

TERMS AND CONDITIONS
(“Agreement”)

Definitions

“**Customer**” means the purchaser and/or end user of the Products, as defined herein.

“**Hill-Rom Provided Components**” means the equipment and/or component parts provided by Hill-Rom which comprises the Products.

“**Product(s)**” means the **NaviCare Nurse Call** (“NNC”) product referenced on the Purchase Order sold and licensed to Customer under this Agreement.

“**Licensed Software**” means the Hill-Rom proprietary software (including updates thereto) licensed for use with the Product. All other software used with Products shall be termed “**Third Party Programs**.”

“**Hill-Rom Provided Software**” means the Licensed Software and Third Party Programs provided by Hill-Rom solely for use with Products.

“**Purchase Order**” means the agreement executed by Customer and Hill-Rom which incorporates by reference these Terms and Conditions and further describes the scope of work, implementation, installation and configuration plan and pricing unique to the particular Product acquisition.

“**Services**” means those support services, maintenance services, training, installation, implementation, certification or other services which are the express responsibility of Hill-Rom pursuant to the terms of this Agreement.

“**Major Release**” means changes to the Licensed Software that add significant functionality or major enhancements to the Licensed Software, but which do not add additional features beyond those purchased by Customer. A Major Release to the Licensed Software may result because of a requirement change to the operating system, hardware components, or changes to other Third Party Programs. Major Releases are denoted by a change in integer or whole number of the Licensed Software (e.g. 1.0 to 2.0). Major Releases do not include new products.

“**Minor Release**” means software service packs, patches or minor changes to the Licensed Software that correct deficiencies or add minor enhancements and are generally provided to Customers within the initial warranty term or the paid-up software maintenance period, at no additional software license. Minor Releases are denoted by a change in the fraction number of the Licensed Software (e.g. 1.0 to 1.1).

Payment and Taxes. Invoices are payable net thirty (30) days from date of invoice. The contract price excludes all State and Local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Hill-Rom shall state separately on its invoices taxes excluded from the fees, and the Licensee agrees either to pay the amount of the taxes (based on the current value of the equipment) to the contractor or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. Customer is advised that the Customer may be obligated to properly reflect and/or report any discount, rebate or reduction in price in its costs claimed or charges made to federal (e.g. Medicare) or state (e.g. Medicaid) health care programs requiring such disclosure. The invoices provided by Hill-Rom to Customer may not reflect the net cost to the Customer. Customer shall make written request to Hill-Rom in the event Customer requires additional information in order to meet applicable reporting or disclosure obligations. Hill-Rom shall retain a security interest in the Product until Hill-Rom has received full payment including taxes. Customer agrees to sign and deliver to Hill-Rom any additional documents required by Hill-Rom to protect its security interest.

Delivery and Shipment. Date of delivery shall be determined by mutual written agreement of the parties. No delivery date set forth in a Purchase Order shall be binding on Hill-Rom unless Hill-Rom explicitly agrees to such delivery date in a writing signed by an authorized representative of Hill-Rom. Customer may request to reschedule a scheduled delivery date to a later date by providing Hill-Rom with written notice at least fourteen (14) days prior to the scheduled delivery date. . Shipment of all products shall be Net Freight on Board (FOB) Customer, with all costs of transportation and related insurance being the responsibility of Hill-Rom with the exception of costs of transportation and insurance for (i) service parts, (ii) shipments to points outside the contiguous U.S., or (iii) special delivery and/or air shipments requested by Customer. Unless otherwise explicitly agreed to by Hill-Rom in a writing signed by an authorized representative of Hill-Rom, Hill-Rom will prepay and add to the invoice for reimbursement by Customer any and all costs of transportation and insurance for delivery of service parts, shipments to points outside the contiguous U.S., and any special delivery and/or air shipments requested by Customer. Terms for shipping to Alaska and Hawaii shall be FOB port of embarkment, prepaid and add from port of embarkment to destination.

License Grant. Subject to the terms herein, Hill-Rom grants end user a non-exclusive, non-transferable, limited license (or sublicense in the case of Third Party Programs) to use the Hill-Rom Provided Software in object code form at the designated health care facility solely for use with the Products. Hill-Rom or its designee may audit end user’s use of the Hill-Rom Provided Software for compliance with these terms at any time, upon reasonable advance notice. Hill-Rom and its third party licensors retain all right, title and interest, including all copyright and intellectual property rights, in and to, the Hill-Rom Provided Software (and any updates thereto), and all copies thereof. The Hill-Rom Provided Software is licensed not sold. The license rights herein shall not be sub-licensed.

