



North Carolina Department of Health and Human Services
Division of Health Service Regulation
Certificate of Need Section

2704 Mail Service Center • Raleigh, North Carolina 27699-2704
<http://www.ncdhhs.gov/dhsr/>

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Phone: (919) 855-3873
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April 25, 2012

W.D. Lease, Jr., Vice President
Clinical Support Services
Lenoir Memorial Hospital
Post Office Box 1678
Kinston, NC 28503-1678

RE: Exempt from Review - Replacement Equipment / Lenoir Memorial Hospital / Replace Cardiac Catheterization Laboratory Equipment / Lenoir County

Dear Mr. Lease:

In response to your letter of April 4, 2012, the above referenced proposal is exempt from certificate of need review in accordance with N.C.G.S 131E-184(a)(7). Therefore, you may proceed to acquire, without a certificate of need, one cardiac catheterization laboratory equipment unit to replace the existing cardiac catheterization laboratory equipment unit. This determination is based on your representations that the existing unit will be removed from North Carolina and will not be used again in the State and will no longer be exempt from certificate of need law. Further please be advised that as soon as the replacement equipment is acquired, you must provide the CON Section with the serial number of the new equipment.

It should be noted that this Agency's position is based solely on the facts represented by you and that any change in facts as represented would require further consideration by this Agency and a separate determination. If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

Handwritten signature of Jane Rhoe-Jones in black ink.

Jane Rhoe-Jones, Project Analyst

Handwritten signature of Craig R. Smith in black ink.

Craig R. Smith, Chief
Certificate of Need Section





April 4, 2012

Ms. Jane Rhoe-Jones
Project Analyst, Certificate of Need Section
Division of Health Service Regulation
North Carolina Department of Health & Human Services
2704 Mail Service Center
Raleigh, North Carolina 27696-2704

Re: Letter of Intent for the Acquisition of Replacement Cath Lab Equipment
Lenoir Memorial Hospital/Lenoir County/FID#933304

Dear Ms. Rhoe-Jones:

Lenoir Memorial Hospital ("Hospital") plans to replace its existing Siemens Medical Multistar Top cath lab S/N 1203 ("Existing Equipment") with a Siemens Medical Artis zee floor EXCEL Edition cath lab ("Replacement Equipment"). The purpose of this letter is to request a determination that such replacement is exempt from Certificate of Need ("CON") review under the replacement equipment exemption provisions contained in N.C.G.S. 131E-184(a)(7).

The Hospital has worked with Siemens Medical over the past several months to examine installation options and develop the most appropriate room design to support the Replacement Equipment. Accordingly, estimated total project costs are based on specific design elements. Replacement Equipment acquisition is now pending.

As background, the Existing Equipment is currently located in the radiology department. Given that current licensure and building code requirements mandate physical space for installation greater than that which is available in this location, the Replacement Equipment will be located in an existing general use operating room. Initial design indicates that licensure and building code requirements will be met to ensure that this reconfigured space conforms to requirements for both an operating room and cath lab. Installation in this proximate location supports operational efficiency and minimizes total project cost.

The General Assembly has chosen to exempt certain, otherwise reviewable, events from CON review. Among these exemptions is the provision of replacement equipment, which is defined in the CON law as:

Ms. Jane Rhoe-Jones

April 4, 2012

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“Replacement equipment” means equipment that costs less than two million dollars (\$2,000,000) and is purchased for the sole purpose of replacing comparable medical equipment currently in use which will be sold or otherwise disposed of when replaced. In determining whether the replacement equipment costs less than two million dollars (\$2,000,000), the costs of equipment, studies, surveys, designs, plans, working drawings, specifications, construction, installation, and other activities essential to acquiring and making operational the replacement equipment shall be included.

See N.C.G.S. 131E-176(22a). To qualify for this exemption, the replacement equipment must: (1) cost less than \$2,000,000; (2) be “comparable” to the equipment it replaces; and (3) be “sold or otherwise disposed of when replaced.” Our proposed project qualifies for this exemption, as discussed below.

A. Cost of Replacement Equipment

The total capital cost of acquiring and installing the Replacement Equipment is estimated to be \$1,462,334 (“Total Cost”), which is below the \$2,000,000 threshold. The components of this Total Cost include \$742,146 for the Replacement Equipment (see enclosed equipment specifications and quotation) and \$720,188 for construction and other applicable costs (see enclosed certified project cost estimate).

