u>Datex Ohmeda, Inc., a GE</u>
	<u>Healthcare business</u>
<b>Contractor Representative</b>	<u>Elan Elvaiah</u>
<b>Telephone Number</b>	<u>(262) 227-9622</u>
<b>Contract Term</b>	<u>October 1, 2023 through</u>
	<u>September 30, 2025</u>
<b>Original Contract Amount</b>	<u>\$133,365</u>
<b>Amendment Amount</b>	<u></u>
<b>Total Contract Amount</b>	<u>\$133,365</u>
<b>Cost Center</b>	<u>741</u>

**Briefly describe the general nature of the contract:** Quote No. 0EF71F63 and Addendum with Datex Ohmeda, Inc., including non-standard terms, for the provision of service on anesthesia equipment, in the not-to-exceed amount of \$133,365, for the two-year period of October 1, 2023 through September 30, 2025.

**FOR COUNTY USE ONLY**

Approved as to Legal Form

Charles Phan, Deputy County Counsel

Date 8/9/2023

Reviewed for Contract Compliance

Date \_\_\_\_\_

Reviewed/Approved by Department

William L. Gilbert, Director

Date 8/9/23



This Addendum ("Addendum") is made by San Bernardino County on behalf of Arrowhead Regional Medical Center with an address at 400 N Pepper Ave, Colton, CA 92324 ("Customer") and Datex-Ohmeda, Inc. with an address at 3030 Ohmeda Drive, Madison, WI 53718 ("GE Healthcare"), parties to Quotation ID# 0E71F63 ("Quotation", attached as Exhibit A) for the products and/or services listed on the Quotation in accordance with the terms and conditions identified in the Quotation ("Agreement").

The Agreement is amended as follows:

1. Section 3 ("Inventory") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Inventory. GE Healthcare will complete an inventory of Products and provide an updated Product schedule ("Product Schedule"). Products must be in safe, normal operating condition and comply with original equipment manufacturer ("OEM") specifications in order to be added to the Product Schedule, and GE Healthcare is not liable or responsible for any preexisting defect, malfunction or necessary repairs required prior to adding such equipment to the Product Schedule."

2. Section 4 ("Product Removal") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Product Removal. Product that is permanently discontinued for use, sold (excluding an assignment of this Agreement), or scrapped by Customer may be removed from this Agreement with 60 days' prior written notice to GE Healthcare, and fees will be adjusted on the later of the end of the notice period or the date the Product is sold or scrapped. Customer has no right to remove a Product at its convenience."

3. Section 14 ("Inflation") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Inflation. After the first year of this Agreement, but no more than annually and with 60 days' prior notice provided in the same manner as Customer's invoices, GE Healthcare may increase fees by an amount no more than the prior 12-month increase in the U.S. Bureau of Labor Statistics ("BLS") Employment Cost Index for "Service-providing industries: Natural resources, construction, and maintenance (not seasonally adjusted, total compensation)" or any replacement index as determined by BLS, capped at 5% annually."

4. Section 16.2 ("Governing Law") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Governing Law; Venue; Attorney's Fees. The law of the state where the Product is installed, Service is provided, or Subscription is accessed will govern this Agreement. Any action arising out of this Agreement shall be venued in the proper federal court of San Bernardino County. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party, except that this shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable as an indemnification obligation."

5. Section 16.4 ("Assignment; Use of Subcontractors") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Assignment; Use of Subcontractors. Rights and obligations under this Agreement cannot be assigned without the other party's prior written consent, unless: (i) it is to an entity (except to a GE Healthcare competitor) that (a) is an affiliate or parent of the party or (b) acquires substantially all of the stock or assets of such party's applicable business, Product line, or Service thereof; and (ii) the assignee agrees in writing to be bound by this Agreement, including payment of outstanding fees. GE Healthcare may hire subcontractors to perform work under this Agreement but will remain responsible for its obligations and will indemnify the Customer for the acts or omissions of the subcontractors to the same extent as if the services provided by the subcontractors were provided by GE Healthcare's employees."

6. Section 17.2 ("Security") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Security. GE Healthcare is not responsible for: (i) Customer's passwords or password management; (ii) securing Customer's network; (iii) preventing unauthorized access to Customer's network or the Product; (iv) backup management; (v) data integrity; (vi) recovery of lost, corrupted or damaged data, images, software or equipment; (vii) third party operating systems, unless specifically provided in the Quotation; or (viii) providing or validating antivirus or related IT safeguards unless sold to Customer by GE Healthcare. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR DAMAGES CAUSED BY UNAUTHORIZED ACCESS TO THE NETWORK OR PRODUCTS REGARDLESS OF A PARTY'S COMPLIANT SECURITY MEASURES, EXCEPT TO THE EXTENT SUCH DAMAGES ARE DIRECTLY ATTRIBUTABLE TO THE GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF GE HEALTHCARE, ITS EMPLOYEES, AND ITS SUBCONTRACTORS."

7. Section 17.3 ("Environmental Health and Safety ("EHS")") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Environmental Health and Safety ("EHS"). GE Healthcare personnel may stop work without penalty due to good faith safety concerns. Customer must: (i) comply with GE Healthcare's EHS requirements; (ii) provide a reasonably safe environment for GE Healthcare personnel; (iii) tell GE Healthcare about chemicals or hazardous materials that might come in contact with Products or GE Healthcare personnel; (iv) perform decommissioning or disposal at Customer facilities; (v) obtain and maintain necessary permits; (vi) thoroughly clean Products before Service; (vii) provide radioactive materials required for testing Products; and (viii) dispose of waste related to Products and installations."

8. Section 17.7 ("Connectivity") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Connectivity. If a Product has remote access capability: (i) Customer will provide GE Healthcare with, and maintain, a GE Healthcare- validated remote access connection to service the Product; or (ii) GE Healthcare reserves the right to charge Customer for onsite support at GE Healthcare's then-current billing rate, unless such support is part of the Agreement. This remote access and collection of machine data (e.g., temperature, helium level) will continue after the end of this Agreement unless Customer requests in writing that GE Healthcare disable it."

9. Section 17.8.1 ("Protected Health Information") of the GE Healthcare Service Terms is amended by modifying such Section to state as follows:

"Protected Health Information. If GE Healthcare creates, receives, maintains, transmits or otherwise has access to Protected Health Information (as defined in 45 C.F.R. § 160.103) ("PHI"), GE Healthcare may use and disclose the PHI only as permitted by law and the most recent executed Business Associate Agreement, if any. Before returning any Product to GE Healthcare, Customer must ensure that all PHI stored in it is deleted."

10. Section 17.10 ("Insurance") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"GE Healthcare shall maintain insurance coverage in accordance with its standard certificate of Insurance, attached hereto as Exhibit B, against all claims that may arise out of or result from the performance of its obligations under the Agreement for which GE Healthcare may be legally liable."

11. Section 17.11 ("Excluded Provider") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Excluded Provider. To its knowledge, neither GE Healthcare nor its employees or subcontractors performing Services under this Agreement have been excluded from participation in any state or Federal Healthcare Program. If an employee or subcontractor performing Services under this Agreement is excluded, GE Healthcare will replace that employee or subcontractor within a reasonable time; if GE Healthcare is excluded, Customer may terminate this Agreement upon written notice to GE Healthcare. GE Healthcare shall provide notice to Customer promptly upon being excluded."

12. Section 18.1 ("Binding Arbitration") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Dispute Resolution. The parties will first attempt to resolve in good faith any disputes related to this Agreement. Violation of either party's confidentiality or intellectual property rights may cause irreparable harm for which the award of money damages alone may be inadequate. Either party may: (i) seek injunctive relief and any other available remedies; and/or (ii) in the event of a violation of GE Healthcare's confidentiality or intellectual property rights, GE Healthcare may immediately terminate the license grant and require Customer to cease use of and return the Software and Third Party Software. Other than these violations or collection matters, unresolved disputes may be submitted to mediation prior to initiation of other means of dispute resolution."

13. Section 19.1 ("Limitation of Liability") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"Limitation of Liability. EACH PARTY'S LIABILITY FOR DIRECT DAMAGES TO THE OTHER PARTY UNDER THIS AGREEMENT WILL NOT EXCEED: (I) FOR PRODUCTS, THE PRICE FOR THE PRODUCT THAT IS THE BASIS FOR THE CLAIM; OR (II) FOR SERVICE OR SUBSCRIPTIONS, TWO TIMES THE AMOUNT OF SERVICE OR SUBSCRIPTION FEES FOR THE 12 MONTHS PRECEDING THE ACTION THAT IS THE BASIS FOR THE CLAIM. THIS LIMITATION WILL NOT APPLY TO ANY CLAIMS BASED ON INDEMNIFICATION, PERSONAL INJURY (INCLUDING DEATH), OR PROPERTY DAMAGE, UNDER THIS AGREEMENT, NOR TO ANY CLAIMS RESULTING FROM EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT."