NaviCare Bed Data Interface – Additional License Terms and Conditions

NaviCare Bed Data Interface is Licensed Software that Customer may elect to purchase for use with NaviCare Nurse Call, as set forth on the GSA Purchase Order. The Licensed Software may output data and other signals which are generated by Customer’s Hill-Rom beds, (collectively, “Bed Data”). Use of such Bed Data shall be defined by the following additional license terms: Hill-Rom grants Customer anon-exclusive, non-transferable, limited license for communicating Bed Data, from Customer’s Hill-Rom beds at Customer’s facility to the Customer’s electronic medical record via the Licensed Software, storing the Bed Data in the electronic medical record, displaying on a monitor the value of each piece of the Bed Data along with an identification of which Hill-Rom bed originated which Bed Data pieces (and/or along with an identification of the patients and caregivers corresponding thereto and/or along with other medical device data in the Customer’s electronic medical record), and generating alarms, pages or nurse calls to Customer’s personnel therefrom. All other uses are non-licensed including without limitation using the Licensed Software or Bed Data with beds other than Hill-Rom beds; using the Licensed Software or Bed Data to control bed movement or bed actuators, sensors, or sensor systems, or display data on a bed; connecting the Licensed Software to more than the number of Hill-Rom® Beds for which Customer has paid the corresponding Hill-Rom license fee; using the Licensed Software and/or the Bed Data in conjunction with third party devices or third party software to create or carry out features or functions falling outside of the uses explicitly permitted herein. This Agreement does not convey to any third party any license or right in or to the Licensed Software, the Bed Data, or the data provided by the Licensed Software, or any patent rights or other intellectual property rights, implicitly, by estoppel or otherwise. Except for Customer’s limited right of use of the Bed Data according to the terms of this Agreement, this Agreement does not convey any other license or right in or to the Bed Data, or any associated patent rights or other intellectual property rights, implicitly, by estoppel or otherwise, to Customer. Customer shall be solely responsible for errors, issues, or losses caused by software or hardware not licensed or sold by Hill-Rom to Customer, including without limitation Customer’s electronic medical records system and components thereof, and Customer’s interface engine.

Open Source Software. The Products may include open source software (i) for which Hill-Rom does not claim copyright ownership for the source code, and (ii) which source code is made freely available to the general public. Open Source Software includes, but is not limited to, software licensed under the GNU General Public License (“GPL”) or the GNU Lesser General Public License (“LGPL”). Any source code, attributions or terms for such open

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source technology are provided in the documentation and/or in user files (which are identified in the documentation) within the Licensed Software program. End user's rights and remedies under this Agreement with respect to such Open Source Software shall apply, but only for end user's use of the Open Source Software as part of the Product which is in compliance with the terms of this Agreement and with the terms of any relevant open source license.

License Restrictions. Except in the case of certain open source software, Customer/end user shall not: (a) share, install or use the Hill-Rom Provided Software, concurrently on different computers or servers; (b) alter, merge, modify, adapt or translate or otherwise create derivative works based upon the Hill-Rom Provided Software, or decompile, reverse engineer, disassemble, or otherwise reduce the Hill-Rom Provided Software to a human-readable form; (c) resell, assign, rent, lease, sublicense, deliver or otherwise transfer, distribute or dispose of the Hill-Rom Provided Software; (d) use or allow others to use any of the Hill-Rom Provided Software as a service bureau or under any outsourcing arrangement for any third party; (e) export the Hill-Rom Provided Software into any country prohibited by the United States Export Administration Act and the regulations there under; (f) copy or duplicate the Hill-Rom Provided Software except for backup purposes only; or (g) grant any other person or entity the right to do any of the foregoing or take any action that would assist any other person or entity in doing so.. Recourse against the United States for any alleged breach of this agreement must be made under the terms of the Federal Tort Claims Act or as a dispute under the contract disputes clause (Contract Disputes Act) as applicable. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

NOTE TO U.S. GOVERNMENT END-USERS. The Product, including the Hill-Rom Provided Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995) and 48 C.F.R. 227.7202 (June 1995). Pursuant to 48 C.F.R. 12.212, 48 C.F.R. §52.227-19, and 48 C.F.R. 227.7202-1 through C.F.R. 227.7202-4, and other relevant sections of the Code of Federal regulations all U.S. Government end users acquire the Product, including the Hill-Rom Provided Software with only those rights as set forth herein.