B. Comparable Equipment

The CON rule codified as 10A NCAC 14C .0303 (the “Rule”) defines “comparable medical equipment” as follows:

“Comparable medical equipment” means equipment which is functionally similar and which is used for the same diagnostic or treatment purposes.

See 10A NCAC 14C. 0303(c). The Hospital intends to use the Replacement Equipment for substantially the same diagnostic and interventional procedures for which it has used the Existing Equipment. Installed in 1997, the Existing Equipment was acquired at a total project cost of \$1,119,189. Although it possesses expanded capabilities due to technological improvements in cath lab equipment since 1997, the Replacement Equipment is capable of performing the same general range of procedures as the Existing Equipment (see enclosed equipment comparison spreadsheet).

The Replacement Equipment is therefore “comparable medical equipment” as defined in Subsection (c) of the Rule. Subsection (d) of the Rule further provides:

Ms. Jane Rhoe-Jones
April 4, 2012
Page 3

Replacement equipment is *comparable* to the equipment being replaced if:

- (1) it has the same technology as the equipment currently in use, although it may possess expanded capabilities due to technological improvements; and
- (2) it is functionally similar and is used for the same diagnostic or treatment purposes as the equipment currently in use and is not used to provide a new health service; and
- (3) the acquisition of the equipment does not result in more than a 10% increase in patient charges or per procedure operating expenses within the first twelve months after the replacement equipment is acquired.

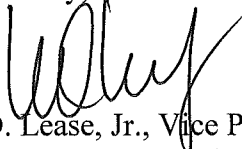
See 10A NCAC 14C. 0303(d). The Replacement Equipment will meet all three of these tests. The Replacement Equipment satisfies the technology and functionality tests in Subsection (1) and (2) as discussed above. Further, the Hospital represents that the use of the Replacement Equipment will not result in the types of expense or charge increases described in Subsection (d)(3) of the Rule.

C. Disposition of the Existing Equipment

As part of the proposal to acquire the Replacement Equipment, Siemens Medical will de-install and dispose of the Existing Equipment.

Based on the foregoing information, we request that the Agency provide a written response, confirming that the acquisition of the Replacement Equipment, as described herein, is exempt from CON review. If you require further information, please let me know. Thank you for your assistance.

Yours truly,



W. D. Lease, Jr., Vice President
Clinical Support Services

Enclosures

cc: Jim Cullen, Director, Engineering Services, Lenoir Memorial Hospital



March 15, 2012

Mr. Jim Cullen
Director of Engineering
Lenoir Memorial Hospital
100 Airport Road
Kinston, NC 28501

Re: Catherization Lab Relocation (Opinion of Probable Construction Costs)

Dear Mr. Cullen,

As you are aware, we are in the design stage for the relocation of the Catherization Lab to the Day Surgery building.

In an effort to develop a construction cost estimate, The East Group reviewed the layout that has been developed during the design phase. Additionally we compared the scope of this project to the actual construction costs of similar projects (CT #1 Renovation and X-Ray room #3 Renovation) at your facility. The East Group participated in the design of those projects. We would expect similar building materials and shielding to be used in this project.

Based upon the scope of services as defined at this point in the process, and using historical costs at the facility, the estimated construction costs would be \$1,462,344.00.

I have attached the breakdown that was used to develop the Probable Construction Cost.

Please call me if you have any questions.

Sincerely,
The East Group, PA

Dan Kauffman
Project Manager
E-mail: dan.kauffman@eastgroup.com
Office: (252) 758-3746
Cell: (252) 347-9630
Fax: (252) 830-3954

Attachment: Breakdown of Probable Construction Cost; Sketch

cc: Keith House, The East Group

Corporate Office

324 Evans St
Greenville
NC 27858
Tel 252.758.3746
Fax 252.830.3954

Raleigh Office

2300 Rexwoods Dr
Suite 300
Raleigh
NC 27607

Tel 919.784.9330
Fax 919.784.9331

www.eastgroup.com

ENGINEERING
—

ARCHITECTURE
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SURVEYING
—

TECHNOLOGY
—

Cath Lab Relocation

Probable Construction Cost

Item No.	Item Description	Factor % of estimated cost	Estimated Cost	Comments
A	Probable Construction Cost		\$501,000	
B	Scope Contingency	15%	\$75,150	
C	Total Construction Cost		\$576,150	**
D	Fixed Equipment	% of "C"	\$742,146	
E	Professional A/E Fees	10%	\$57,615	
F	Construction Contingency	15%	\$86,423	
G	Soft Cost (D-F)		\$886,184	
H	Total Project Cost		\$1,462,334	