14. Section 19.3 ("IP Indemnification") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

"IP Indemnification. GE HEALTHCARE WILL INDEMNIFY, DEFEND AND HOLD CUSTOMER, ITS OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS HARMLESS FROM THIRD-PARTY CLAIMS AND COSTS (INCLUDING ATTORNEYS' FEES) FOR INFRINGEMENT OF ANY UNITED STATES PATENT, COPYRIGHT, TRADEMARK OR TRADE SECRET (COLLECTIVELY "INTELLECTUAL PROPERTY RIGHTS") ARISING FROM CUSTOMER'S USE OF THE EQUIPMENT OR SOFTWARE IN ACCORDANCE WITH THE SPECIFICATIONS, DOCUMENTATION AND LICENSE. IF ANY SUCH CLAIM MATERIALLY INTERFERES WITH CUSTOMER'S USE OF SUCH EQUIPMENT AND/OR SOFTWARE, GE HEALTHCARE SHALL, AT ITS OPTION: (I) SUBSTITUTE FUNCTIONALLY EQUIVALENT NON-INFRINGEMENT PRODUCTS; (II) MODIFY THE INFRINGING PRODUCT SO THAT IT NO LONGER INFRINGES WITHOUT INCURRING A MATERIAL DIMINUTION IN PERFORMANCE OR FUNCTION; (III) OBTAIN FOR CUSTOMER AT GE HEALTHCARE'S EXPENSE THE RIGHT TO CONTINUE TO USE THE INFRINGING PRODUCT; OR (IV) IF THE FOREGOING ARE NOT COMMERCIALY REASONABLE, REFUND TO CUSTOMER THE PURCHASE PRICE, AS DEPRECIATED (BASED ON FIVE (5) YEAR STRAIGHT-LINE DEPRECIATION), FOR THE INFRINGING PRODUCT. ANY SUCH CLAIMS ARISING FROM CUSTOMER'S USE OF SUCH INFRINGING PRODUCT AFTER GE HEALTHCARE HAS NOTIFIED CUSTOMER TO DISCONTINUE USE OF SUCH INFRINGING PRODUCT AND OFFERED ONE OF THE REMEDIES SET FORTH IN CLAUSES (I) THROUGH (IV) ABOVE ARE THE SOLE RESPONSIBILITY OF CUSTOMER. THIS SECTION REPRESENTS CUSTOMER'S SOLE AND EXCLUSIVE REMEDY (AND GE HEALTHCARE'S SOLE AND EXCLUSIVE LIABILITY) REGARDING ANY INFRINGEMENT CLAIM ASSOCIATED WITH SUCH INFRINGING PRODUCT. THE ABOVE INDEMNIFICATION OBLIGATION IS CONDITIONAL UPON CUSTOMER PROVIDING GE HEALTHCARE PROMPT WRITTEN NOTICE OF THE INFRINGEMENT CLAIM AFTER RECEIVING NOTICE OF SUCH CLAIM, ALLOWING GE HEALTHCARE TO CONTROL THE DEFENSE OF SUCH CLAIM, AND REASONABLY COOPERATING WITH GE HEALTHCARE IN SUCH DEFENSE. GE HEALTHCARE'S RIGHT TO CONTROL THE DEFENSE AND DISPOSITION OF THE INFRINGEMENT CLAIM SHALL INCLUDE THE RIGHT TO SELECT COUNSEL TO REPRESENT CUSTOMER AT GE HEALTHCARE'S EXPENSE; PROVIDED, HOWEVER, THAT CUSTOMER MAY RETAIN ADDITIONAL COUNSEL AT CUSTOMER'S EXPENSE. ANY EXPENSES, INCLUDING LEGAL FEES AND COSTS, INCURRED BY CUSTOMER PRIOR TO

TENDERING CONTROL OF THE DEFENSE TO GE HEALTHCARE SHALL NOT BE REIMBURSABLE BY GE HEALTHCARE. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, GE HEALTHCARE SHALL NOT HAVE ANY OBLIGATION TO CUSTOMER HEREUNDER FOR INFRINGEMENT CLAIMS BASED ON OR RESULTING FROM: (A) USE OF SUCH INFRINGING PRODUCT IN COMBINATION WITH ANY COMPUTER SOFTWARE, TOOLS, HARDWARE, EQUIPMENT, MATERIALS, OR SERVICES, NOT FURNISHED OR AUTHORIZED IN WRITING FOR USE BY GE HEALTHCARE; (B) USE OF SUCH INFRINGING PRODUCT IN A MANNER OR ENVIRONMENT OR FOR ANY PURPOSE FOR WHICH GE HEALTHCARE DID NOT DESIGN OR LICENSE IT, OR IN VIOLATION OF GE HEALTHCARE'S USE INSTRUCTIONS; OR (C) ANY MODIFICATION OF SUCH INFRINGING PRODUCT BY CUSTOMER OR ANY THIRD PARTY. GE HEALTHCARE SHALL NOT BE RESPONSIBLE FOR ANY COMPROMISE OR SETTLEMENT OR CLAIM MADE BY CUSTOMER WITHOUT GE HEALTHCARE'S WRITTEN CONSENT. IF A CREDIBLE CLAIM IS MADE OR THREATENED, INCLUDING WITHOUT LIMITATION THE FILING OF A LAWSUIT AGAINST CUSTOMER, OR CUSTOMER RECEIVES A DEMAND OR NOTICE CLAIMING ACTUAL OR POTENTIAL INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS, CUSTOMER WILL USE REASONABLE EFFORTS TO NOTIFY GE HEALTHCARE PROMPTLY OF SUCH LAWSUIT, CLAIM OR ELECTION. HOWEVER, CUSTOMER'S FAILURE TO PROVIDE OR DELAY IN PROVIDING SUCH NOTICE WILL RELIEVE GE HEALTHCARE OF ITS OBLIGATIONS ONLY IF AND TO THE EXTENT THAT SUCH DELAY OR FAILURE MATERIALLY PREJUDICES GE HEALTHCARE'S ABILITY TO DEFEND SUCH LAWSUIT OR CLAIM. GE HEALTHCARE MAY NOT SETTLE THE CLAIM OR SUIT ABSENT THE WRITTEN CONSENT OF CUSTOMER UNLESS SUCH SETTLEMENT (A) INCLUDES A RELEASE OF ALL CLAIMS PENDING AGAINST CUSTOMER, (B) CONTAINS NO ADMISSION OF LIABILITY OR WRONGDOING BY CUSTOMER, AND (C) IMPOSES NO OBLIGATIONS UPON CUSTOMER, OTHER THAN REASONABLE OBLIGATIONS, INCLUDING THE OBLIGATION TO STOP USING THE EQUIPMENT OR PRODUCTS THAT ARE THE SUBJECT OF THE CLAIM. IN THE EVENT THAT GE HEALTHCARE UNREASONABLY FAILS TO OR ELECTS NOT TO DEFEND CUSTOMER AGAINST ANY CLAIM FOR WHICH CUSTOMER IS ENTITLED TO INDEMNITY BY GE HEALTHCARE AND IN WHICH CUSTOMER PROPERLY NOTIFIED GE HEALTHCARE, THEN CUSTOMER SHALL BE ENTITLED TO ITS REASONABLE ATTORNEYS' FEES AND COSTS IN ENFORCING THIS INDEMNITY. NOTWITHSTANDING THE FOREGOING, THIS INDEMNIFICATION OBLIGATION IS EXPRESSLY LIMITED TO THE GE HEALTHCARE MANUFACTURED EQUIPMENT AND/OR GE HEALTHCARE PROPRIETARY SOFTWARE LISTED IN THE QUOTATION."

15. Section 19.4.1 under ("General Indemnification") of the GE Healthcare Service Terms & Conditions is amended by modifying such section to read as follows:

GE Healthcare will indemnify, defend and hold harmless Customer against any third-party claims, actions, losses, and/or damages arising out of this Agreement caused by: (i) GE Healthcare's design or manufacturing defect; (ii) the negligent act or omission, or willful conduct of GE Healthcare, its employees, and subcontractors in the provision of Services under this Agreement; or (iii) GE Healthcare's material breach of this Agreement."

16. Section 20.1 ("Late Payment") of the GE Healthcare Service Terms and Conditions is amended to read as follows:

"Late Payment. Customer must raise payment disputes before the payment due date. For any undisputed late payment, GE Healthcare may: (i) suspend performance under this Agreement until all past due amounts are paid; and (ii) use unapplied funds due to Customer to offset any of Customer's outstanding balance. If GE Healthcare suspends performance, any downtime will not be included in the calculation of any uptime commitment. If Customer fails to pay when due: (a) GE Healthcare may revoke its credit and designate Customer to be on credit hold; and (b) all subsequent shipments and Services must be paid in full on receipt."

