

Hillrom Terms and Conditions for Services

1. AGREEMENT; PURCHASING

- 1.1. **Entire Agreement.** Hillrom's purchase order, including any proposal, statement of work, or other document expressly referenced by, incorporated in, or attached to it ("**Purchase Order**") and these terms and conditions ("**Terms and Conditions**") (the Purchase Order together with the Terms and Conditions, the "**Agreement**") constitute the sole and entire agreement of the Hillrom and Service Provider with respect to the subject matter of the Purchase Order, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations, and promises, whether written or oral. Hillrom rejects any additional or inconsistent terms and conditions offered by Service Provider at any time. No course of prior dealing or usage of the trade may modify, supplement, or explain any terms and conditions in the Agreement. In the event of any conflict between any term of the Terms and Conditions and any explicitly negotiated term of a Purchase Order, the explicitly negotiated term of the Purchase Order will govern and prevail.
- 1.2. **Purchase Order.** The Purchase Order constitutes an offer by Hillrom to purchase the Services expressly at the price(s) set forth therein and will become binding upon Service Provider's issuance of an executed acknowledgment thereof or performance thereunder, in whole or in part.
- 1.3. **No Required Purchases.** Nothing in the Agreement shall require Hillrom to purchase from Service Provider any or all of Hillrom's requirements for services that are the same or similar to the Services provided under the Agreement.

2. PAYMENT TERMS; INVOICES; TAXES

- 2.1. **Payment Terms and Invoicing.** Payment terms are net ninety (90) days from the date of Service Provider's correct invoice unless otherwise stated in the Purchase Order or agreed to by Hillrom in writing, provided, however, in the event applicable law requires a payment-terms period of shorter duration, then payment terms will be the maximum period permissible. Invoiced amounts shall be subject to a three percent (3%) early payment discount for all payments remitted by Hillrom within thirty (30) days of Hillrom's receipt of such invoice. Payments falling due on a weekend or bank holiday may be made on the following Business Day without incurring late payment interest penalties. All invoices submitted by Service Provider must (a) reference the applicable Purchase Order number, (b) identify in detail the Services and related materials (including part number, unit of measure, quantity, price, and extended total) to which it relates, and (c) reflect a separate line item for each additional approved charge or expense (such as shipping, handling, expediting, etc.), if any. Service Provider warrants that each invoice will be complete and accurate in every respect.
- 2.2. **Disputed Invoices.** Hillrom may return to Service Provider any incomplete or incorrect invoices. Payment of any invoice, including prompt payment made to secure a discount, does not constitute acceptance of, or waiver of the right to dispute such invoice. If Hillrom disputes any invoice, Hillrom will pay the undisputed part of the invoice, and, after resolution of such dispute, will promptly pay any remaining balance due.
- 2.3. **Set Off.** In addition to any other rights and remedies of Hillrom under the Agreement or otherwise arising in law or in equity, Hillrom may set-off or otherwise withhold from invoiced amounts owed to Service Provider any amounts owed to Hillrom by Service Provider under the Agreement. Any such set-off amount shall be treated as a "payment" under the Agreement.
- 2.4. **Taxes.** Service Provider shall be solely responsible for filing the appropriate national, federal, state, provincial and local tax forms and paying all such taxes or fees, including income, sales, use, excise, personal property and employment taxes, tariffs, import duties and other governmental charges, due with respect to Service Provider's receipt of payment under the Agreement. Service Provider further agrees to provide Hillrom with reasonable assistance in the event of a government audit of Hillrom. Hillrom shall have no responsibility to Service Provider to pay or withhold from any payment to Service Provider under the Agreement, any national, federal, state, provincial, or local taxes or fees. Hillrom will regularly report amounts paid to Service Provider by filing the appropriate forms with the Internal Revenue Service ("**IRS**") and any other applicable agencies. Service Provider shall be solely responsible for all Federal, State and local taxes applicable to the amounts paid by Hillrom under the Agreement as well as applicable taxes due on any monies paid to Service Provider's employees.
- 2.5. **Foreign Entities.** If (a) Service Provider is not a State entity, (b) Service Provider performs Services in the United States ("**U.S.**"), and (c) the Hillrom entity on the Purchase Order is established under the laws of a State, Service Provider shall promptly provide to Hillrom IRS Form W-8BEN, Form W-8ECI, Form W-8CE, Form W-8EXP, Form W-8IMY or Form W-9, as applicable. Failure to furnish the appropriate IRS form may result in Hillrom withholding thirty-five percent (35%) of payments under the Agreement in accordance with IRS Code of 1986, as amended, and the regulations promulgated thereunder ("**IRC**").

3. CERTIFICATES OF ORIGIN

Upon request, Service Provider shall immediately furnish to Hillrom all certificates of origin or domestic value-added and all other information relating to the costs and places of origin of the Services and the materials used in the performance thereof, as may be requested by Hillrom to fully comply with all customs, tariffs and other applicable governmental regulations.

4. CONDUCT OF PERFORMANCE

If Service Provider performs any part of the Services at Hillrom's premises, Service Provider shall (a) take all necessary precautions to avoid an unhealthful or unsafe work environment, injuries to persons, damage to property and environmental contamination (b) comply with all rules and regulations of Hillrom's premises and (c) keep Hillrom's premises free and clear of all liens for materials and labor. Hillrom shall have the right to immediately suspend Service Provider's performance and terminate the Agreement, without liability to Hillrom, if at any time Hillrom determines in its sole discretion that Service Provider has violated any of the requirements of this [Article 4](#).