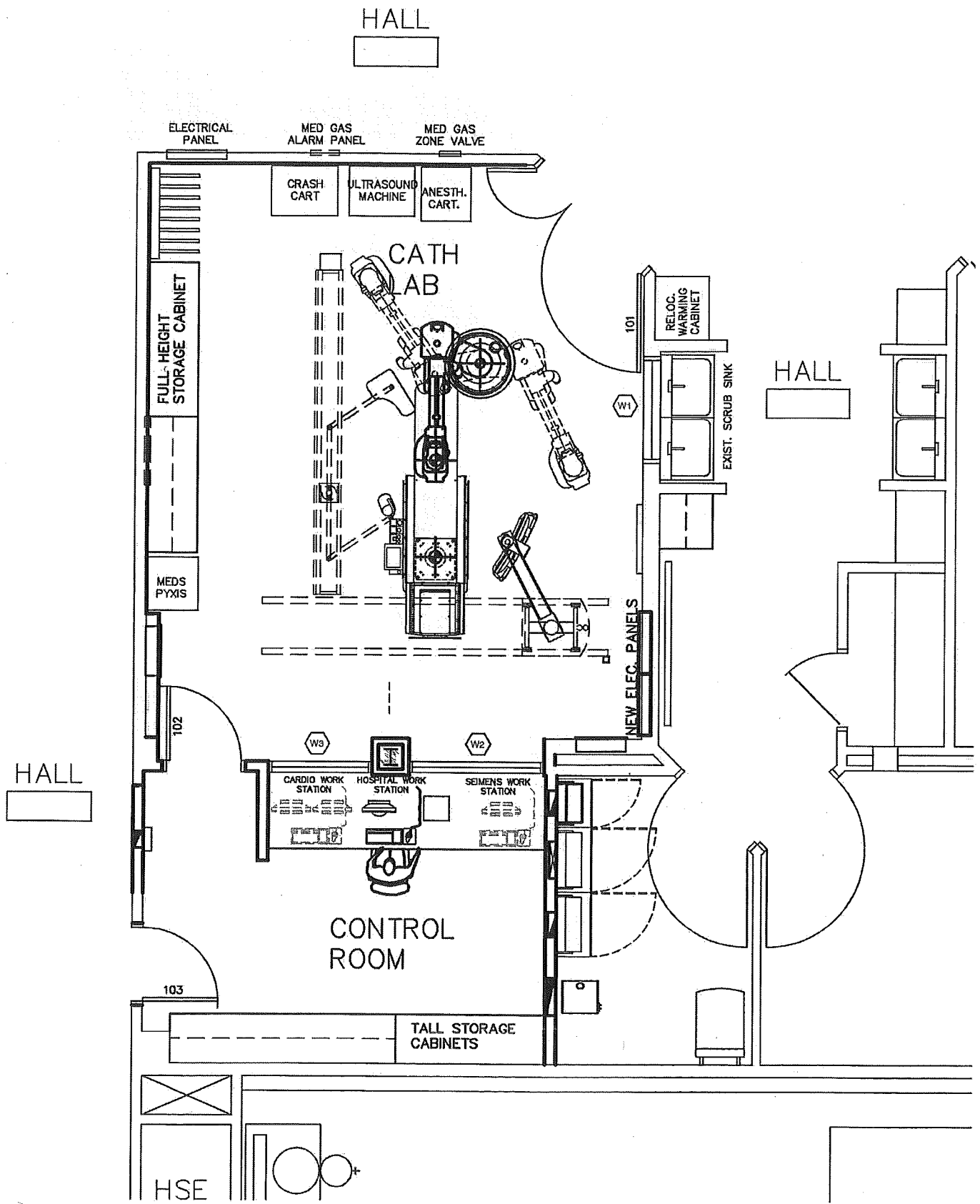
** Square Foot cost indicated on in Breakdown of Probable Construction Cost.