Software Maintenance. Hill-Rom offers a software maintenance program, which may be purchased on an annual basis. The software maintenance program entitles the Customer to receive support services and software maintenance in the form of updates to the Licensed Software. Services related to the installation or configuration of the updates to the Licensed Software will be made available at the rates specified in the underlying GSA Schedule Contract and applicable GSA Purchase Order. Support services and software maintenance (including updates) are only available through the software maintenance program and are not available on a fee for services basis. Customer's license to use the Licensed Software remains intact even if Customer elects not to participate in the software maintenance program, however any liability which would have been avoided by Customer's participation in the software maintenance program shall be borne by Customer.

Authorized Reseller. Hill-Rom is an authorized reseller of certain third party equipment and Third Party Programs which may comprise the Product.

Limited Warranty. THE WARRANTIES SET FORTH HEREIN CONSTITUTE THE SOLE WARRANTIES PROVIDED TO CUSTOMER AND ARE IN LIEU OF ALL OTHER REPRESENTATIONS OR WARRANTIES EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER REMEDIES. NO EMPLOYEE OR REPRESENTATIVE OF HILL-ROM IS AUTHORIZED TO CHANGE THESE WARRANTIES IN ANY WAY OR GRANT ANY OTHER OR ADDITIONAL WARRANTY.

Limitation Of Remedies & Damages. Hill-Rom's total liability to Customer/end user and Customer/end user exclusive remedy for any cause whatsoever, arising out of, based on or relating to this Agreement, the Product or Services, whether based in contract, tort (including negligence), warranty or any other legal theory, shall be limited to an amount equal to the purchase price actually paid to Hill-Rom during the twelve (12) month period preceding the event giving rise to the action. HILL-ROM SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR INCIDENTAL DAMAGES INCLUDING LOSS OF DATA, COSTS OF RECOVERY, LOST OPPORTUNITY, LOST REVENUES OR LOST PROFITS EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER ARISING FROM CONTRACT, TORT LAW OR OTHERWISE. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from Hill-Rom's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

Indemnity. Hill-Rom shall indemnify and hold Customer harmless from and against any and all liabilities, including damages, costs, expenses and reasonable attorney's fees (collectively "Liabilities") arising out of (i) installation of the Product by Hill-Rom or a Hill-Rom authorized representative or (ii) breach of this Agreement by Hill-Rom or a Hill-Rom authorized representative, except to the extent attributable to the negligence or wrongful conduct of Customer. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S., pursuant to its jurisdictional statute, 28 U.S.C. 516. Hill-Rom is afforded the opportunity to intervene in any litigation at its own expense, through counsel of its choosing, and Hill-Rom shall fully cooperate with the Government in defense of the claim and all related negotiations.

Infringement Indemnification. Hill-Rom shall indemnify and hold Customer harmless from Liabilities incurred by Customer which result from any claim by a third party that the Licensed Software or Hill-Rom Provided Components manufactured by Hill-Rom violates a claim under copyright or trade secrets. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S., pursuant to its jurisdictional statute, 28 U.S.C. 516. Hill-Rom is afforded the opportunity to intervene in any litigation at its own expense, through counsel of its choosing, and Hill-Rom shall fully cooperate with the Government in defense of the claim and all related negotiations. If, however, the Licensed Software or Hill-Rom Provided Components manufactured by Hill-Rom, are determined by a court of competent jurisdiction to infringe the copyright or trade secrets of any third party resulting in a prohibition on the use of the Licensed Software or Hill-Rom Provided Components manufactured by Hill-Rom, Hill-Rom shall, at its sole discretion, (i) replace the infringing Licensed Software or Hill-Rom Provided Components with appropriate non-infringing software or hardware; (ii) procure the right to continue the use of the infringing Licensed Software or Hill-Rom Provided Components; or (iii) work with the GSA Contracting Officer to terminate this Agreement in accordance with Federal Acquisition Regulation (FAR) requirements and refund to the end user the remaining useful life of the affected Licensed Software or Hill-Rom Provided Component on a five (5) year straight line amortization basis commencing with the installation of Product and not to exceed the cost of same. The Customer/end user shall provide prompt notice of such claim, and Customer/end user shall cooperate fully in the defense of such claim. The obligation to indemnify, defend and hold Customer/end user harmless shall not apply to the extent the violation (a) is caused by Customer/end user's unauthorized modification of the Licensed Software, Hill-Rom Provided Components, or accompanying documentation, (b) is based upon the use of the Licensed Software or Hill-Rom Provided Components in combination with any software program or equipment, or any part thereof, not furnished or recommended in writing by Hill-Rom, or (c) is based upon the use of the applicable Licensed Software or Hill-Rom Provided Components in a manner or environment, or for any purpose, for which Hill-Rom did not design or license it. To the fullest extent permitted by law, Hill-Rom's performance of its obligations under this provision shall be

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Customer/end user’s sole and exclusive remedy with respect to intellectual property rights, the alleged infringement thereof and any implied or statutory terms, conditions, representations and warranties of non-infringement.