17. Section 21 ("Notices") of the GE Healthcare Service Terms and Conditions is amended to read as follows:

"Notices. Notices will be in writing and considered delivered when received if sent by certified mail, postage prepaid, return receipt requested, by overnight mail. Notice to Customer will be directed to the address on this Agreement, but should be directed to the attention of Customer's "Hospital Director", and notice to GE Healthcare to General Counsel, 9900 W Innovation Dr., Wauwatosa, WI 53226."

18. Notwithstanding anything to the contrary in the Agreement, the following sections apply:

"Execution and Counterparts. This Agreement, which includes the Quotation and any Addendum, may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature



of this Agreement (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.”

“Damage to Customer’s Property. GE Healthcare will: (i) be responsible for damages caused by the negligent acts or omissions of GE Healthcare, its employees, and subcontractors to the Products and to Customer’s property while installation and Services are in progress; (ii) provide safeguards to protect against accidents.”

“Political Contributions. GE Healthcare has disclosed to the Customer using Attachment A, whether it has made any campaign contributions of more than \$250 to any member of the San Bernardino County Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] as of January 1, 2023. GE Healthcare acknowledges that under California Government Code section 84308, GE Healthcare is prohibited from making campaign contributions of more than \$250 to any member of the San Bernardino County Board of Supervisors or County elected officer for 12 months after the County’s consideration of the Agreement.

In the event of a proposed amendment to this Agreement, the GE Healthcare will provide the Customer a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the San Bernardino County Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment.

Campaign contributions include those made by any agent/person/entity on behalf of the GE Healthcare or by a parent, subsidiary or otherwise related business entity of GE Healthcare.”

19. Attachment A to this Addendum is added to the Agreement.

20. Except as set forth in this Addendum, the Agreement is unaffected and continues in full force in accordance with its terms. If there is a conflict between this Addendum and the Agreement or any other earlier amendment, the terms of this Addendum will prevail.

The parties have caused this Addendum to be executed by their authorized representative as of the last signature date below.

**San Bernardino County on behalf of  
Arrowhead Regional Medical Center**

**Datex-Ohmeda, Inc. (GE Healthcare)**

Signature: *Dawn M Rowe*

Signature: *Elan Elvaiah*  
Elan Elvaiah (Aug 9, 2023 12:20 PDT)

Print Name: Dawn M. Rowe  
**Chair, Board of Supervisors**

Print Name: Elan Elvaiah

Title: \_\_\_\_\_

Title: SSDL

Date: AUG 2 2 2023

Date: 8/9/2023

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD  
LYNNA MONELL  
Clerk of the Board of Supervisors of the County of San Bernardino



By: \_\_\_\_\_  
Deputy

**Exhibit A**

Quotation ID# 0E71F63

Please see attached







## ATTACHMENT A

### Senate Bill 1439

# Contractor Information Report

## DEFINITIONS

Actively supporting the matter: (a) Communicate directly, either in person or in writing, with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] with the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**Contractors must respond to the questions on the following page. All references to "Contractor" in this Attachment refer to GE Healthcare. If a question does not apply respond N/A or Not Applicable.**

1. Name of Contractor: Datex-Ohmeda, Inc. (GE Healthcare)

2. Name of Principal (i.e., CEO/President) of Contractor, if the individual actively supports the matter and has a financial interest in the decision:

Not Applicable

3. Name of agent of Contractor:

Company Name	Agent(s)
Not Applicable.	

4. Name of any known lobbyist(s) who actively supports or opposes this matter:

Company Name	Contact
Not Applicable.	

5. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and/or Agent(s):
Not Applicable.		

6. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?

Yes

No

7. Name of any known individuals/companies who are not listed in Questions 1-5, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
Not Applicable.	

8. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer on or after January 1, 2023, by any of the individuals or entities listed in Question Nos. 1-7?

No  If no, please skip Question No. 9 and sign and date this form.

Yes  If **yes**, please continue to complete this form.

9. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Agreement, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-7 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Contract is being considered and for 12 months after a final decision by the County.

**AGREEMENT#** \_\_\_\_\_ **ACCOUNT#** \_\_\_\_\_ **QUOTATION ID#** 0E71F63
**Customer Information:** Name: SAN BERNARDINO COUNTY on behalf of ARROWHEAD REGIONAL MEDICAL CENTER  
 Address: 400 N PEPPER AVE  
 City: COLTON State: CA Zip: 92324
**Service Billing Option (choose one)**
 **HFS Combined Billing** (Service payments billed through HealthCare Financial Services equipment financing agreement):

By selecting this box & signing below, the payments related to this service agreement will be administered through GE HealthCare Financial Services. See HFS Equipment Financing agreement for Service billing details. See rest of Agreement (as defined below) for remainder of terms and conditions.

If not selecting HFS Combined Billing option, please complete the remainder of the agreement below in its entirety.

 **Standard:**

<b>Term:</b> <u>24 months</u> <b>Billing Frequency:</b> <u>Annually - Advance</u> <b>Payment Terms:</b> <u>Net 30 days of invoice date</u> <b>Payment Schedule**:</b> <u>(1-2, \$65,056.00)</u>	<b>Agreement Start Date*:</b> <u>October 01, 2023</u> <b>Quotation Expiration Date:</b> <u>September 18, 2023</u> <b>PO Requirement:</b> <input checked="" type="checkbox"/> <b>Yes</b> (hardcopy PO required) <input type="checkbox"/> <b>No</b> PO #: _____ PO Expiration Date: _____ <b>Sales And Use Tax Status:</b> <u>No Exemption Certification on file</u>									
<b>Customer Billing Information:</b> Name: <u>SAN BERNARDINO COUNTY on behalf of ARROWHEAD REGIONAL MEDICAL CENTER</u> Address: <u>400 N PEPPER AVE</u> City: <u>Colton</u> State: <u>CA</u> Zip: <u>92324</u>										
Is the above billing address correct? <input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b> If no, please provide the correct billing address below:										
<b>Customer Billing Information:</b> Name: _____ Address: _____ City: _____ State: _____ Zip: _____										
<b>Please provide the contact name and email address of the following person(s):</b>										
<table border="0" style="width: 100%;"> <tr> <td style="width: 30%;"><b>1. To be notified when this Agreement is processed:</b></td> <td style="width: 35%;"><b>Contact Name:</b></td> <td style="width: 35%;"><b>Email address:</b></td> </tr> <tr> <td></td> <td><u>Teri Cayton</u></td> <td><u>cayton@armc.sbcounty.gov</u></td> </tr> <tr> <td></td> <td><u>Deborah Forthun-Kitchen</u></td> <td><u>forthunkd@armc.sbcounty.gov</u></td> </tr> </table>		<b>1. To be notified when this Agreement is processed:</b>	<b>Contact Name:</b>	<b>Email address:</b>		<u>Teri Cayton</u>	<u>cayton@armc.sbcounty.gov</u>		<u>Deborah Forthun-Kitchen</u>	<u>forthunkd@armc.sbcounty.gov</u>
<b>1. To be notified when this Agreement is processed:</b>	<b>Contact Name:</b>	<b>Email address:</b>								
	<u>Teri Cayton</u>	<u>cayton@armc.sbcounty.gov</u>								
	<u>Deborah Forthun-Kitchen</u>	<u>forthunkd@armc.sbcounty.gov</u>								

**Service Sales Rep.:** Elan Elvaiah Phone: 262 227 9622 Email: elan.elvaiah@ge.com

**\*Agreement Start Date:** The "Agreement Start Date" begins on: (a) the above date if Customer signs and returns this Agreement within 30 calendar days of that date; or (b) the date of signature if Customer does not sign and return this Agreement within 30 calendar days of the above date and the service coverage end-date(s) identified on the Product Schedule will be adjusted accordingly so that the above Term will be realized.

**Annual Charges:** See Product Schedule for annual charges, offerings, coverage, and start dates for each Product. Charges are based on Product inventory, offerings, and coverage as of the Agreement Start Date and may change to reflect inventory and coverage modifications, variable charges and other adjustments as specified in this Agreement. If this Agreement's annual charges are less than \$240,000, GE HealthCare reserves the right to enforce automatic bill payment (via ACH or credit card).

**\*\*Payment Schedule:** Charges are payable in installments as set forth above plus applicable taxes. These charges may change based on Product additions/deletions, inflation adjustments or other modifications permitted by this Agreement. Customer will be billed beginning on the Agreement Start Date. Payment is due the first of each month. If the Agreement Start Date is not the first of the month, the first and last payments will be prorated.