Cath Lab Relocation

Probable Construction Cost

Item No.	Item Description	Area/quantity	Unit	Cost per unit	Estimated Cost	Comments
	Interior Construction Cost	780	EA	450	\$351,000	*
	Ancillary Services to support installation	1	EA	150,000	\$150,000	
	Total Project Cost				\$501,000	

* Square Foot Cost based on previous projects



1 CATH LAB FLOOR PLAN
 3/16" = 1'-0"

EQUIPMENT COMPARISON

	Existing Equipment	Replacement Equipment
Type of Equipment (List Each Component)	Cardiology/Interventional System	Cardiology/Interventional System
Manufacturer of Equipment	Siemens	Siemens
Telsa Rating for MRI's	N/A	N/A
Model Number	Multistar Top	Artis Zee Floor
Serial Number	1203	N/A
Provider's Method of Identifying Equipment	Manufacturer Specifications	Manufacturer Specifications
Specify if Mobile or Fixed	Fixed	Fixed
Mobile Trailer Serial Number/VIN #	N/A	N/A
Mobile Tractor Serial Number/ VIN #	N/A	N/A
Date of Acquisition of Each Component	4/1/1997	To be purchased
Does Provider Hold Title to Equipment or Have a Capital Lease?	Hold Title	Would Hold Title
Specify if Equipment was/Is New or Used When Acquired	New	New
Total Capital Cost of Project (Including Construction, etc.)	\$1,119,189	\$1,462,334
Total Cost of Equipment	\$902,512	\$742,146
Fair Market Value of Equipment	N/A	\$742,146
Net Purchase Price of Equipment	N/A	\$742,146
Locations Where Operated	Kinston, NC	Kinston, NC
Number of Days in Use. To Be Used in N.C. Per Year	365	365
Percent of Change in Patient Charges (by Procedure)	N/A	Less than 10%
Percent of Change in Per Procedure Operating Expenses (by Procedure)	N/A	Less than 10%
Type of Procedures Currently Performed on Existing Equipment	Diagnostic Cardiac Cath/Angioplasty	N/A
Type of Procedures New Equipment is Capable of Performing	N/A	Diagnostic Cardiac Cath/Angioplasty

SIEMENS

Siemens Medical Solutions USA, Inc.
51 Valley Stream Parkway, Malvern, PA 19355
Fax: (866) 309-6967

SIEMENS REPRESENTATIVE
Stephen Argo - (336) 210-6178

Customer Number: 0000007457

Date: 10/25/2011

LENOIR MEMORIAL HOSPITAL
100 AIRPORT RD
KINSTON, NC 28501

Siemens Medical Solutions USA, Inc. is pleased to submit the following quotation for the products and services described herein at the stated prices and terms, subject to your acceptance of the terms and conditions on the face and back hereof, and on any attachment hereto.

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Proposal valid until 12/09/2011

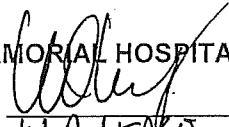
This offer only valid if a POS Service agreement is signed.

Accepted and Agreed to by:

Siemens Medical Solutions USA, Inc.

By (sign): _____
Name: Stephen Argo
Title: Account Executive
Date: _____

LENOIR MEMORIAL HOSPITAL

By (sign): 
Name: W.D. LEASE, JR.
Title: VP, CLINICAL SUPPORT SERVICES
Date: 11/1/11

All pages of the signed proposal must be returned to Siemens to process the order - Thank you.

SIEMENS

Siemens Medical Solutions USA, Inc.
51 Valley Stream Parkway, Malvern, PA 19355
Fax: (866) 309-6967

SIEMENS REPRESENTATIVE
Stephen Argo - (336) 210-6178

Quote Nr: 1-345SYG Rev. 0

Terms of Payment: 00% Down, 80% Delivery, 20% Installation
Free On Board: Destination

Purchasing Agreement: NOVATION (UHC, VHA, Provista)

NOVATION (UHC, VHA, Provista) terms and conditions apply to Quote Nr 1-345SYG

Artis zee floor - EXCEL Edition

All items listed below are included for this system:

Qty	Part No.	Item Description
1	14417074	Combo Cardiology/Interv. Radiology X-ray angiography system for primary clinical use in interventional cardiology as well as interventional radiology, including application-specific accessories.
1	14427042	Artis zee floor - EXCEL Edition Artis zee floor - EXCEL Edition. Universal floor-mounted C-arm angiography system with a high-resolution flat detector. The motorized rotation of the floor stand into the lateral position enables complete patient access at the head end and generous patient coverage. The powerful 100 kW generator and MEGALIX Cat Plus X-ray tube with its new flat emitter technology are the prerequisites for excellent image quality. The CLEAR functionality to optimize the image impression, the CARE package to reduce radiation exposure, and DICOM standards are all included. The system has been prepared for Siemens Remote Service. The Artis zee floor system EXCEL Edition can only be upgraded 18 months after installation.
1	14417020	Sys SW incl cardiac acquisition Imaging system software including cardiac acquisition with frame rates of 7.5, 10, 15, and 30 f/s. Acquisition, display, and storage in 1k/12-bit matrix.
1	14417116	DSA / DR (1) Digital acquisition technology and digital subtraction angiography in matrix 1k, for Artis zee monoplane systems.
1	14409413	Detector 30X40 incl.Compnts.(F) High-resolution, dynamic flat detector for fully digital imaging chain, with integrated, removable grid. CAREwatch measuring chamber for detection of the dose-area product. MEGALIX 3-focus high-performance X-ray tube assembly, rotatable angio collimator including CAREfilter, and integrated collision protection.
1	14407239	Table with Tilt Floor-mounted swiveling patient table with telescopic foot, floating and tiltable tabletop; motor-driven stepping for digital peripheral angiography. Table control module, power-assisted.
1	14402094	table top (narrow) / mattress (thin) Carbon fiber patient positioning tabletop narrow including special-foam mattress. Mattress including cover.
1	14402009	Foot Switch Monopl. (Cable) For release of fluoroscopy, exposure and table brake as well as a configurable additional function. Cable connection.
1	14407154	DCS 4 DVI 2xBWD-19(Live+Ref+2xPrep) Display suspension system for four (4) flat-screen displays in two rows. Two (2) monochrome 19" flat-screen displays with blue background color. Prepared for two additional displays.
1	14417060	ACE Cable Set in Equipm.Room Image system interface to the displays in the control room if the image system is installed in the equipment room.

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Qty	Part No.	Item Description
1	14407166	C-Room DVI 1xBWD-19 (Live) -36m One monochrome 19" flat-screen display with blue background color.
1	14409462	ECG Interface (1) Recording, storage and display of an ECG lead. Displayed together with the image information on a single monitor.
1	04435850	Vessel analysis Vessel analysis with determination of degree of stenosis, distance measurement and calibration.
1	14411163	Fluoro Loop (1) Storage and review of dynamic fluoroscopic sequences (Fluoro Loop). The maximum storable fluoroscopy time depends on the selected pulse rate, e.g. 17 s at 30 p/s, 34 s at 15 p/s.
1	04435801	Automap Automatic stand positioning depending on the selected reference image and automatic reference image selection depending on the stand positioning.
1	04443516	MULTISPACE.F Manual stand rotation for additional work positions.
1	04435926	DICOM HIS / RIS Import of patient/examination data from an external RIS/HIS patient management system with DICOM MWL (Modality Worklist).
1	14417134	LB rad. protection w/ pivot arm For shielding the lower body against scattered radiation within the examiner's moving range. Specially designed for avoiding collisions with the tube during oblique projections, therefore especially suited for cardiology.
1	14401912	Upper Body Rad. Protection Artis-F To protect the upper body against scattered radiation within the operating range of the examiner, e.g. during interventional procedures.
1	04443383	Examination lamp, 115 V Ceiling-mounted examination lamp, flexibly adjustable towards the user, for diagnostics and minor surgery.
1	14407176	syngo Keyboard, English - US Keyboard with special syngo keys.
1	04453739	I.V. Pole Stainless steel infusion bottle holder with handle bar and 4 retaining rings. For mounting to the accessory rail.
1	04451022	Customer documentation, English
1	04499104	Pre-install Artis-F (mono)
1	04499138	Pre-install Artis table, std
1	AXA_INITIAL_3 2	Initial onsite training 32 hrs
1	AXA_INT_BAS _CLS	Artis Class
1	AXA_FOLLOW UP_8	Follow-up training 8 hrs
1	EPW9390160U PS	Eaton Powerware 9390 160 kVA UPS Includes UPS, battery, maintenance bypass panel, and one year on-site parts and labor coverage (24x7) by Eaton Powerware. This product has been tested and verified for compatibility with the following Siemens' products: Artis Zee. Complete system backup without interruption. One UPS per lab.
1	NT60010635	Blue anti-fatigue floor mat for hospital
1	O4RIDGESPLU S	PERI BOLUS KIT
1	AXA_RIG_ZEE SP_STD	Standard Rigging zee SP