Product Retirement. Hill-Rom reserves the right to retire any Product due to technological obsolescence or third party licensing or distribution restrictions. Hill-Rom may also discontinue the licensing, sale or support for any Product within its sole discretion. Unless otherwise stated herein, Hill-Rom will use commercially reasonable efforts to provide Customer with eighteen (18) months’ notice of any product retirement. Hill-Rom may discontinue Services for any release(s) of Licensed Software other than the currently supported release and the version immediately preceding. Customer may continue to use a discontinued version under license use rights granted by Hill-Rom but without support, at its own risk, and with no liability or obligation on the part of Hill-Rom respecting claims that may arise by reason of use of the discontinued version. Hill-Rom makes no warranty that any specific hardware will be available subsequent to the date when a Product is retired or the Licensed Software is no longer supported.

Confidential Information. The parties’ information about their respective business plans, products, research and development activities, marketing plans, patient and customer information, prices and the pricing provisions of this or other agreements between the parties, as well as the Hill-Rom Provided Software shall be deemed to be confidential. Confidential information shall not include information that is (i) made public without breach of this Section, (ii) received from a third party without obligation of secrecy, (iii) is already in the possession of the recipient, or (iv) is developed by the recipient independently as supported by written evidence. Each party agrees that it will not disclose the confidential information of the other and will treat such confidential information with the same degree of care as it does with its own information that it does not wish disclosed. Both parties’ obligations under this section shall continue for three (3) years from the last date of disclosure or three (3) years from the date when all Products under this Agreement are de-installed, licenses terminated, and the Hill-Rom Provided Software is returned to Hill-Rom; whichever occurs first. Notwithstanding, patient information and Hill-Rom trade secret information shall be treated as Confidential Information indefinitely. Hill-Rom recognizes that courts of competent jurisdiction may require certain information to be released. Additionally, Hill-Rom recognizes that federal agencies are subject to the Freedom of Information Act (“FOIA”) and some information that the company despite Hill-Rom characterizing the information as “confidential.”

Compliance with Law. Each party agrees to comply with applicable federal laws and regulations that pertain to this Agreement. Until the expiration of four (4) years after the furnishing of all Services under this Agreement, Hill-Rom will make available, upon written request, to the Secretary of the Department of the U.S. Health and Human Services, or upon request by the U.S. Comptroller General, or any of their duly authorized representatives, this Agreement, any books, documents and records of Hill-Rom that are necessary to verify the nature and extent of such costs.

Termination. Licensee’s termination rights shall be governed by FAR 52.212-4(l) and (m). Licensor’s termination rights shall be governed by FAR 52.233-1.

Merger. Except and solely for any separate master agreement or group purchasing agreement executed by the parties for the purchase and license of the Product purchased hereunder, these Terms and Conditions in conjunction with the underlying GSA Schedule Contract and GSA Purchase Order supersede any inconsistent provisions and understandings, oral or written, between the parties.

Express Authority. The individual executing this agreement for Customer represents that he or she is authorized to bind Customer and end user (in the event they are not the same entity) to the terms of this Agreement. Should an end user breach any term of this Agreement, Hill-Rom may exercise its rights under the Termination provision against Customer and end user.

No Waiver. A waiver by either party, at any time of any instance of the other party’s noncompliance with any obligation or responsibility in this Agreement will not be deemed a waiver of subsequent instances.

Audit and Inspection Rights. Hill-Rom shall have the right to audit and inspect Customer’s compliance with this Agreement and any applicable Purchase Order after reasonable notice.

Governing Law. The validity of these Terms and Conditions and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with United States Federal Law.

Assignment. Hill-Rom and the Customer may assign this Agreement by following the assignment procedures established in the FAR.