**Agreement:** This Agreement is between the "Customer" identified above and the GE HealthCare business identified below ("GE HealthCare"), for the sale and purchase of the Services and/or the Subscription identified in this Quotation, together with any applicable schedules referred to herein ("Quotation"). "Agreement" is defined as the GE HealthCare: (1) Quotation; (2) Product Schedule; (3) Statement of Service Deliverables; and (4) Service Terms & Conditions, that apply to the Products, Services and/or Subscription identified in this Quotation. In the event of conflict, the order of precedence is as listed. GE HealthCare can withdraw this Quotation at any time before "Quotation Acceptance", which occurs when Customer either: (i) signs and returns this Quotation; or (ii) provides evidence of Quotation acceptance satisfactory to GE HealthCare. On Quotation Acceptance, this Agreement is the complete and final agreement of the parties relating to the Services and/or Subscription identified in this Quotation. There is no reliance on any terms other than those expressly stated or incorporated by reference in this Agreement and, except as permitted in this Agreement, no attempt to modify will be binding unless agreed to in writing by the parties. Modifications may result in additional fees and cannot be made without GE HealthCare's prior written consent. Handwritten or electronic modifications on this Agreement (except signatures on the signature blocks below) are void. This Agreement is not part of an umbrella or other group purchasing agreement unless otherwise indicated.

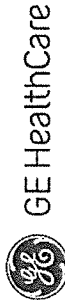
The parties have caused this Agreement to be executed by their authorized representative as of the last signature date below.

**Customer**  
 Signature:   
 Print Name: Dawn Rowe  
 Title: Chair, Board of Supervisors  
 Date: AUG 22 2023
**Datex-Ohmeda, Inc., a GE HealthCare business**  
 Signature: Elan Elvaiah  
 Print Name: Elan Elvaiah  
 Title: Specialty Segment Development Leader  
 Date: 7/20/2023

**SAN BERNARDINO COUNTY on behalf of ARROWHEAD REGIONAL MEDICAL CENTER**

Support and prices quoted below are valid provided the customer signs and returns this quote to GE Healthcare by 9/18/2023

Equipment Identifiers	Trans. Type	Equipment	Effective Date	Offering	Options	Features	Annual Amount
System ID: AMTW00120 Phy Loc Acct: 1010536 Global Order #: 4488059 Serial: AMTW00120 Cost Center:	ADD REN	GE PCS Aesiva/5 MRI (QCR007)	10/1/2023 through 9/30/2025	AssurePoint Standard - PCS	EXCLUDED: • EXTERNAL DISPLAY • EXTERNAL FRAME • EXTERNAL STRIP PRINTER • LASER PRINTER • PERIPHERAL DEVICES • UNINTERRUPTED POWER SUPPLY	<ul style="list-style-type: none"> <li>Advanced Visual Support</li> <li>Depot Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot PM Coverage FY: MON-FRI, 8AM-5PM</li> <li>Depot PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot Service Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekend: NO COVERAGE HRS</li> <li>FE Onsite Response Time: 24 Hours</li> <li>Insite/Tech Phone Support: Yes</li> <li>PM Coverage: MON-FRI, 8AM-5PM, 2 per Year</li> <li>PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Repair Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Software and Quality Updates</li> </ul>	\$2,759
System ID Set: 0001 Phy Loc Acct: 1010536 Global Order #: 4382379 Serial: APKV00427 Cost Center:	ADD REN	GE PCS Avance CS2 (QCR101)	10/1/2023 through 9/30/2025	AssurePoint Standard - PCS	EXCLUDED: • EXTERNAL DISPLAY • EXTERNAL FRAME • EXTERNAL STRIP PRINTER • LASER PRINTER • PERIPHERAL DEVICES • UNINTERRUPTED POWER SUPPLY	<ul style="list-style-type: none"> <li>Advanced Visual Support</li> <li>Depot Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot PM Coverage FY: MON-FRI, 8AM-5PM</li> <li>Depot PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot Service Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekend: NO COVERAGE HRS</li> <li>FE Onsite Response Time: 24 Hours</li> <li>Insite/Tech Phone Support: Yes</li> <li>PM Coverage: MON-FRI, 8AM-5PM, 1 per Year</li> <li>PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Repair Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Software and Quality Updates</li> </ul>	\$41,400 (\$2,070 x 20)
System ID Set: 0002 Phy Loc Acct: 1010536 Global Order #: 4382379 Serial: SGV16020005HA Cost Center:	ADD REN	GE PCS CARESCAPE Resp Modules (Gas Modules) (QCL125)	10/1/2023 through 9/30/2025	AssurePoint Standard - PCS	EXCLUDED: • EXTERNAL FRAME • PERIPHERAL DEVICES	<ul style="list-style-type: none"> <li>Advanced Visual Support</li> <li>Depot Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot PM Coverage FY: MON-FRI, 8AM-5PM</li> <li>Depot PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Depot Service Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekdays: MON-FRI, 8AM-5PM</li> <li>FE Coverage Weekend: NO COVERAGE HRS</li> <li>FE Onsite Response Time: 24 Hours</li> <li>Insite/Tech Phone Support: Yes</li> <li>PM Coverage: MON-FRI, 8AM-5PM, 1 per Year</li> <li>PM Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Repair Parts: Included, Next Day 10:30 AM LSTLCS</li> <li>Software and Quality Updates</li> </ul>	\$17,820 (\$891 x 20)
System ID: TBD0001 Phy Loc Acct: 1010536 Cost Center:	ADD REN	GE PCS Trace Gas (Q#ATS)	10/1/2023 through 9/30/2025	AssurePoint Trace Gas - PCS	INCLUDED: • Trace Gas Test - Number of Rooms: 17	<ul style="list-style-type: none"> <li>Trace Gas Test Coverage: Mon-Fri, 8AM-5PM, 1 per Year</li> </ul>	\$3,077
<b>NET ANNUAL VALUE:</b>							\$65,056



# Datex-Ohmeda, Inc., a GE HealthCare business

**System ID Set**  
**Quote ID: 0E71F63**

System ID Set: 0001 -- Avance CS2

APKY00427	APKW01028	APKW01029	APKW01030
APKY01224	APKY01225	APKY01226	APKY01227
APKY01228	APKY02663	APKY02664	APKY02665
APKY02666	APKY02667	APKY02668	APKY02669
APKY02670	APKY02671	APKY02672	APKY02673

System ID Set: 0002 -- CARESCAPE Resp Modules (Gas Modules)

SGV16020005HA	SGV17050009HA	SGV17060030HA	SGV18210076HA
SGV19140014HA	SGV19140111HA	SGV19190353HA	SGV19200028HA
SGV19200064HA	SGV19450073HA	SGV19450076HA	SGV19450096HA
SGV19450098HA	SGV19460005HA	SGV19460006HA	SGV19460007HA
SGV19490081HA	SGV19490295HA	SGV19500029HA	SGV19500161HA

System IDs not in a Set:

AMTW00120	
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- 1. Definitions.** As identified in this Agreement, “Equipment” is hardware and embedded software that is licensed with the purchase of the hardware delivered to Customer in GE HealthCare’s packaging and with its labeling; “Software” is software developed by GE HealthCare and/or delivered to Customer in GE HealthCare’s packaging and with its labeling, and Documentation associated with the software; “Third Party Software” and “Third Party Equipment” are respectively software developed by a third party, and hardware and embedded software that is licensed with the purchase of the hardware, that is delivered to Customer in the third party’s packaging and with its labeling (collectively, “Third Party Product”); “Product” is Equipment, Software and Third Party Product; “Services” are Product support or professional services; and “Subscription” is a limited-term, non-transferable license to access and use a Product (except Healthcare Digital Products), including any associated support Services. “Healthcare Digital Products” are: (i) Software identified in the Quotation as “Centricity”; (ii) Third Party Software licensed for use in connection with Centricity Software; (iii) hardware used to operate Centricity or Third Party Software; (iv) Services provided for implementation, installation or support and maintenance of Centricity or Third Party Software licensed for use in connection with Centricity Software; and/or (v) any Product or Service that is identified in a Healthcare Digital Quotation. “Specifications” are GE HealthCare’s written specifications and manuals as of the date the Equipment shipped. “Documentation” is the online help functions, user instructions and manuals regarding the installation and operation of the Product as made available by GE HealthCare to Customer.
- 2. Term and Termination.** Services and/or Subscriptions will have individual term lengths identified in the Quotation. If there is a material breach of this Agreement that is not cured by the breaching party within 60 days from receipt of written notice, the non-breaching party can terminate this Agreement. Other than as set forth in this Agreement, neither party can unilaterally terminate this Agreement. Any remaining undisputed, unpaid fees become immediately due and payable on expiration or termination.
- 3. Inventory.** GE HealthCare will complete an inventory of Products and provide an updated Product schedule (“Product Schedule”). Products must be in safe, normal operating condition and comply with original equipment manufacturer (“OEM”) specifications in order to be added to the Product Schedule, and GE HealthCare is not liable or responsible for any preexisting defect, malfunction or necessary repairs.
- 4. Product Removal.** Product sold (excluding an assignment of this Agreement) or scrapped by Customer may be removed from this Agreement with 60 days’ prior written notice to GE HealthCare, and fees will be adjusted on the later of the end of the notice period or the date the Product is sold or scrapped. Customer has no right to remove a Product at its convenience.
- 5. Warranty.** GE HealthCare warrants that its Service will be performed by trained individuals in a professional, workman-like manner. GE HealthCare will re-perform non-conforming Service as long as Customer provides prompt written notice to GE HealthCare. NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WILL APPLY. DOCUMENTATION IS PROVIDED “AS IS”.
- 6. Loaner Units.** GE HealthCare may provide a loaner unit during extended periods of Service. If a loaner unit is provided: (i) it is for Customer’s temporary use at the location identified in the Quotation; (ii) it will be returned to GE HealthCare within 5 days after the Product is returned to Customer, and if it is not, GE HealthCare may repossess it or invoice Customer for its full list price; (iii) it, and all programs and information pertaining to it, remain GE HealthCare property; (iv) risk of loss is with Customer during its possession; (v) Customer will maintain and return it in proper condition, normal wear and tear excepted, in accordance with GE HealthCare’s instructions; (vi) it will not be repaired except by GE HealthCare; (vii) GE HealthCare will be given reasonable access to it; (viii) Customer is not paying for its use, and Customer will ensure charges or claims submitted to a government healthcare program or patient are submitted accordingly; and (ix) prior to returning it to GE HealthCare, Customer will delete all information, including PHI, from it and its accessories, in compliance with industry standards and instructions provided by GE HealthCare.
- 7. License Registration.** Online registration as a licensee may be required for receipt of Software and Documentation.
- 8. Customer Responsibilities.** Customer must: (i) maintain power quality, grounding, temperature, humidity and repairs due to power anomalies, all as necessary for Products to operate within OEM specifications; (ii) ensure labeling that is on and accompanying the Equipment covered under this Agreement is not altered or removed and complies with regulations; (iii) provide Third Party Product warranty and operating and maintenance manuals, maintenance and service requirements (e.g., software, tools, phantoms), or pay GE HealthCare for acquiring these materials; (iv) repair accessories unless the item is identified on the Product Schedule; (v) replace accessories, supplies and consumables; (vi) dispose of accessories, supplies and consumables unless GE HealthCare is legally required to take the item back; (vii) update Third Party Product; (viii) maintain licenses, permits and other approvals required to receive or use radioactive sources and provide the sources needed for calibration and performance checks; (ix) provide access to Products during Service coverage hours; and (x) if required by GE HealthCare, sign an agency authorization letter to provide Services. Service for Products not maintained to OEM specifications may result in additional charges. Customer cannot stockpile replacement parts.
- 9. End of Support.** If GE HealthCare determines that: (i) a Product or component thereof has been declared end of life/support by the OEM; (ii) its ability to Service or maintain a Product or component thereof is hindered due to the unavailability of parts or trained personnel; or (iii) it can no longer Service or maintain the Product in a safe or effective manner, then GE HealthCare may, upon notice: (a) remove the item from this Agreement and adjust fees without otherwise affecting this Agreement, or (b) move the item to “end of service life” coverage.
- 10. Return for Repair.** Prior to shipping Product to GE HealthCare for repair, Customer will back up and remove data stored on the Product. Customer is responsible for damage during shipment to GE HealthCare. GE HealthCare may remove data stored on the Product prior to sending it back to Customer and will provide standard shipping.

- 11. Exclusions.** Unless identified on the Product Schedule, this Agreement does not cover: (i) tubes, detectors, probes, chillers, crystals, ICE cord connectors, batteries, accessories, consumables, user-replaceable items, supplies, cosmetic upgrades or parts used to correct/enhance Product appearance; (ii) a defect, deficiency or repairs due to improper storage or handling, failure to maintain Product according to OEM instructions/specifications, inadequate backup or virus protection, cyber-attacks, or any cause external to the Product or beyond GE HealthCare's control; (iii) payment/reimbursement of facility costs arising from repair/replacement of Product; (iv) adjustment, alignment, calibration, or planned maintenance; (v) Third Party Product that was not commercially available from the OEM on the date the item was installed; (vi) OEM warranty service or recalls; (vii) Product upgrades, certification surveys and relocations; (viii) consultation, training or assistance with use, development, or modification of items/materials (e.g., software and protocols); (ix) installation and reusing existing facilities for testing, training and other purposes; (x) MR-related defect from failure of a Customer water chiller system or service to water chiller system; (xi) Healthcare Digital Products; and (xii) non-GE HealthCare network/antenna installations/troubleshooting.
- 12. Existing Service Arrangements.** This Agreement does not apply to Products covered by arrangements/warranties from other vendors until the end or termination of those arrangements/warranties. If Products covered by another arrangement/warranty are added to this Agreement, they will be added on the day following the end or termination of the other arrangement/warranty.
- 13. Hourly Billed Services.** Services not covered by this Agreement are hourly-billed services and may have a 2-hour minimum charge.
- 14. Inflation.** After the first year of this Agreement, but no more than annually and with 60 days' prior notice provided in the same manner as Customer's invoices, GE HealthCare may increase fees by an amount no more than the prior 12-month increase in the U.S. Bureau of Labor Statistics ("BLS") Employment Cost Index for "Service-providing industries: Natural resources, construction, and maintenance (not seasonally adjusted, total compensation)" or any replacement index as determined by BLS.

**15. Product Specific Service Terms.**

15.1. Tube Support (Excluding C-Arms). If tube support/coverage is identified on the Product Schedule, GE HealthCare will provide tubes, on an exchange basis, to replace failed tubes. Customer will: (i) maintain a Product maintenance and repair program, including tube warm up, in accordance with GE HealthCare planned maintenance and repair requirements; (ii) repair the Product with repair parts that meet OEM specifications; and (iii) protect Product configuration against alteration except as authorized by GE HealthCare. Product must have an operational tube on the Agreement Start Date (as defined in the Quotation). No credit will be provided to Customer for the tube. Tubes provided under tube support/coverage are on an "AS IS" basis with no warranties of any kind. Claims reported after expiration or termination of tube support/coverage are not covered even if a tube failure occurred prior to such expiration or termination.

15.2. Magnetic Resonance ("MR").

15.2.1. Magnet Maintenance.

15.2.1.1. If magnet maintenance for MR systems with Lhe/Ln and shield cooler-configured magnets and condenser-configured magnets (K4 technology) is identified on the Product Schedule, GE HealthCare will: (i) adjust, repair, or replace covered components (i.e., MR magnet, cryostat, coldhead, cryo-cooler compressor, shim coils); (ii) monitor cryogen levels within the magnet cryostat, based on Customer cryostat meter readings; and (iii) perform magnetic field homogeneity adjustments to the extent required by magnet ramping or covered component adjustment, repair or replacement. Customer will ensure that the Product's cryo-cooler system and water chiller system used with the cryo-cooler system (including in vans or trailers in transit) are operational at all times and maintained, and immediately notify GE HealthCare if it is not.

15.2.1.2. If magnet maintenance for MR systems with permanent magnets is identified on the Product Schedule, GE HealthCare will perform magnetic field homogeneity adjustments to the extent required by a covered component adjustment, repair or replacement.

15.2.2. Remote Magnet Monitoring for non-GE HealthCare Systems. If remote magnet monitoring for non-GE HealthCare systems is identified on the Product Schedule, GE HealthCare will: (i) remotely monitor operating parameters of the MR magnet refrigeration system; (ii) oversee installation of remote monitoring hardware; and (iii) maintain the hardware. Customer will provide power, access and remote connectivity as needed for remote magnet monitoring.

15.2.3. Cryogen Coverage. If cryogenes for GE HealthCare MR systems are identified on the Product Schedule as included in the Service for the Equipment, GE HealthCare will provide: (i) monitoring of cryogen levels; and (ii) cryogen delivery and transfill service Monday-Friday, between 9pm-6am local time (excluding GE HealthCare holidays), to replenish cryogen losses resulting from (a) the normal operation of the Equipment in accordance with Specifications, or (b) GE HealthCare's failure to maintain the Equipment in accordance with Specifications. Notwithstanding the foregoing, if Customer's failure to maintain or use the Equipment in accordance with Specifications results in cryogen loss, Customer will be billed for resulting lost liquid helium liters (whether or not a refill was immediately required to replace lost liters) at GE HealthCare's then-current rates. Subject to the foregoing, if cryogenes are identified on the Product Schedule as included in the Service for the Equipment, cryogen delivery and transfill service will be provided either: (1) on an unlimited (as needed) basis, or (2) if the cryogenes are at the required target fill level, on a 1 cryogen liter per contract year basis. See Product Schedule and AssurePoint Reserve terms and conditions (if applicable) for details. Customer will inform GE HealthCare of its authorized cryogen representative who will provide GE HealthCare accurate cryostat meter readings and receive notifications relative to cryogen quantity and delivery schedules (for Lhe/Ln and shield cooler configured magnets only); and provide a delivery dock and storage facility. GE HealthCare is not responsible or liable for: cryogen loss or transfer efficiency during transfer to the cryostat; cryogenes if cryogenes are identified on the Product Schedule as excluded; or service needed on Equipment due to cryogen transfill service not otherwise provided by GE HealthCare.