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Qty	Part No.	Item Description
1	AXA_BUDG_A DDL_RIG	De-installation and Scrapping of Multistar system \$ 11,004.20/OOS \$4,000 Total of \$15,004.20
1	AXA_TRADE_I N_ALLOW	AXA Trade-in-Allowance Siemens Multistar D Serial# 1203 Project# 2011-1590 Valid until 2/10/2012 at \$0

System Total: \$689,750

OPTIONS:

Qty	Part No.	Item Description	Extended Price	Initial to Accept
1	14407252	Interface for C-Room Operation(MA) Interface for connecting the optional system control from the control room.	+ \$3,332	X <u>Wey</u>
1	14409254	C-Room Table Support Short Rail profile for hanging control modules (e.g. the table module) in the control room.	+ \$437	X <u>Wey</u>
1	14409444	Control room emerg. stop module Safety button for switching off all system functions from the control room.	+ \$1,700	X <u>Wey</u>
1	04443433	Handswitch Additional hand switch for radiation release and additional control functions.	+ \$544	X _____
1	04443615	Control Room Injector Interface Interface for controlling the contrast medium injector from the control room.	+ \$748	X _____
2	14409399	1 add. col. display DCS (DVI) One additional 19" color display for installation in display ceiling suspension (DCS). LCD color flatscreen display with high luminance and extended field of view.	+ \$18,768	X _____
1	14404984	PERISTEPPING / PERIVISION Peripheral digital angiography with stepping and online subtraction display.	+ \$28,628	X _____

FINANCING: The equipment listed above may be financed through Siemens. Ask us about our full range of financial products that can be tailored to meet your business and cash flow requirements. For further information, please contact your local Sales Representative.

ACCESSORIES: Don't forget to ask us about our line of OEM imaging accessories to complete your purchase. All accessories can be purchased or financed as part of this order. To purchase accessories directly or to receive our accessories catalog, please call us directly at 1-888-222-9944 ext. 7 or contact your local Sales Representative.

COMPLIANCE: Compliance with legal and internal regulations is an integral part of all business processes at Siemens. Possible infringements can be reported to our Helpdesk "Tell us" function at www.siemens.com/tell-us.

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51 Valley Stream Parkway, Malvern, PA 19355
Fax: (866) 309-6967

SIEMENS REPRESENTATIVE
Stephen Argo - (336) 210-6178

Siemens Medical Solutions USA, Inc. General Terms and Conditions

1. GENERAL

1.1 Contract Terms. These terms and conditions constitute an integral part of any contract between the Seller identified on the first page hereof to sell products ("Products") and Purchaser and shall govern the sale of the Products. Seller shall not be bound by, and specifically objects to, any terms, conditions or other provisions which are different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) which is proffered by Purchaser in any purchase order, receipt, acceptance, confirmation, correspondence or otherwise (even if provided to Seller concurrently with this Agreement), unless Seller specifically agrees to any such provision in a writing signed by Seller. Neither Seller's lack of objection to any such terms, nor delivery of the Products or provision of any services hereunder, shall constitute the agreement of Seller to any such terms. Purchaser acknowledges that this is a commercial and not a consumer transaction.

1.2 Acceptance. Purchaser shall be deemed to have assented to, and waived any objection to, this Agreement upon the earliest to occur of any of the following: Purchaser's completion or execution of this Agreement; Purchaser's acceptance of all or any part of the Products subject to this Agreement; Purchaser's issuance of a purchase order for any Products identified on Seller's quotation or proposal; or delivery of the Products to the common carrier for shipment pursuant hereto.