Severability. Should any term or provision of these Terms and Conditions be finally determined by a court of competent jurisdiction to be void, invalid, unenforceable or contrary to law or equity, the offending term shall be modified and limited (or if strictly necessary, deleted) only to the extent required to conform to the requirements of law and the remainder of this Agreement (or, as the case may be, the application of such provisions to other circumstances) shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.

Disputes. This Agreement is subject to the Contract Disputes Act of 1978, as amended, 41 USC 601-613. Failure of the parties to this Agreement to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this Agreement shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, “Disputes”, which is incorporated herein by reference. Hill-Rom shall proceed diligently with performance of this Agreement pending final resolution of any dispute arising hereunder.

Business Associates Addendum. Unless the parties have entered into a separate Business Associate Agreement, the Business Associates Addendum attached hereto shall apply to those circumstances where Hill-Rom is acting as a business associate.

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EXHIBIT A

NAVICARE® NURSE CALL

Limited Warranty, Software, Parts and Labor Service Contracts

I. **HILL-ROM PROVIDED COMPONENTS.** Hill-Rom warrants that the Hill-Rom Provided Components will perform substantially in accordance with the published specifications and Product documentation and be free from manufacturer’s defects from the date of shipment to Customer for the duration of applicable Warranty Period.

A. **Warranty Periods.** The Warranty Period is eighteen (18) months from the date of shipment for servers, monitors, bed connectors, pillow speakers, POE switches, call cords, cabling, LCDs and any other Hill-Rom Provided Components other than those otherwise set forth in this paragraph. The 18 month Warranty Period effectively provides Customer with a twelve (12) month warranty period plus a maximum six (6) month allowance for implementation or construction, and may be extended by Customer’s purchase of the optional ESA program, below. For all consumable products such as badge batteries the Warranty Period is ninety (90) days from the date of shipment. For audio devices (excluding LCDs), dome lights, RCBs, RLRs and call switches the Warranty Period is five (5) years from the date of shipment, however, this warranty is limited to coverage only for manufacturer’s defects.

B. **Repair/Replacement.** Hill-Rom’s obligations under this warranty are expressly limited to repairing or replacing, within the Warranty Period, those warranted Hill-Rom Provided Components that, in the reasonable discretion of Hill-Rom, are found to be non-conforming. Where necessary, labor associated with repair or replacement of warranted Hill-Rom Provided Components is also provided for a period of up to eighteen (18) months following the date of shipment of the applicable Hill-Rom Provided Components. The stated labor period may be extended with the purchase of Hill-Rom’s optional ESA program, below. Hill-Rom Provided Components that do not materially conform to Product documentation must be returned to Hill-Rom immediately. Customer must contact Hill-Rom Technical Support at 800-445-3720 and request a return material authorization (“RMA”) number, in order to initiate a return.

C. **Warranty Exclusions.** Hill-Rom will not provide any warranty services with respect to the following:

- a. Electrical work external to the Product;
- b. Batteries (except original Hill-Rom UPS battery), badges, cables, wire, connectors, light bulbs, keyboards and mouse;
- c. Third Party Programs;
- d. Customer supplied products;
- e. Customer set up or alterations of Products by Customer or by others not authorized by Hill-Rom, without prior written consent of Hill-Rom;
- f. Significant reconfiguration of Products by anyone not authorized by Hill-Rom;
- g. Services for any Product with missing or altered serial numbers;
- h. Charges from any party for warranty services provided at the request of Customer that are not covered by an agreement between such party and Hill-Rom or that are not authorized in advance in writing by Hill-Rom;
- i. Charges from any party that made modifications to the Product without the advance written approval of Hill-Rom;
- j. Repair of damage or impaired functionality caused by:
 - i. Customer’s failure to purchase software maintenance;
 - ii. Neglect, misuse or improper use, management or supervision of the Product, including but not limited to the use of improper supplies and accessories with the components;
 - iii. Any causes external to the Product that adversely affect the operability or serviceability of the Product including, but not limited to fire, water, wind, lightning earthquake (or other acts of God) and the failure to provide adequate electrical power, air conditioning or humidity control;
 - iv. Use of the Product for purposes other than for which it was designed;
 - v. Use of the Product with software other than the Hill-Rom Provided Software or with hardware other than the Hill-Rom Provided Components; or
 - vi. Unauthorized relocation of the Product by Customer prior to re-certification by Hill-Rom.

The warranty herein does not apply to Products that do not function in accordance with or conform to written specifications and/or documentation due to Customer supplied products. The Products shall not be considered non-conforming or otherwise defective due to functionality or inter-operability issues that arise by reason of Customer supplied products.