15.2.4. Cryogen Cost Increases. If GE HealthCare's cryogen cost increases by more than 12%, as measured against its cost as of the

Agreement Start Date (as defined in the Quotation) or its cost on the date of the most recent adjustment, GE HealthCare may increase Service fees in an amount equal to such cost increase.

15.3. Cyclotron. GE HealthCare will work in accordance with its health and safety rules and applicable radiation and radioactive materials safety laws and regulations, whichever is more stringent, including assessment and management of radiation dose in accordance with the As Low As Reasonably Achievable (“ALARA”) standard. Customer will follow all ALARA guidelines to maintain and control the radiation exposures as far below the dose limits as possible. Customer will: (i) if requested by GE HealthCare, remove targets prior to Service; (ii) place targets in an appropriately shielded area/container during Service; (iii) replace targets following Service; (iv) provide at least 24 hours of Product downtime prior to planned maintenance; (v) provide GE HealthCare with Customer’s emergency and site-specific safety procedures; (vi) ensure that a Customer representative is available in the work area during Service; (vii) confirm that GE HealthCare personnel and their tools and accessories are free from contamination prior to leaving Customer’s facility; and (viii) store and dispose of waste generated by Service in compliance with applicable laws and regulations. GE HealthCare reserves the right not to enter areas with dose rates in excess of 2 mSv/hour. Other radiation exposure limits may apply to Service, including daily or personal cumulative dose limits, and local requirements, which could prevent Service of the cyclotron until radiation levels are reduced.

## 16. General Terms.

16.1. Confidentiality. Each party will treat this Agreement and the other party's proprietary information as confidential, meaning it will not use or disclose the information to third parties unless permitted in this Agreement or required by law. Customers are not prohibited from discussing patient safety issues in appropriate venues.

16.2. Governing Law. The law of the state where the Product is installed, Service is provided, or Subscription is accessed will govern this Agreement.

16.3. Force Majeure. Performance time for non-monetary obligations will be reasonably extended for delays beyond a party's control.

16.4. Assignment; Use of Subcontractors. Rights and obligations under this Agreement cannot be assigned without the other party's prior written consent, unless: (i) it is to an entity (except to a GE HealthCare competitor) that (a) is an affiliate or parent of the party or (b) acquires substantially all of the stock or assets of such party's applicable business, Product line, or Service thereof; and (ii) the assignee agrees in writing to be bound by this Agreement, including payment of outstanding fees. GE HealthCare may hire subcontractors to perform work under this Agreement but will remain responsible for its obligations.

16.5. Waiver; Survival. If any provision of this Agreement is not enforced, it is not a waiver of that provision or of a party's right to later enforce it. Terms in this Agreement related to intellectual property, compliance, data rights and terms that by their nature are intended to survive will survive the Agreement's expiration or termination.

16.6. Intellectual Property. GE HealthCare owns all rights to the intellectual property in GE HealthCare's Products, Services, Documentation, Specifications, and statements of work related to a Quotation or otherwise. Customer may provide GE HealthCare with feedback related to Products, Services, and related Documentation, and GE HealthCare may use it in an unrestricted manner.

## 17. Compliance.

17.1. Generally. Each party will comply with applicable laws and regulations. Customer is only purchasing or licensing Products for its own medical, billing and/or non-entertainment use in the United States or for the purposes of renting or leasing the Products for medical, billing and/or non-entertainment purposes through a mobile system or modular building where Customer maintains title to the Products. GE HealthCare will not deliver, install, service or train if it discovers Products have been or are intended to be used contrary to this Agreement. This Agreement is subject to GE HealthCare's ongoing credit review and approval. Customer is aware of its legal obligations for cost reporting, including 42 C.F.R. § 1001.952(g) and (h), and will request from GE HealthCare any information beyond the invoice needed to fulfill Customer's cost reporting obligations. GE HealthCare will provide safety-related updates for Equipment and Software required by applicable laws and regulations at no additional charge.

17.2. Security. GE HealthCare is not responsible for: (i) Customer's passwords or password management; (ii) securing Customer's network; (iii) preventing unauthorized access to Customer's network or the Product; (iv) backup management; (v) data integrity; (vi) recovery of lost, corrupted or damaged data, images, software or equipment; (vii) third party operating systems, unless specifically provided in the Quotation; or (viii) providing or validating antivirus or related IT safeguards unless sold to Customer by GE HealthCare. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR DAMAGES CAUSED BY UNAUTHORIZED ACCESS TO THE NETWORK OR PRODUCTS REGARDLESS OF A PARTY'S COMPLIANT SECURITY MEASURES.

17.3. Environmental Health and Safety (“EHS”). GE HealthCare personnel may stop work without penalty due to safety concerns. Customer must: (i) comply with GE HealthCare's EHS requirements; (ii) provide a safe environment for GE HealthCare personnel; (iii) tell GE HealthCare about chemicals or hazardous materials that might come in contact with Products or GE HealthCare personnel; (iv) perform decommissioning or disposal at Customer facilities; (v) obtain and maintain necessary permits; (vi) thoroughly clean Products before Service; (vii) provide radioactive materials required for testing Products; and (viii) dispose of waste related to Products and installations.

17.4. Parts and Tubes. GE HealthCare: (i) recommends the use of parts it has validated for use with the Product; (ii) is not responsible for the quality of parts supplied by third parties to Customer; and (iii) cannot assure Product functionality or performance when non-validated parts are used. Certain Products are designed to recognize GE HealthCare-supplied tubes and report the presence of a non-GE HealthCare tube; GE HealthCare is not responsible for the use of, or effects from, non-GE HealthCare supplied tubes.

17.5. Training. GE HealthCare's training does not guarantee that: (i) Customer trainees are fully trained on Product use, maintenance or operation; or (ii) training will satisfy any licensure or accreditation. Customer must ensure its trainees are fully qualified in the use and operation of the Product. Unless otherwise identified in the training catalog, Customer will complete training within 12 months of: (a) the date of Product delivery for a Product purchase; (b) the respective start date for Services or Subscription for purchase of Service or Subscription; or (c) the date training is ordered for training-only purchases. If not completed within this time period, other than because of GE HealthCare's fault, training expires without refund. Recording of GE HealthCare training sessions is prohibited.

17.6. Medical Diagnosis and Treatment. All clinical and medical treatment, diagnostic and/or billing decisions are Customer's responsibility.

17.7. Connectivity. If a Product has remote access capability: (i) Customer will provide GE HealthCare with, and maintain, a GE HealthCare-validated remote access connection to service the Product; or (ii) GE HealthCare reserves the right to charge Customer for onsite support at GE HealthCare's then-current billing rate. This remote access and collection of machine data (e.g., temperature, helium level) will continue after the end of this Agreement unless Customer requests in writing that GE HealthCare disable it.

17.8. Use of Data.

17.8.1. Protected Health Information. If GE HealthCare creates, receives, maintains, transmits or otherwise has access to Protected Health Information (as defined in 45 C.F.R. § 160.103) ("PHI"), GE HealthCare may use and disclose the PHI only as permitted by law and by the Business Associate Agreement. Before returning any Product to GE HealthCare, Customer must ensure that all PHI stored in it is deleted.

17.8.2. Data Rights. GE HealthCare may collect, prepare derivatives from and otherwise use non-PHI data related to Products and/or Services for such things as training, demonstration, research, development, benchmarking, continuous improvement and facilitating the provision of its products, software and services. GE HealthCare will own all intellectual property and other rights that could result from this collection, preparation and use. The non-PHI data will not be used to identify Customer or sold by GE HealthCare without Customer's consent.

17.9. Customer Policies. GE HealthCare will use reasonable efforts to respect Customer-provided policies that apply to GE HealthCare and do not materially contradict GE HealthCare policies. Failure to respect Customer policies is not a material breach unless it is willful and adversely affects GE HealthCare's ability to perform its obligations.

17.10. Insurance. GE HealthCare will maintain coverage in accordance with its standard certificate of insurance.

17.11. Excluded Provider. To its knowledge, neither GE HealthCare nor its employees performing Services under this Agreement have been excluded from participation in a Federal Healthcare Program. If an employee performing Services under this Agreement is excluded, GE HealthCare will replace that employee within a reasonable time; if GE HealthCare is excluded, Customer may terminate this Agreement upon written notice to GE HealthCare.