5. RECORDS

Service Provider shall maintain records as may be necessary to adequately reflect the accuracy of its charges to Hillrom, and maintain such other additional records as Hillrom may reasonably request. Service Provider shall preserve such records for a minimum of ten (10) years after the date the last payment is made by Hillrom to Service Provider. Hillrom and its Representatives shall have the right from time to time, upon reasonable notice to Service Provider, to audit, inspect and/or verify the records kept by Service Provider in connection with the Agreement.

6. TIMELY PERFORMANCE

Timely execution of all Services is essential to the performance of Service Provider's obligations hereunder. Service Provider's performance shall be strictly in accordance with the Agreement. Service Provider shall immediately notify Hillrom verbally, with written confirmation thereafter, of any anticipated or actual delay in Service Provider's performance. Service Provider shall, at Service Provider's expense, avoid or minimize the delay to the maximum extent possible by appropriate methods. In the event Service Provider fails to perform the Services within the time specified, Hillrom may, at its option, decline to accept such Services and/or terminate the Agreement.

7. TRAVEL EXPENSE QUALIFICATIONS

If the Agreement requires Hillrom to reimburse Service Provider or pay for Service Provider's reasonable travel expenses, in order to be qualified for reimbursement, (a) Service Provider must comply with Hillrom's travel policy, available at hillrom.com/content/dam/hillrom-aem/us/en/marketing/about/resources/supplier-requirements/Hillrom_Travel_Expense_Policy.pdf and (b) all travel by or on behalf of Service Provider must be pre-approved in writing by Hillrom.

8. REPRESENTATIONS, WARRANTIES AND COVENANTS

- Service Provider represents, warrants, and covenants that:
- 8.1 it has the right to enter into the Agreement, and has not made, and will not make, any contract or commitment contrary to the terms of the Agreement or in derogation of the Intellectual Property Rights acquired or to be acquired hereunder by Hillrom;
 - 8.2 all Services provided by Service Provider to Hillrom hereunder shall (a) be performed in a workmanlike manner, (b) conform to the highest standards of Service Provider's industry, and (c) comply fully with the requirements and specifications of the Agreement;
 - 8.3 it shall transfer and assign to Hillrom the benefit of any warranty or guarantees that Service Provider has received from any third party (whether under contract or by implication, operation of law or otherwise);
 - 8.4 it shall notify Hillrom within twenty-four (24) hours of the discovery of any defects in any materials, products or components of products supplied to Hillrom in connection with the performance of Services;
 - 8.5 as applicable, it has all required licenses and other approvals necessary to perform the Services, and each such license and approval is, and throughout the performance of the Services shall remain, in good standing;
 - 8.6 no materials, documents, information, software, Works, Derivative Works, products, articles, prototypes, deliverables, Inventions, or components thereof, provided by Service Provider or its Representatives to Hillrom or its Representatives, or used in the performance of the Services, shall infringe any Intellectual Property Right of any third party; and Hillrom and its Representatives may use and disclose any such items provided to them under the Agreement, without restriction for any purpose, including to make, develop, use, market, offer for sale, sell, and commercialize any product or service without restriction of any Intellectual Property Right of Service Provider or its Representatives, or any third party, that may cover such items;
 - 8.7 it shall comply with all applicable laws, rules, orders, and regulations of governmental authorities. In particular:

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- 8.7.1 It acknowledges that: (1) Hillrom is a federal prime contractor and/or subcontractor; and (2) as a vendor or supplier to Hillrom, it may be a federal subcontractor required to comply with applicable Executive Orders, laws, and regulations enforced by the U.S. Department of Labor, Office of Federal Contract Compliance Programs. **As a result, but only if applicable, it, along with Hillrom, shall abide by the requirements of 41 C.F.R. 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, and for inquiring about, discussing or disclosing compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status. The Executive Order 13496 Employee Notice Clause set forth in 29 C.F.R. Part 471 Appendix A to Subpart A is hereby incorporated by reference.**
- 8.7.2 To the extent the U.S. government is an end user of the Services, it shall abide by the prohibition on contracting for hardware, software, and services developed or provided by Kaspersky Lab and other covered entities set forth at 48 C.F.R. § 52.204-23, which regulation bars federal contractors and subcontractors from providing to the U.S. government any part, component, service or other product that contains any hardware, software or service that is developed, in whole or in part, or provided by (1) Kaspersky Lab, (2) any successor entity to Kaspersky Lab, (3) any entity that controls, is controlled by or under common control with Kaspersky Lab, or (4) any entity of which Kaspersky Lab has a majority ownership ((1)- (4) collectively, “Covered Articles”).
- 8.7.3 Service Provider shall not use any Covered Article in the development of data or deliverables for Hillrom. To the extent Service Provider identifies a Covered Article that is or has been provided to Hillrom, Supplier shall immediately and not later than twenty-four (24) hours from the date of identification or notification, report, in writing, to Hillrom at supplierquestions@hill-rom.com: Service Provider name, brand, model number, manufacturer part number, or wholesaler number, item description, and any readily available information about mitigation actions undertaken or recommended. Service Provider will provide additional information as required by the regulation and/or requested by Hillrom.
- 8.8 it shall conduct all employment and other activities related to the Agreement in compliance with the standards of integrity and human rights set out in Hillrom’s Global Policy Third Party Code of Conduct available to Service Provider at <https://www.hillrom.com/en/about-us/company-overview/ethics-and-compliance/> (“Hillrom Third Party Code of Conduct”) and the Ethical Trading Initiative Base Code, in particular, prohibitions on forced and child labor, excessive working hours, discrimination, harassment and other harsh or inhumane treatment, and their standards related to freedom of association and collective bargaining, safe and hygienic working conditions, and living wages. Service Provider agrees to hold its suppliers and other third parties to the same standards when performing its obligations under the Agreement, and to ensure that it has human rights policies and a means of raising complaints to address any breaches of such policies;
- 8.9 it acknowledges that Hillrom is a manufacturer of medical devices and is subject to regulation by the FDA, which requires strict control over the design, manufacture and service of medical devices and specifically includes requirements to manage the quality of vendors of goods and services incorporated into medical devices or otherwise related to their design, manufacture or service; and
- 8.10 if the Services are related to or provided in connection with a medical device manufactured or sold by Hillrom or its Representatives, or to be sold or manufactured by Hillrom or its Representatives, Service Provider shall meet any additional requirements as determined by Hillrom including compliance with the Hillrom Quality Requirements and Supplier Handbook, a copy of which has been previously provided to Service Provider (and Service Provider hereby acknowledges receipt of such Supplier Handbook), and updates or modifications of which shall be provided to Service Provider by Hill-Rom from time to time.
- 8.11 if, in the opinion of Hillrom, a recall, including, without limitation, a field modification, market withdrawal, stock retrieval or any other action designated by the FDA as a recall (each of the foregoing a “Recall Event”), is deemed necessary to protect public health and safety, and such Recall Event is alleged to arise from a defect in any portion of the Services or other breach of the representations and warranties in this Article 8, then Service Provider shall pay all costs associated with such Recall Event incurred by Hillrom and its distributors and customers; provided, however, that to the extent the Recall Event is attributable in part to other causes unrelated to defects in Services provided or Service Provider’s fault, then Service Provider’s liability may be apportioned pro rata if such apportionment can be ascertained with reasonable certainty by Hillrom.
- 8.12 **Acceptance; Rejection.** Notwithstanding any prior inspections, tests or payments made by Hillrom, all Services provided by Service Provider shall be subject to final inspection by Hillrom, and Hillrom shall not be deemed to have accepted any Services if Hillrom notifies Service Provider that Hillrom has rejected such Services within a reasonable time after delivery. For a period of one year from acceptance, any Services that are nonconforming as to quality in any manner or that are in any way not in conformity with the Agreement shall constitute a breach of the Agreement. In such event, Hillrom shall have the right to, at Hillrom’s option and at Service Provider’s risk and expense to: (a) reject the nonconforming Services and Service Provider shall reperform such Services or refund the purchase price thereof, (b) reject such deliverables or revoke acceptance, in whole or in part and return such nonconforming deliverables to Service Provider for replacement or refund of the purchase price, (c) accept such nonconforming Services or deliverables subject to an equitable price reduction, or (d) terminate the Agreement without prejudice to Hillrom’s rights to claim damages.
- 8.13 All of Service Provider’s representations and warranties set forth in the Agreement shall survive the termination of the Agreement and shall survive any inspection, acceptance or payment by Hillrom for, or with respect to, any Services and shall be enforceable by Hillrom, its successors and assigns, and shall not be deemed to be exclusive of any other remedy at law or in equity available to Hillrom, its successors and assigns. **NOTWITHSTANDING THE FOREGOING AND EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT, SERVICE PROVIDER MAKES NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.**
- ### 9 INTELLECTUAL PROPERTY
- 9.1 **Product Rights.** Notwithstanding anything to the contrary herein, or in any other confidentiality or non-disclosure agreement between the parties, and notwithstanding any Intellectual Property Right of Service Provider, Hillrom and its Representatives shall have the unfettered right to use, lease, rent, loan, license, sublicense, dispose of, disclose, offer for sale, sell, maintain, import, have imported, modify, disassemble, repair, deconstruct, test, analyze, reconstruct, transfer, assign, and make Derivative Works and new products and systems from, all materials, documents, information, software, Works, Derivative Works, products, articles, prototypes, deliverables, Inventions, and components thereof provided by Service Provider or its Representatives to Hillrom or its Representatives in connection with the Agreement. Service Provider covenants and warrants that it imposes no post-sale restrictions on Hillrom relative to any product, deliverable, or prototype, or component thereof, provided to Hillrom or its Representatives by Service Provider or its Representatives under the Agreement. Service Provider agrees that, notwithstanding any agreement to the contrary, all drawings, documents, deliverables, prototypes, information, and files Service Provider or its Representatives provides to Hillrom or its Representatives in conjunction with the Agreement, have no confidentiality restrictions on them relative to Hillrom and its Representatives, and that Hillrom and its Representatives have the unrestricted right to copy, display, distribute, and disclose the same, and to use and create Derivative Works therefrom, for any purpose.
- 9.2 **Inventions, Intellectual Property Rights, and Works.** By detailed written reports, Service Provider shall inform Hillrom promptly and fully of all Inventions and Intellectual Property Rights, whether patentable or not, made or conceived by Service Provider or its Representatives, either solely or jointly with others, in connection with the Agreement or Services provided thereunder, or in the course of any collaboration with Hillrom or its Representatives, as a result of receiving information or requests from Hillrom or its Representatives, or as a result of access to the facilities, resources or funding of Hillrom or its Representatives. Hillrom shall own all rights, title, and interest in and to all such Intellectual Property Rights and Inventions, whether patentable or not, and to each U.S. and foreign patent issuing from any patent application based thereon. Service Provider agrees that it and its Representatives shall assign, sell, transfer and convey to Hillrom, and hereby do assign, sell, transfer and convey to Hillrom, all of the rights, title, and interests in and to such Intellectual Property Rights and Inventions, all applications for U.S. and foreign letters patent covering such Intellectual