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LICENSED SOFTWARE. So long as Customer renders payment annually for software maintenance, Hill-Rom warrants that the Hill-Rom Licensed Software shall perform substantially in accordance with the published specifications and Product documentation. Hill-Rom’s obligations under this warranty are expressly limited to replacing or correcting, at its option any Hill-Rom Licensed Software that, in the reasonable discretion of Hill-Rom, is found to be non-conforming.

- A. **Software Maintenance Agreement (“SMA”).** The SMA provides support services and software updates to Supported Versions of the NNC Licensed Software only. The program commences initially upon the date of shipment of the applicable NNC system and continues for the following eighteen (18) months. Thereafter the program must be renewed on an annual basis. The SMA program provides Minor Releases, Major Releases and remote technical assistance. Services related to the installation or configuration of Minor Releases shall be provided to Customer at the then current Services rate.
- B. **Remote Technical Assistance.** Customer’s designated representative(s) will notify Hill-Rom’s Technical Support Center upon discovery of any deficiency in the NNC system and will describe the deficiency to Hill-Rom with adequate specificity to ensure Hill-Rom may identify and verify the problem. A Hill-Rom Technical Support Representative will, if available, access Customer’s NNC system via remote access using the intelligent device management (IDM) tool (hereinafter “Hill-Rom Remote Services”), to verify the malfunction. Customer acknowledges and agrees that Hill-Rom may utilize a Hill-Rom Remote Services tool, which may monitor Customer’s NNC systems, NNC system events and conditions via remote access through a secure 443 port using 128-bit (or higher) SSL encryption.

II. **Participation, Fees, and Renewal.** SMA fees are due and payable annually in advance of the applicable support period. In the event Customer elects not to participate in the SMA program, Customer shall not be entitled to receive SMA services or remote technical assistance. Customers who fail to participate and who subsequently seek to enroll in the SMA program, shall pay the annual software maintenance fee for the year of participation. Hill-Rom warrants the Services, provided hereunder, shall be performed in a professional manner, in accordance with industry standards. If Hill-Rom receives notice of defects in the Services within the Warranty Period, Hill-Rom shall re-perform said Services.

III. **OPTIONAL PARTS AND LABOR PROGRAM - EXTENDED SERVICE AGREEMENT (“ESA”).** Eighteen months after the date of shipment of the applicable NNC system, Customer may purchase an optional Extended Services Agreement (“ESA”). The ESA program extends the initial warranty coverage for certain Hill-Rom Provided Components, and offers additional on-site labor for both the Licensed Software and certain Hill-Rom Provided Components. Contact your Hill-Rom representative for additional details of current ESA proposals and terms.

IV. **LIMITATIONS AND EXCLUSIONS.** Any goods or Services provided outside of the explicit scope of those set forth in this Exhibit are billable at Hill-Rom’s current fee for Service rates with a four (4) hour minimum. Such rates are inclusive of travel and expenses. The warranties stated herein are not transferable and apply only to Hill-Rom Provided Components and Licensed Software installed by Hill-Rom or an authorized Hill-Rom representative.

THE WARRANTIES STATED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. HILL-ROM DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCT OR THE SERVICES PROVIDED HEREUNDER WILL BE ERROR FREE OR UNINTERRUPTED. HILL-ROM SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES INCLUDING LOST REVENUES AND LOST PROFITS EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

**EXHIBIT B
BUSINESS ASSOCIATE ADDENDUM**

WHEREAS, Covered Entity may be disclosing or making available certain data, which may include Protected Health Information, as that term is defined at 45 C.F.R. § 160.103 (“PHI”), to Hill-Rom in connection with Hill-Rom’s performance of services perform in accordance with the Purchase Order (the “Services”);

WHEREAS, Covered Entity is or may be subject to the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”, 42 U.S.C. §§ 1320d *et seq.*, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (“HITECH Act”) and as implemented by the privacy, security and breach notification regulations promulgated thereunder (the “Privacy Rule,” the “Security Rule,” and the “Breach Rule”);

WHEREAS, in performing the Services, Hill-Rom may function as a Business Associate and, therefore may be subject to certain requirements set forth in the HITECH Act and the Privacy, Security and Breach Rules that apply to Business Associates;

WHEREAS, to the extent that Hill-Rom is acting as a Business Associate to Covered Entity, the terms and conditions set forth in this Agreement govern the relationship between Hill-Rom and Covered Entity.