## **18. Disputes and Arbitration.**

18.1. Binding Arbitration. Other than collection matters and actions seeking injunctive relief to prevent or cease a violation of intellectual property rights related to Products or Services, the parties agree to submit all disputes arising under or relating to this Agreement to the American Arbitration Association ("AAA") office closest to the largest metropolitan area of the location where the Product is installed or the Service is provided for binding arbitration conducted in accordance with AAA's then-current Commercial Arbitration Rules. Costs, including arbitrator fees and expenses, will be shared equally, and each party will bear its own attorneys' fees. The arbitrator will have authority to award damages only to the extent available under this Agreement. Nothing in this Section shall allow either party to arbitrate claims of any third-party not a party to this Agreement. The parties further agree to keep confidential: (i) the fact that any arbitration occurred; (ii) the results of any arbitration; (iii) all materials used, or created for use, in the arbitration; and (iv) all other documents produced by another party in the arbitration and not otherwise in the public domain.

## **19. Liability and Indemnity.**

19.1. Limitation of Liability. GE HEALTHCARE'S LIABILITY FOR DIRECT DAMAGES TO CUSTOMER UNDER THIS AGREEMENT WILL NOT EXCEED: (I) FOR PRODUCTS, THE PRICE FOR THE PRODUCT THAT IS THE BASIS FOR THE CLAIM; OR (II) FOR SERVICE OR SUBSCRIPTIONS, THE AMOUNT OF SERVICE OR SUBSCRIPTION FEES FOR THE 12 MONTHS PRECEDING THE ACTION THAT IS THE BASIS FOR THE CLAIM. THIS LIMITATION WILL NOT APPLY TO GE HEALTHCARE'S DUTIES TO INDEMNIFY CUSTOMER UNDER THIS AGREEMENT.

19.2. Exclusion of Damages. NEITHER PARTY WILL HAVE ANY OBLIGATION FOR: (I) CONSEQUENTIAL, PUNITIVE, INCIDENTAL, INDIRECT OR REPUTATIONAL DAMAGES; (II) PROFIT, DATA OR REVENUE LOSS; OR (III) CAPITAL, REPLACEMENT OR INCREASED OPERATING COSTS.

19.3. IP Indemnification. GE HealthCare will indemnify, defend and hold Customer harmless from third-party claims for infringement of United States intellectual property rights arising from Customer's use of the Equipment or Software in accordance with the Specifications, Documentation and license.

19.4. General Indemnification.

19.4.1. GE HealthCare will indemnify, defend and hold Customer harmless for losses which Customer becomes legally obligated to pay arising from third party claims brought against Customer for bodily injury or damage to real or tangible personal property to the extent the damage was caused by GE HealthCare's: (i) design or manufacturing defect; (ii) negligent failure to warn, negligent installation or negligent Services; or (iii) material breach of this Agreement.

19.4.2. Customer will indemnify, defend and hold GE HealthCare harmless for losses which GE HealthCare becomes legally obligated to pay arising from third party claims brought against GE HealthCare for bodily injury or damage to real or tangible personal property to the extent

the damage was caused by Customer's: (i) medical diagnosis or treatment decisions; (ii) misuse or negligent use of the Product; (iii) improper storage of the Product; (iv) modification of the Product; or (v) material breach of this Agreement.

19.5. **Indemnification Procedure.** For all indemnities under this Agreement: (i) the indemnified party must give the other party written notice before claiming indemnification; (ii) the indemnifying party will control the defense; (iii) the indemnified party may retain counsel at its own expense; and (iv) the indemnifying party is not responsible for any settlement without its written consent.

**20. Payment and Finance.**

20.1. **Late Payment.** Customer must raise payment disputes before the payment due date. For any undisputed late payment, GE HealthCare may: (i) suspend performance under this Agreement until all past due amounts are paid; (ii) charge interest at a rate no more than the maximum rate permitted by applicable law; and (iii) use unapplied funds due to Customer to offset any of Customer's outstanding balance. If GE HealthCare suspends performance, any downtime will not be included in the calculation of any uptime commitment. If Customer fails to pay when due: (a) GE HealthCare may revoke its credit and designate Customer to be on credit hold; and (b) all subsequent shipments and Services must be paid in full on receipt.

20.2. **Taxes.** Prices do not include applicable taxes, which are Customer's responsibility.

**21. Notices.** Notices will be in writing and considered delivered when received if sent by certified mail, postage prepaid, return receipt requested, by overnight mail, or by fax. Notice to Customer will be directed to the address on this Agreement, and notice to GE HealthCare to General Counsel, 9900 W Innovation Dr., Wauwatosa, WI 53226.

This Statement of Service Deliverables Full Service Options applies to the following GE HealthCare AssurePoint (“AP”) service offerings: Standard, Limited, PM, Return to Repair Center, Select and Remote.

	Standard	Limited	PM	Return to Repair Center	Select	Remote
Corrective Maintenance *	•	°		•	°	°
Planned Maintenance	•	°	•	°		
Replacement Parts	•	•	•	•		
Software Updates	•	•	•	•	•	•
Technical Phone Support	•	•	•	•	•	•
Phone Clinical Applications Support	•	•	•	•	•	•
Remote Diagnostic Service *	°	°	°	°	°	°
Continuity * #	°					
Supplemental Services During Warranty	°					

• Included (to the extent provided herein)

° Optional (if available/identified on the Product Schedule)

\* Requires Connectivity (if Product has remote access capability)

# See supplemental terms of offering

**Corrective Maintenance.** GE HealthCare or its agents will use commercially reasonable efforts to resolve any verifiable and reproducible service issue of the Product (defined as the Product not substantially meeting original equipment manufacturer (“OEM”) published specifications) in a reasonable period of time after notification by Customer, through remote, on-site or GE HealthCare repair center services. Technical phone support is available 24 hours per day, 7 days per week (extent of phone support may differ by product type). On-site support is identified on the Product Schedule (if not listed, 8am to 5pm local time). GE HealthCare will use reasonable efforts to meet the response time for on-site support as identified on the Product Schedule. Corrective maintenance outside of coverage hours or expedited beyond the response time (at Customer’s request) will be billed at GE HealthCare’s then-current rates. Corrective maintenance includes corrective maintenance-related Replacement Parts (subject to availability).

AP Limited. GE HealthCare will provide a limited number of corrective maintenance events as identified on the Product Schedule. Each Customer request for corrective maintenance will be applied to the limited number of corrective maintenance events, unless Customer purchases service separately at GE HealthCare’s then-current rates at the time it contacts GE HealthCare for such service. Subsequent attempts to resolve a previously diagnosed service issue of the Product will be considered part of the same service event.

AP PM. Corrective maintenance and corrective maintenance-related Replacement Parts are excluded. Includes phone technical support for anesthesia, anesthesia patient monitoring, respiratory, ventilators, and maternal/infant care Products.

AP Return to Repair Center. On-site corrective maintenance is excluded. If the service issue cannot be resolved remotely, Customer can ship the Product to GE HealthCare’s repair center using the original packing material or any alternative recommended by GE HealthCare. Standard shipping is included. Repair center’s standard business hours are Monday-Friday, 8am to 5pm CST.

AP Select and AP Remote. On-site corrective maintenance is excluded. If the service issue cannot be resolved remotely, GE HealthCare will provide on-site corrective maintenance at GE HealthCare’s then-current rates. Replacement Parts are excluded.

**1. Planned Maintenance.** GE HealthCare or its agents will provide planned maintenance service (“PM”) pursuant to OEM recommended frequencies and published specifications as set forth in the OEM service manuals (where available), or pursuant to documented alternate PM frequencies and specifications based on GE HealthCare’s risk-based assessment. PM will be performed at mutually agreed upon times during PM coverage hours (excluding weekends unless otherwise specified) as identified on the Product Schedule. PM includes PM-related Replacement Parts (subject to availability).

AP Limited. If identified on the Product Schedule, GE HealthCare or its agents will provide PM on-site or at GE HealthCare’s repair center. Unless on-site PM is identified on the Product Schedule, PM will be performed at GE HealthCare’s repair center during the repair center’s standard business hours if requested by Customer prior to shipping the Product to GE HealthCare. GE HealthCare is not responsible for notifying Customer that PM is due for a Product.

AP Return to Repair Center. Unless on-site PM is identified on the Product Schedule, PM will be performed at GE HealthCare’s repair center during the repair center’s standard business hours if requested by Customer prior to shipping the Product to GE HealthCare. GE HealthCare is not responsible



for notifying Customer that PM is due for a Product. If transmitter service coverage is identified on the Product Schedule, a biennial calibration will be performed by GE HealthCare. Annual PMs on transmitters are excluded.

AP PM for Telemetry. PM activities include maintenance of the infrastructure, receiver subsystems (if applicable), telemetry servers, and transmitters or transceivers (if identified on the Product Schedule). Infrastructure PM activities include: antenna system checks; radio frequency spectrum analysis and signal tests; signal gain tests; noise floor signal tests; restoration to GE HealthCare OEM specifications; failed components replacement, as needed; verification of telemetry coverage area; and a comprehensive report detailing the maintenance performed. If identified on the Product Schedule, transmitter PM activities include annual clean and inspect maintenance and biennial calibration. ApexPro Receiver Subsystem PM activities include annual maintenance and biennial calibration. Failure to calibrate the transmitters and receiver subsystems together may result in increased signal dropout and reduced system performance. If transmitter service coverage is not identified on the Product Schedule, Customer is responsible for transmitter PM and calibration. Service calls associated with dropout due to transmitter calibration issues will be billed at GE HealthCare's then-current rates.