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Property Rights and Inventions, all U.S. and foreign letters Patent issuing therefrom, and all renewals thereof. Service Provider agrees that it and its Representatives will not practice, utilize, exploit, copy, disclose, or commercialize any such Intellectual Property Right or Invention, and that Hillrom shall have sole and exclusive ownership of the same. Hillrom shall have sole discretion to decide whether to prepare and file any U.S. or foreign patent applications covering any such Intellectual Property Right or Invention (“**Patent Applications**”). If Hillrom decides to prepare and file Patent Applications, then Hillrom shall pay all costs incurred in the preparation, filing, prosecution, and maintenance of such Patent Applications. At Hillrom’s request, Service Provider shall disclose to Hillrom or its counsel sufficient technical information concerning such Intellectual Property Rights and Inventions to enable Hillrom and its counsel to prepare, file, and prosecute Patent Applications covering the same. Service Provider shall assist Hillrom and its counsel in the preparation, filing, and prosecuting such Patent Applications. Service Provider shall execute, acknowledge, and deliver to Hillrom all documents required to prepare, file, prosecute, and maintain such Patent Applications and patents covering Inventions or Intellectual Property Rights, and shall execute, acknowledge, and deliver to Hillrom all documents necessary to confirm that Hillrom is the owner of all rights in and to each U.S. and foreign patent application and resulting patent.

9.3 **Works.** All Works, created by Service Provider or its Representatives, alone or with others, in the course of providing the Services, in connection with the Agreement, in the course of providing any Services to Hillrom or its Representatives, in the course of any collaboration with Hillrom or its Representatives, as a result of receiving information or requests from Hillrom or its Representatives, or as a result of access to the facilities, resources or funding of Hillrom or its Representatives, shall be, and shall remain, the sole and exclusive property of Hillrom. Each such Work is a “work made for hire” under the copyright law and Hillrom may file applications to register copyright in such Works as author and copyright owner thereof. If, for any reason, such a Work is excluded from the definition of a “work made for hire” under the copyright law, then each of Service Provider and its Representatives, shall assign, sell, transfer and convey to Hillrom, and hereby do assign, sell, transfer and convey to Hillrom, the entire rights, title, and interests in and to such excluded Work, including the copyright therein. Service Provider will ensure any documents that Hillrom deems necessary or appropriate in connection with the assignment of such excluded Work and copyright therein are executed. Service Provider will take whatever steps and do whatever acts Hillrom reasonably requests to secure or aid in securing and maintaining copyright protection in such Works, including, but not limited to, placement of Hillrom copyright notice on such Works, and will assist Hillrom and its Representatives in filing applications to register claims of copyright in such Works. Service Provider agrees that it and its Representatives will not reproduce, distribute, display publicly, or perform publicly, alone or in combination with any other work, any such Works and will not create any Derivative Work based upon such Works without the written permission from Hillrom to do so. At any time upon the request of Hillrom, Service Provider will deliver to Hillrom copies of all such Works then in possession or under control of Service Provider and its Representatives. Upon termination of the Agreement, Service Provider shall deliver to Hillrom all copies of such Works then in possession or control of Service Provider or its Representatives, provided, however, that Service Provider may retain a copy of any Work that does not include Hillrom Confidential Information and that is required for Service Provider’s standard business and accounting purposes. Hillrom and its Representatives shall have free and unlimited access at all times to such Intellectual Property Rights, Inventions, and Works, including the right to use and disclose the same, and to make, use, sell, offer for sale, exploit and commercialize products covered by the same.

9.4 **Trademarks.** Each party reserves the sole right to, and the sole control and use of, its own names, symbols, trademarks, and service marks presently existing or hereafter established, and nothing in the Agreement shall be construed as granting, by implication or estoppel or otherwise, any trademark right therein.

10 PUBLICITY; CONFIDENTIALITY

10.1 **Publicity.** Neither party shall issue a press release about the Agreement or otherwise use the other party’s name or its symbols, trademarks, or service marks in any public or marketing manner, without the express prior written consent of the other party, or unless required by law or as part of a legal proceeding related to the Agreement.

10.2 **Confidentiality Obligations.** During the term of the Agreement and thereafter, Service Provider agrees not to disclose any Confidential Information owned or possessed by Hillrom or its Affiliates, or accessed via Hillrom, its Affiliates, or their respective Representatives, to any third party, and not to use such Confidential Information except solely to the extent necessary for

performance under the Agreement. Notwithstanding the preceding sentence, Service Provider and its Affiliates may disclose such Confidential Information to their respective Representatives who: (a) have a need to know the Confidential Information in order to explore or facilitate current business and/or business discussions between the parties, (b) have work requiring such disclosure, and (c) have agreed to, or have a duty to, hold such Confidential Information in confidence in a manner consistent with the Agreement. Service Provider shall be responsible for its, its Affiliates’, and their respective Representatives’ compliance with the obligations of the Agreement. Service Provider shall have in place, and shall ensure its Affiliates have in place, agreements with all permitted Representatives, that bind and engage Representatives to comply with all of Service Provider’s and its Affiliates’ obligations hereunder, and all such agreements shall inure to the benefit of Hillrom.

10.3 **Exceptions.** The non-disclosure and non-use obligations of [Section 10.2](#) shall not apply to information that: (a) is now in or hereafter comes into the public domain without breach of the Agreement and through no fault of the Service Provider; (b) is rightfully in Service Provider’s possession free of any obligation of confidence or non-use at the time of communication thereof as documented by contemporaneous written records; or (c) is explicitly required by law to be disclosed, so long as Hillrom is provided prompt notice of such a requirement and an opportunity to seek a protective order. Information shall not be deemed to be within the foregoing exceptions if (x) such information is specific and merely embraced by more general information in the public domain or in Service Provider’s possession, or (y) such information constitutes a combination which can be reconstructed from multiple sources in the public domain or in the Service Provider’s possession, none of which shows the whole combination of the information included in the Confidential Information.