NOW, THEREFORE, the parties agree as follows:

1. **Permitted Uses and Disclosures.** Hill-Rom shall not use or disclose “PHI”, other than as permitted herein, or as Required by Law. Hill-Rom may use or disclose PHI as required to perform the Services under the Master Agreement and may further:
 - a. Use PHI for its proper management and administration or to carry out its legal responsibilities.
 - b. Disclose PHI for Hill-Rom’s proper management and administration or to carry out Hill-Rom’s legal responsibilities, provided that such disclosures are Required By Law, or Hill-Rom obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Hill-Rom of any instances of which it is aware in which the confidentiality of the information has been breached.
 - c. Use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
2. **Restrictions.** Hill-Rom shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of the Privacy Rule if done by Covered Entity, except as otherwise permitted in Section 1 (Permitted Uses and Disclosures).
3. **Safeguards.** Hill-Rom shall comply with the applicable requirements of the Security Rule with respect to electronic PHI. Hill-Rom agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
4. **Reporting.** Subject to Section 5 (Breach of Unsecured PHI), Hill-Rom shall promptly report to Covered Entity (i) any use or disclosure of PHI not provided for by this Agreement of which Hill-Rom becomes aware; and (ii) any Security Incident of which Hill-Rom becomes aware.
5. **Breach of Unsecured PHI.** With the exception of law enforcement delays that satisfy the requirements under 45 C.F.R. § 164.412, Hill-Rom shall notify Covered Entity in writing without unreasonable delay and in no case later than thirty (30) calendar days upon discovery of a Breach of Unsecured PHI. Such notice must include, to the extent possible, the name of each Individual whose Unsecured PHI has been, or is reasonably believed by Hill-Rom to have been, accessed, acquired, or disclosed during such Breach. Hill-Rom shall also provide, to the extent possible, Covered Entity with any other available information that Covered Entity is required to include in its notifications to Individuals under 45 C.F.R. § 164.404(c) at the time of Hill-Rom’s notification to Covered Entity or promptly thereafter as such information becomes available.
6. **Subcontractors.** To the extent that Hill-Rom uses one or more Subcontractors to perform its obligations under any agreement with Covered Entity and such Subcontractors create, receive, maintain or transmit PHI on behalf of Hill-Rom, Hill-Rom shall cause each such Subcontractor to agree to comply with the applicable provisions of the Security Rule and to agree to substantially the same restrictions and conditions that apply to Hill-Rom with respect to such PHI.
7. **Access to PHI.** Within a reasonable time after a written request by Covered Entity for access to PHI about an Individual contained in a Designated Record Set maintained by Hill-Rom, Hill-Rom shall make available to Covered Entity such PHI so that Covered Entity can comply with 45 C.F.R. § 164.524. In the event that any Individual requests access to PHI contained in a Designated Record Set directly from Hill-Rom, Hill-Rom shall, as soon as practicable, forward such request to Covered Entity. Any denials of access to PHI shall be the responsibility of Covered Entity.
8. **Amendment of PHI.** Within a reasonable time after receipt of a written request from Covered Entity for the amendment of an Individual’s PHI contained in a Designated Record Set maintained by Hill-Rom (for so long as PHI is maintained in the Designated Record Set), Hill-Rom shall provide such information to Covered Entity for amendment and incorporate any amendments to such PHI in accordance with 45 C.F.R. § 164.526.
9. **Accounting of Disclosures.** Within a reasonable time after written notice by Covered Entity to Hill-Rom that Covered Entity has received a request for an accounting of disclosures of PHI, Hill-Rom shall make available to Covered Entity such information as is in Hill-Rom’s possession and is required for Covered Entity to make the accounting required by 45 C.F.R. § 164.528. In the event the request for an accounting is delivered to Hill-Rom, Hill-Rom shall, as soon as practicable, forward such request to Covered Entity. To the extent that Hill-Rom maintains an electronic health record, Hill-Rom shall comply with the requirements of HITECH Act § 13405(c) and any implementing regulations as of the effective date for such provision and any implementing regulations, as such may be revised from time to time.
10. **No Performance of Privacy Rule Obligations of Covered Entity.** The parties agree that Covered Entity has not delegated one or more of its obligations under the Privacy Rule to Hill-Rom.
11. **Access by HHS.** Hill-Rom shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Hill-Rom on behalf of, Covered Entity available to the Secretary of HHS for purposes of determining Covered Entity’s compliance with the Privacy Rule.