**2. Replacement Parts.** "Replacement Parts" mean the lowest level component repair part available that will bring the Product to OEM published specifications. GE HealthCare will provide subassemblies or assemblies if a lower replacement part is not available. Accessories and supplies are not Replacement Parts. Replacement Parts may be provided on a new or refurbished/repared (exchange) basis, at GE HealthCare's sole discretion. If an exchange part is provided, the original part becomes GE HealthCare property and GE HealthCare will remove it from Customer's site or Customer must return it to GE HealthCare within a reasonable timeframe of replacement to avoid being billed for the non-returned part. Replacement Parts are shipped freight included (excluding "Special Order" parts, which are not stocked by GE HealthCare due to low demand). If delivery priority is identified on the Product Schedule, it will be subject to shipment cut-off times for the applicable distribution center. Expedited parts delivery is available for an additional fee.

AP PM. Corrective maintenance-related Replacement Parts are excluded.

**3. Software Updates and Upgrades.** Software updates consist of any error correction or modification to Equipment that maintain existing software features and functionality made generally available to GE HealthCare's installed customer base. Software updates may be installed during PM, or as otherwise agreed to by the parties. Software updates do not include any separately licensed software modules which provide additional functionality related to an application or feature for the hardware or software. Software upgrades are not included, which consist of any revision or enhancement to the Software by GE HealthCare that improve or expand existing software features or functionality that are made generally available for purchase. Additional hardware and/or software (including upgrades to third party software or operating system software) required for software updates or software upgrades, training, project management, and integration services are excluded.

AP Return to Repair Center. Software updates will be installed during corrective maintenance at GE HealthCare's repair center.

AP Select and AP Remote. Software updates will be installed at Customer's site at GE HealthCare's then-current rates.

**4. Phone Clinical Applications Support.**

All Products. GE HealthCare will provide clinical applications support by telephone, Monday-Friday, 8am to 5pm CST (unless otherwise identified on the Product Schedule), excluding OEM holidays.

Equipment. Only available for Customer personnel trained by GE HealthCare to use the Equipment.

Third Party Product. Only provided if identified on the Product Schedule and available via the OEM.

**5. Remote Diagnostic Services.** If identified on the Product Schedule, the Agreement includes GE HealthCare's then-current InSite, iLinq, or iLinq Diagnostic tools. Not available on all Products. Hours of operation based on product type.

**6. Supplemental Services During Warranty.** If identified on the Product Schedule, Customer is entitled to additional services for the Equipment as listed on the Product Schedule for the remaining term of the Equipment Warranty (as defined in the GE HealthCare "Warranty Statement"). The fees for the services are identified on the Product Schedule and will apply if Customer signs and returns this Agreement before delivery of the Equipment. Additional fees (i.e., in addition to the fees identified on the Product Schedule) will apply if Customer signs and returns this Agreement after delivery of the Equipment (please contact GE HealthCare). During the Equipment Warranty, Customer's remedies related to the services are those described in the Warranty Statement. If Customer terminates this Agreement prior to its expiration date, Customer is responsible for amounts owed under this coverage (i.e., the value of services performed on a prorated basis), and will pay the amounts within 30 days following Agreement termination.

**7. Repair/Exchange Pool.** For Product identified on the Product Schedule as "AP Return to Repair Center - Repair/Exchange Pool", GE HealthCare will provide Product repair or replacement coverage (at GE HealthCare's discretion) for Product-related failures that occur due to normal use and as limited by the number of repairs/replacements per contract year as identified on the Product Schedule. Coverage does not cover lost equipment, theft, or damage caused by any use that does not conform to OEM guidelines (e.g., accidental damage, abuse, improper handling, power failures or surges, fire, improper cleaning, disinfecting or oversoaking). Service for damaged Products caused by any of the foregoing will be billed at GE HealthCare's then-current rates. Unused Repair/Exchange Pool at the end of a contract year cannot be rolled over to the next contract year and is forfeited without refund or credit. If this Agreement terminates, Customer is responsible for any remaining Repair/Exchange Pool amounts due to GE HealthCare through the end of the Agreement, and Customer will pay all remaining amounts within 30 days after termination.

**8. Vaporizer Efficacy Test and Trace Gas Analysis.** If identified on the Product Schedule, GE HealthCare will provide 1 to 4 annual vaporizer efficacy tests (per the Product Schedule) to verify vaporizer output. If identified on the Product Schedule, GE HealthCare will provide 1 to 4 annual trace gas analysis (per the Product Schedule) on the Equipment. Leaks external to the Equipment (e.g., pipeline to/from room wall) and room air exchange are excluded.

**9. Full Service Riders.** If the Product Schedule includes CARESCAPE One, CARESCAPE VC150, or Monica Novii products, see applicable Statement of Service Deliverables Rider for additional terms and conditions.

**10. Software Releases.** For Product identified on the Product Schedule as "AP Select", this Agreement includes AP Select software releases that are made generally available to GE HealthCare's installed customer base with AP Select services. Software releases include: (i) major enhancement releases which consist of new functionality capabilities and/or applications, and major changes or upgrades to the software architecture or file structure (may be identified by a release number that is to the left of the first decimal point, e.g., 1.x); (ii) minor enhancement releases which consist of error corrections and/or revisions to existing major enhancement releases (may be identified by a release number that is to the right of the first decimal point, e.g., x.1); (iii) maintenance releases which consist of a distinct and identifiable collection and packaging of error corrections and/or software performance adjustments of a specific minor enhancement release (may be identified by a release number that is to the right of the second decimal point, e.g., x.y.1); and (iv) service pack releases which consist of a distinct and identifiable collection of updates, fixes and/or enhancements to a software program delivered in the form of a single installable package.

Customer must be on the latest version of GE HealthCare's most current software release at all times under this Agreement (including at the commencement of this Agreement). Failure to remain on the latest version of GE HealthCare's most current software release at all times under this Agreement will adversely impact GE HealthCare's ability to deliver support to Customer (whereby GE HealthCare may suspend performance under this Agreement) and result in additional service fees at GE HealthCare's then current rates.

Software releases do not include (a) frameworks of the software designed to operate in different computer hardware architecture, different operating system software architecture, or derived from different software development environments (i.e., the integrated suite of tools used to aid in the development of software in a particular language or for a particular application), or (b) separately licensed software modules made generally available to GE HealthCare's installed customer base for purchase. Additional hardware and/or software (including updates or upgrades to third party software or operating system software), training, project management, installation and integration services related to software releases are excluded. Customer is solely responsible to ensure that all data is appropriately backed up prior to installation of any software release.

**12. Telemetry System Restoration.** If identified on the Product Schedule, a restoration of all ApexPro CH Telemetry system components to their original design operational functionality ("Telemetry System Restoration") is required for systems that have not had a complete maintenance activity performed by GE HealthCare within the previous 12 months: coverage area expansion, telemetry system restoration, or complete system PM including calibration. Telemetry System Restoration will occur during the first year annual PM. The Telemetry System Restoration will include ApexPro CH antenna infrastructure PM, receiver subsystem PMs and calibrations, telemetry server PMs, and transmitter PMs and calibrations, if identified on the Product Schedule. ApexPro CH Telemetry System Restoration includes replacement of antenna system components (antennas, splitters, filters, amplifiers, power supplies, and cables, and terminations) that are non-operational or not operating to OEM specs.

**13. Telemetry System Remediation Upgrade.** If identified on the Product Schedule, an infrastructure remediation upgrade is required for ApexPro CH infrastructures that utilize any components (e.g., antennas, amplifiers, filters) that are no longer repairable or replaceable. The remediation upgrade will occur during the first year annual PM. The remediation upgrade will include an engineering analysis of the infrastructure design, identification of older components, and re-design of the original coverage area using current components. Upgrade parts, installation of the upgraded design, and commissioning and go-live testing are included. Additional charges for union labor, dust containment and/or overtime, nights, and weekend/holiday labor may apply.

**14. Exclusions.** Products are excluded from coverage under the Agreement and Customer is not entitled to any remedy if GE HealthCare's failure to provide Service is due to: (i) Customer cancellation, rescheduling, or inability of GE HealthCare to access the Product; (ii) Customer's default; (iii) improper care of the Product; or (iv) any cause beyond GE HealthCare's control. GE HealthCare is not responsible for providing system database maintenance for Customer, including but not limited to, activities related to backup, new users, user privileges, physician list updates, and archive/data entry.