10.4 **Confidentiality or Non-Disclosure Agreements.** If the parties have entered into a separate confidentiality or non-disclosure agreement, the provisions of such agreement shall not be altered or amended by this [Article 10](#).

11 HILLROM PROPERTY

If Hillrom pays for or furnishes to Service Provider any designs, specifications, drawings or blueprints, tools or other property in connection with or used in this performance of the Agreement, (“**Hillrom Property**”), Hillrom shall own all right, title, and interest in and to such Hillrom property, and Service Provider shall (a) hold such Hillrom property in confidence, (b) mark such Hillrom Property in a manner that reflects that it belongs to Hillrom, (c) store such Hillrom Property apart from Service Provider’s other property, (d) not move the Hillrom Property to any location other than the site approved by Hillrom without the prior written consent of Hillrom; (e) not sell, lease, mortgage or otherwise encumber or dispose of any Hillrom Property; (f) be responsible for the risk of loss, repair or replacement, and for keeping the Hillrom Property in good working condition; and (g) return such Hillrom Property, at Service Provider’s expense, to Hillrom in good condition at Hillrom’s request or when the Hillrom Property is no longer used by Service Provider or upon the termination or completion of the Agreement. Service Provider will use the Hillrom Property exclusively for the benefit of Hillrom. Hillrom may, upon not less than one (1) day’s advance notice, enter into the premises of Service Provider during regular business hours and take possession of any or all of the Hillrom Property.

12 INSURANCE

Evidence of insurance shall be provided to Hillrom on certificate(s) of insurance before any products are delivered or Services are performed. Service Provider shall maintain Commercial General Liability insurance which includes products/completed operations liability, contractual liability, personal injury liability and broad form property damage coverage with limits of at least \$5,000,000 per occurrence combined single limit. Such limits may be satisfied by a combination of primary and umbrella/excess liability policies. Coverage must include worldwide coverage territory, including the U.S. and Canada and must name Hillrom as an additional insured. Service Provider shall maintain Workers Compensation insurance in the state in which the work is being performed and must evidence a limit of liability for Employers Liability of not less than \$1,000,000 per accident. Coverage shall include a waiver of subrogation in favor of Hillrom. If Service Provider brings vehicles onto Hillrom’s or Hillrom’s customers’ premises, Service Provider shall maintain insurance covering any owned, non-owned or hired vehicles with limits of at least \$1,000,000 per occurrence combined single limit bodily injury and property damage. If Service Provider is providing professional services (e.g., engineering, design, software/programming, etc.), Service Provider shall provide a Certificate of Insurance evidencing Professional Liability (Errors & Omissions) insurance for a limit of liability of not less than \$2,000,000 per loss. If applicable, Service Provider shall maintain Cyber

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Liability coverage with a limit of not less than \$5,000,000 per claim and in the aggregate. Such insurance shall include, without limitation, coverage for unauthorized access, denial of service attacks, breach of privacy and the failure to protect and disclosure of personally identifiable information, payment card information and health information; violation of any federal, state or local law or regulation in connection with the protection of information including fines and penalties to the extent allowed by applicable law; notification and crisis management costs, identity theft monitoring and regulatory defense; disclosure of any third party's proprietary information including, without limitation, trade secrets. All such insurance herein must include worldwide coverage territory. Insurance evidenced above shall be primary and not entitled to contribution from any insurance maintained by Hill-Rom Holdings, Inc. or any of its Affiliates. In the event Service Provider employs any subcontractors, Service Provider shall require that the subcontractors carry the same coverages in the same limits as set out in the Agreement.

13 INDEMNIFICATION; LIMITATION OF LIABILITY

13.1 Service Provider shall indemnify, defend, and hold harmless Hillrom, its Affiliates and their respective Representatives, from and against any and all claims, actions, damages, costs and losses, expenses (including reasonable legal costs and expenses) penalties, fines, obligations and liabilities of any kind, (collectively, "Losses") asserted by a third-party to the extent arising out of (a) any negligence, professional liability, error or omission, bad faith or willful misconduct of Service Provider or Service Provider's Representatives; (b) breach of any representation, warranty or covenant of Service Provider or Service Provider's Representatives; (c) violations of law by Service Provider or Service Provider's Representatives in the performance of the Agreement or while entering, being present at, or leaving Hillrom's or Hillrom customers' property; or (d) any infringement of Intellectual Property Rights relating to a Service.

13.2 Hillrom shall indemnify, defend, and hold harmless Service Provider and its Representatives from and against any and all Losses asserted by a third-party to the extent arising out of (a) any gross negligence, bad faith or willful misconduct of Hillrom or Hillrom's Representatives; or (b) violations of law by Hillrom or Hillrom's Representatives in the performance of the Agreement.

13.3 HOWEVER ARISING UNDER THIS AGREEMENT, HILLROM SHALL NOT BE LIABLE TO SERVICE PROVIDER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, WHETHER ARISING UNDER CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), RESULTING FROM HILLROM'S PERFORMANCE OR ANY FAILURE TO PERFORM HEREUNDER, INCLUDING, WITHOUT LIMITATION, LOSS OF ANTICIPATED PROFITS (WHETHER DIRECT OR INDIRECT), EVEN IF HILLROM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13.4 This [Article 13](#) shall survive the expiration or termination of the Agreement and shall survive any acceptance or payment by Hillrom for any Service.