Hill-Rom Company Inc. (“Hill-Rom”)

12. Minimum Necessary. Covered Entity and Hill-Rom agree to make reasonable efforts, to the extent practicable and except as permitted by 45 C.F.R. § 164.502(b)(2) (as such is amended from time to time), to limit its uses, disclosures, and requests of PHI under this Agreement to a Limited Data Set or, if needed by Covered Entity or Hill-Rom, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure, or request. On the effective date of guidance or regulations issued by the Secretary of HHS in accordance with HITECH Act §§ 13405(b)(1)(B), this provision shall cease to apply and Covered Entity and Hill-Rom shall comply with such guidance in accordance with HITECH Act §§ 13405(b)(1)(C).

13. Covered Entity Obligations and Restrictions. Covered Entity shall not request that Hill-Rom use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule, or HITECH Act or its implementing regulations if done by Covered Entity. Covered Entity shall notify Hill-Rom of any changes or limitations regarding its notice of privacy practices issued under 45 C.F.R. § 164.520, its permission to use or disclose PHI, or other restrictions to which Covered Entity has agreed under 45 C.F.R. § 164.522, to the extent that any of these changes, limitations, or restrictions may affect Hill-Rom’s use or disclosure of PHI.

14. Term and Termination.

- a. Subject to Section 15 (Return or Destruction of PHI), the term of this Agreement shall commence as of the Effective Date and shall continue in effect until termination of the Master Agreement, unless terminated earlier in accordance with Section 13.b.

15. Licensee's termination rights shall be governed by FAR 52.212-4(l) and (m). Licensor's termination rights shall be governed by FAR 52.233-1.Return or Destruction of PHI. Upon termination of this Agreement for any reason, Hill-Rom shall, if feasible, return or destroy all PHI received from Covered Entity or created, received or maintained by Hill-Rom on behalf of Covered Entity and which Hill-Rom still maintains in any form. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy any such PHI, the terms and provisions of this Agreement shall survive termination of this Agreement with regard to such PHI, and Hill-Rom shall limit its further uses and disclosures to those purposes that make the return or destruction of PHI infeasible.

16. Survival. The obligations of Hill-Rom under Section 15 (Return or Destruction of PHI) shall survive the termination of this Agreement.

17. Notices. All communications or notices pertaining to this Agreement shall be addressed to the appropriate party as follows:

If to Customer:
Customer Privacy Officer

If to Hill-Rom:

Hill-Rom Holdings, Inc.
Attn: Privacy Officer
180 N Stetson Ave., Suite 4100
Chicago, IL 60601
privacy_officer@hill-rom.com

All notices, requests, demands and other communications required or permitted to be given or made under this Agreement shall be in writing, shall be effective upon receipt or attempted delivery, and shall be sent by (i) personal delivery; (ii) certified or registered United States mail, return receipt requested; (iii) overnight delivery service with proof of delivery; or (iv) facsimile with return facsimile acknowledging receipt. In addition to written notice under the methods specified above, all notices provided to Hill-Rom under this Agreement shall also be sent to via electronic mail to the email address listed above. Neither party shall refuse delivery of any notice hereunder.

18. Governing Law. This Agreement shall be interpreted under United States Federal law. .

19. Independent Contractors. None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent contractors.

20. Assignment. Neither party may assign its respective rights or obligations under this Agreement without the prior written consent of the other party and in accordance with the requirements of the Federal Acquisition Regulation (FAR). This Agreement is binding upon and inures to the benefit of the parties and their successors and assigns.

21. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

22. Entire Agreement. This Agreement together with the underlying GSA Schedule Contract and GSA Purchase Order embodies and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior oral or written business associate agreements, other contracts, commitments, and understandings pertaining to the subject matter hereof.

23. Capitalized Terms. Terms that are capitalized but not defined in this Agreement shall have the meaning given to such terms under HIPAA, the Privacy Rule, the Security Rule, or HITECH Act and its implementing regulations, as applicable.

24. Amendment.

- a. General. No amendment, modification, change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of each party.
- b. Amendment to Comply with Law. The parties mutually agree to enter into good faith negotiations to amend this Agreement from time to time in order for Covered Entity or Hill-Rom to comply with the requirements of HIPAA, the Privacy Rule, the Security Rule, HITECH Act, and any implementing regulations that may be promulgated or revised from time to time. Any changes, amendments, or alterations are not effective unless mutually agreed upon in writing by authorized representatives of the parties.