14 CONFLICTS OF INTEREST

Neither Service Provider nor any Representative of Service Provider shall (a) pay any amount in any form to any Representative of Hillrom or any of his or her designees, or (b) favor any Representative of Hillrom, or any of his or her designees, with gifts or entertainment of significant cost or value, or with services or goods sold at less than full market value. Service Provider shall notify Hillrom immediately upon becoming aware of any other conflicts of interest that may exist from time to time between Service Provider, its Representatives or any of their respective Representatives, and Hillrom. If Hillrom becomes aware of any such conflict of interest, Hillrom may request that such employee of Service Provider or its Representative not be involved, directly or indirectly, in the work contemplated by this Agreement, and Service Provider shall honor such request.

15 COMPLIANCE REQUIREMENTS

15.1 Service Provider represents and warrants that Service Provider and its Representatives have not been excluded, debarred, or otherwise made ineligible to participate in any "Federal health care program" (as such term is defined at 42 U.S.C. § 1320a-7b(f)) or any Federal procurement or non-procurement program (the "Federal Programs"). Service Provider represents and warrants to Hillrom that Service Provider and its Representatives (a) are not currently excluded, debarred, or otherwise ineligible to participate in any Federal Programs; (b) have not been convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in any Federal Programs, and (c) are not under investigation or otherwise aware of any circumstances which may result in Service Provider being excluded from

participation in any Federal Programs. This shall be an ongoing representation and warranty, and Service Provider shall immediately notify Hillrom in writing of any change in the status of the representations and warranties set forth in this Article. Service Provider further agrees that any non-compliance with the obligations set forth in [Article 8](#) and [Article 15](#) will be considered a material breach and, as a consequence, will entitle Hillrom to immediately terminate the Agreement. In the event of such termination, Hillrom shall have no liability to Service Provider for any fees, reimbursements or other compensation under the Agreement, including for Services previously performed.

15.2 Service Provider acknowledges that Hillrom acts in the course of its business as a Covered Entity, or as a Business Associate to a Covered Entity as those terms are defined under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations at 45 CFR Parts 160 and 164 ("HIPAA Privacy and Security Regulations"). As such, Hillrom is subject to HIPAA, the HIPAA Privacy and Security Regulations, and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act") and its implementing regulations, and Hillrom may receive, access, use, or disclose Protected Health Information ("PHI") and/or electronic Protected Health Information ("ePHI") as those terms are defined at 45 C.F.R. § 160.103 (as such may be revised from time to time). Service Provider acknowledges and agrees that if Service Provider, its Representatives, should encounter, receive or otherwise obtain access to any PHI or ePHI, whether intentionally or inadvertently, arising from or in connection with the performance of the Agreement, such PHI or ePHI shall be treated as the Confidential Information of Hillrom and shall not be used, disclosed, copied, transmitted, or removed, either in hard copy or electronic form, from Hillrom's premises by Service Provider without the prior written consent of an officer of Hillrom. In the event the parties determine that Service Provider requires or needs access to PHI or ePHI to perform any of its obligations under the Agreement, Service Provider shall be deemed to be a Business Associate or subcontractor Business Associate of Hillrom, as applicable, and Service Provider shall execute a business associate agreement.

15.3 Service Provider represents and warrants that it has complies with and will continue to comply with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act, and that it has not made, offered, or authorized and will not make, offer, or authorize any payment, gift, promise or other benefit, whether directly or through any other person or entity, to any "government official" (*i.e.*, any official or employee of any government, or any department, agency, or instrumentality thereof, including any person employed by or acting on behalf of a public agency, government-controlled enterprise, or public international organization, or any political party, political official, or candidate for political office), health care professional, any immediate family member of a "government official" or health care professional (spouse, parent, child, sibling, sibling's spouse, or financial dependent), or any other person or organization for purposes of influencing official actions or decisions or securing any improper advantage in order to obtain or retain business. Except as otherwise disclosed in writing to Hillrom, as of the effective date of the Agreement and during the term thereof, no "government official" or immediate family member of a "government official" is or will become associated with, or presently owns or will own any interest in Service Provider. Service Provider has not received any notice, subpoena, demand or other communication (whether oral or written) from any governmental authority at any time in the last five (5) years regarding Service Provider's actual, alleged, possible, or potential violation of, or failure to comply with, any laws, regulations, or industry codes governing bribery, money laundering, or other corrupt practices or behavior.

15.4 Service Provider understands that work under this Agreement is subject to compliance with U.S. and any other applicable export laws, including but not limited to any local laws, the Export Administration Regulations ("EAR"), the anti-boycott and embargo regulations and guidelines issued under the EAR, the anti-boycott provisions of the IRC, the International Traffic in Arms Regulations ("ITAR"), and the various sanctions regulations and authorizations implemented by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). Service Provider agrees to abide by any restrictions or conditions respecting the export, re-export, or other transfer of the deliverables that are in effect now or are hereafter imposed by the U.S. government, and will not export, re-export, transfer or otherwise release, export, disclose, furnish or otherwise provide any article, technical data, technology, defense service, or technical assistance to any foreign person or entity, whether within the U.S. or abroad, without obtaining in advance any necessary export authorizations, licenses, or other approvals from applicable governmental authorities. Service Provider further agrees to determine whether it is, and represents that it is not, owned directly, indirectly, or in the

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aggregate fifty percent (50%) or more by Specially Designated Nationals (“SDN”) or parties designated on Sectoral Sanctions Identifications Lists (“SSI”) or Foreign Sanctions Evaders List (“FSE”) under Executive Orders of the President of the United States or the regulations of OFAC. Nothing in the Agreement is intended to amend, waive or supersede any of the requirements applicable to Service Provider under applicable export controls and economic sanctions laws.

- 15.5 Service Provider shall require any subcontractors or other persons or entities that provide services to Service Provider in connection with Service Provider’s obligations under the Agreement to agree to and abide by the representations and warranties in this [Article 15](#).
- 15.6 Periodically, as requested by Hillrom, Service Provider shall cause one of its authorized officers to execute and deliver to Hillrom a Certificate of Ethical Practices that confirms Service Provider’s continued compliance with the provisions of this [Article 15](#).
- 15.7 Service Provider shall promptly notify Hillrom of (a) the occurrence of any fact or event that would render any representation, warranty, covenant, or undertaking in this [Article 15](#) incorrect or misleading, (b) any notice, subpoena, demand or other communication (whether oral or written) from any governmental authority regarding Service Provider’s actual, alleged, possible or potential violation of, or failure to comply with, any laws or regulations governing bribery, money laundering, or other corrupt payments, or any export laws, (c) any governmental investigation, audit, suit, or proceeding (whether civil, criminal, or administrative) regarding Service Provider’s violation of, or failure to comply with, any such laws or regulations, and (d) any changes in its ownership structure that will cause it to be fifty percent (50%) or more owned by SDNs, SSIs or FSEs.
- 15.8 Service Provider shall cooperate fully with Hillrom in connection with the investigation of any allegation, event, fact or occurrence which calls into question Service Provider’s compliance with any representation, warranty, or covenant in this [Article 15](#). If requested by Hillrom, Service Provider shall (a) appoint an executive with sufficient seniority and authority to respond to requests from Hillrom, and (b) promptly furnish such records and information, and provide access to such of its employees, contractors and consultants, as may be reasonably requested by Hillrom in connection with any such investigation.
- 15.9 Periodically, as requested by Hillrom, Service Provider shall provide Hillrom the names of its employees and representatives who will interact with health care professionals and government officials on behalf of Hillrom, as well as certain other employees specified by Hillrom, and shall cause such employees to undertake compliance training in a form approved by Hillrom.
- 15.10 Service Provider shall designate a compliance officer to oversee and ensure Service Provider’s compliance with its obligations under this [Article 15](#). The compliance officer shall be of sufficient seniority, and shall be provided with sufficient resources, to fulfill his or her obligations under this [Article 15](#).

16 MISCELLANEOUS

- 16.1 [Assignment](#). This Agreement and the performance of any obligation hereunder shall not be assignable, delegated or otherwise transferred by Service Provider without the prior written consent of Hillrom, and any assignment or transfer in violation of this [Section 16.1](#) shall be null and void. The rights and obligations of Hillrom and Service Provider under the Agreement shall inure to the benefit of and shall be binding upon the successors and permitted assigns of each party.
- 16.2 [Governing Law](#). Any matters arising under or relating to the Agreement are governed and construed in accordance with the laws of Illinois, USA, without regard to any applicable conflicts of law. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 16.3 [Venue](#). If Service Provider is located in the U.S., each party (a) shall bring such actions and proceedings in a State court sitting in Cook County, Illinois or a Federal court for the Northern District of Illinois; and (b) submits to the jurisdiction any and all of the courts identified in (a), together with their respective appellate courts. If Service Provider is located outside of the U.S., (i) any dispute arising out of or relating to the Agreement, including the breach, termination or validity thereof, shall be finally resolved by arbitration in the English language, in accordance with the International Institute for Conflict Prevention & Resolution Rules for Non-Administered Arbitration currently in effect at the time of the dispute, (ii) each party shall designate one arbitrator and the sole responsibility of the party-designated arbitrators shall be to appoint a third, neutral arbitrator, (iii) such third arbitrator shall be the sole arbitrator of the dispute, (iv) the arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1 et seq., (v) the arbitrator shall follow [Article 16.2](#), and (vi) judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. The place of arbitration

shall be Chicago, Illinois. The foregoing is without prejudice to the right of Hillrom to (x) bring suit against Service Provider with the competent court where Service Provider has its registered office or place of business and (y) bring suit and seek relief at any court in connection with seeking injunctive relief. Each party waives any right to a jury trial and for a retrial in the local court when a local enforcement order is sought.

16.4 Audit.

- 16.4.1 Hillrom and its Representatives shall have the right, directly or through an independent agent, to conduct regular due diligence surveys and audits, at Hillrom’s own cost and expense, to verify Service Provider’s past and current compliance with [Articles 8 and 15](#) and the Hillrom Third Party Code of Conduct, and all applicable export controls and economic sanctions laws. Service Provider shall cooperate fully and respond in a timely manner to facilitate any such due diligence surveys or audits including making relevant documents and personnel available to Hillrom.
- 16.4.2 Additionally, if applicable, on an annual basis, Service Provider shall conduct, and provide Hillrom the results of, an audit conducted in accordance with the Statement on Standards for Attestation Engagements (SSAE) No. 18, Service Organization Control SOC* Type II Report audit or similar audits in respect of its operations over services provided to Hillrom. Service Provider shall also provide Hillrom written notice and detail of any deficiencies that Service Provider’s auditors (whether internal or external) found through the conduct of such audits and the remediation efforts that Service Provider shall undergo to rectify such deficiencies. If a SOC* Type II Report cannot be provided, then Hillrom shall have the right, at its own cost, to conduct an audit of the controls over the services provided by Service Provider. Such an audit shall be conducted during Service Provider’s normal business hours on dates mutually agreed to by the parties.
- 16.4.3 No restriction will be placed on the frequency with which Hillrom may conduct audits in the event of (a) audits required by governmental or regulatory authorities, (b) claims of misappropriation, fraud, or business irregularities of a potentially criminal nature, or (c) if Hillrom reasonably believes that an audit is necessary to address a material operational problem or issue that poses a threat to Hillrom’s business.
- 16.5 [Third Party Beneficiaries](#). Hillrom’s Affiliates (each a “Beneficiary”) shall be third party beneficiaries under the Agreement to the extent the Services provided under the Agreement impact a Beneficiary and any such Beneficiary shall have the right to enforce the Agreement as if it were a party hereto. Except as set forth in the preceding sentence, no person, other than the parties and such Beneficiaries, has any rights or remedies under the Agreement. The parties reserve the right to amend or terminate the Agreement without the consent of the any Beneficiaries.
- 16.6 [Amendments](#). No amendments or changes to or rescission of the Agreement are effective or binding unless executed in writing by both parties.
- 16.7 [Severability](#). In the event that any clause of the Agreement shall be found by a court of competent jurisdiction to be void or unenforceable, such findings shall not be construed to render any other clause of the Agreement either void or unenforceable, and all other clauses shall remain in full force and effect.
- 16.8 [Survival of Covenants](#). Any provision of the Agreement that contemplates performance or observance subsequent to any termination or expiration of the Agreement shall survive the termination or expiration of the Agreement.
- 16.9 [Independent Contractor](#). For purposes of the Agreement, Service Provider is an independent contractor and nothing in the Agreement shall create, or be construed to create, any agency, partnership, joint venture or other form of joint enterprise between Service Provider and Hillrom.
- 16.10 [Notices](#). All notices, requests, or demands that are required or may be given hereunder will be in writing and sent by mail, overnight courier or facsimile to Service Provider at the address indicated in the Purchase Order, or to Hillrom at the address indicated in the Purchase Order, with a copy, which will not constitute notice, to Hillrom c/o Baxter Healthcare Corporation., One Baxter Parkway, Deerfield, IL 60015 Attn: General Counsel, or to such other address as one party may later specify to the other party in writing. Delivery of any such notices will be deemed sufficient in all respects and to have been duly given: (a) on the third day after mailing if mailed by first class mail return receipt requested, postage prepaid and properly addressed as set forth in this [Article 16.10](#); (b) on the next Business Day if transmitted by nationally recognized overnight courier service (with confirmation of delivery); or (c) at the time of receipt of confirmation of transmission if by facsimile.
- 16.11 [Waiver](#). Either party’s failure to enforce any of the provisions of the Agreement or to exercise any election or option provided, or to require

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performance by the other party, shall not be construed to be a waiver of such provisions and shall not affect the right of such party thereafter to enforce any provision. The waiver by a party of any of its remedies for a breach by the other party of the Agreement is without prejudice and shall not operate to waive any other remedies that the non-breaching party shall have available to it at law or in equity, nor shall any such waiver operate to waive the non-breaching party's rights to any remedies for a future breach.

17 DEFINITIONS

In addition to the terms defined elsewhere in the Agreement, the following terms shall have the following meanings:

"Affiliate" means a corporation, firm, partnership, proprietorship, or other legally recognizable form of business entity that controls, is controlled by, or under common control with another legally recognizable form of business entity, but only for so long as such control exists. For purposes of the foregoing definition, **"control"** means the ability to direct the affairs of a legally recognizable form of business entity, whether through ownership of at least a majority interest in such entity or by contract.

"Business Day" means a day other than Saturday, Sunday or any day on which banks located in the state of the party to whom notice is being given are authorized or obligated to close.

"Confidential Information" means ideas, concepts, data, technology, techniques, equipment, software, prototypes, drawings, files, notes, documents, and/or other information which is considered to be proprietary, non-public, and/or confidential. Confidential Information may be in any form, including written, recorded, electronic, displayed, presented, or oral information, as well as products, samples or prototypes.

"Derivative Works" means Works that are based upon one or more pre-existing works, information, or material, such as: (a) for copyrightable or copyrighted material, any translation, software portation, modification, correction, addition, extension, upgrade, improvement, compilation, abridgment, revision or other form in which such material may be recast, transformed, or adapted; (b) for patentable or patented material, any improvement thereon; and (c) for material that is protected by trade secret, any new material derived from such existing trade secret material, including new material that may be protected by any copyright, patent, and trade secret.

"FDA" means the U.S. Food and Drug Administration and any other organization, whether inside or outside of the U.S., that is responsible for health and safety of clinicians and patients, or for regulatory compliance.

"Hillrom" means the Hillrom Affiliate specified on the Purchase Order.

"include", **"includes"** and **"including"**, whether or not capitalized, shall not be construed as terms of limitation and shall introduce a non-exclusive set of examples.

"Intellectual Property Right" means any right relating to patents, trademarks, trade names, service marks, service names, brand names, Inventions, processes, formulae, copyrights, circuit layouts, Works, Derivative Works, business and product names, logos, slogans, trade secrets, industrial models, designs, computer programs and software (including all source codes) and related documentation, drawings, know-how, methods, processes, technology, specifications, procedures, bills of material and any other intangible property right.

"Inventions" means discoveries, concepts, inventions, creations, prototypes, improvements, and ideas, whether patentable or not, whether or not reduced to practice, and whether or not in the form of apparatuses, systems, devices, processes, methods, compositions of matter, techniques, formulae, know-how, or other form.

"Representatives" means all directors, officers, employees, agents, legal representatives, and subcontractors of a party or any of its Affiliates.

"Services" means the services identified in the Purchase Order or the Agreement, if any.

"Service Provider" means the Service Provider entity specified on the Purchase Order.

"State" means one of the fifty (50) states comprising the U.S.

"Works" means works of authorship fixed in any tangible medium of expression, including, but not limited to, notes, specifications, drawings, blueprints, circuits, memoranda, correspondence, records, notebooks, databases, charts, schematics, artwork, tooling design drawings, documents, files, and similar repositories of information, regardless of the medium in which it is fixed.