1.3 Refurbished/Used Products. For Products identified on the Agreement as used or refurbished Products, these Products have been previously owned and used. When delivered to Purchaser, the Products may have received mechanical, electrical and/or cosmetic reconditioning, as needed, and will comply with the manufacturer's specifications. Since pre-owned Products may be offered simultaneously to several customers, the sale of such Products to Purchaser cannot be guaranteed and is subject to continuing availability at the time Purchaser accepts Seller's offer to sell the Products. If the Products are no longer available, Seller will use its best efforts to identify other products in its inventory that may be suitable for purchase by Purchaser, and if substitute products are not acceptable to Purchaser, then Seller will cancel the order and refund to Purchaser any deposits previously paid. The warranty period for any used or refurbished Products will be separately stated on the quotation.

1.4 Third Party Products. If this Agreement includes the sale of third party products not manufactured by Seller, then Purchaser agrees and acknowledges that (a) Purchaser has made the selection of these products on its own, (b) the products are being acquired by Seller solely at the request of and for the benefit of Purchaser, in order to eliminate the need for Purchaser to issue a separate purchase order to the manufacturer of the products, (c) no representation, warranty or guarantee has been made by Seller with respect to the products, (d) the obligation of Purchaser to pay Seller for the products is absolute and unconditional, (f) Purchaser will assert no claim whatsoever against the Seller with respect to the products, and will look solely to the manufacturer regarding any such claims, (g) Purchaser will indemnify and hold Seller harmless from and against any and all claims, regardless of the form of action, related to, resulting from or caused by the products or any work or service provided by the manufacturer of the products or any other party, (h) use of the products may be subject to the Purchaser's agreement to comply with any software licensing terms imposed by the manufacturer, as well as any applicable laws, rule and regulations; and (i) the manufacturer, and not Seller, is solely responsible for any required installation, testing, validation, tracking, product recall, warranty service, maintenance, support, and complaint handling, as well as any other applicable FDA regulatory requirements.

2. PRICES

2.1 Quotations. Unless otherwise agreed to in writing or set forth in the quotation, all prices quoted by Seller are based on U.S. dollars, and include standard and customary packaging. F.O.B. terms are set forth in Section 6.2 hereof. Domestic prices apply only to purchasers located in, and who will use the Products in, the U.S. International prices apply to all purchasers located outside of, or who will use or ship or facilitate shipment of the Products outside of, the U.S. Unless otherwise stated, the quotation shall only be valid for forty-five (45) days from the date of the quotation.

2.2 Delay in Acceptance of Delivery. Should the agreed delivery date be postponed by Purchaser, Seller shall have the right to deliver to storage at Purchaser's risk and expense, and payments due upon delivery shall become due when Seller is ready to deliver.

2.3 Escalation. Unless otherwise agreed to in writing, except as to goods to be delivered within six (6) months of Seller's acceptance of Purchaser's order, Seller reserves the right to increase its prices to those in effect at the time of shipment.

3. TAXES

3.1 Any sales, use or manufacturer's tax which may be imposed upon the sale or use of Products, or any property tax levied after readiness to ship, or any excise tax, license or similar fee required under this transaction, shall be in addition to the quoted prices and shall be paid by Purchaser. Notwithstanding the foregoing, Seller agrees to honor any valid exemption certificate provided by Purchaser.

4. TERMS OF PAYMENT

4.1 Payments; Due Date. Unless otherwise set forth in the quotation, Seller's payment terms are as follows: an initial deposit of 10% of the purchase price for each Product is due upon submission of the purchase order, an additional 80% of the purchase price is due upon delivery of each Product, and the final 10% of the purchase price is due upon completion of installation or when the Products are available for first patient use, whichever occurs first. Unless otherwise agreed, all payments other than the initial deposit are due net thirty (30) days from the date of invoice. Seller shall have no obligation to complete installation until the payment due upon delivery of the Product is received. All amounts payable pursuant to this Agreement are denominated in United States dollars, and Purchaser shall pay all such amount in lawful money of the United States. Partial shipments shall be billed as made, and payments for such shipments will be made in accordance with the foregoing payment terms. In the event that Purchaser makes any payments hereunder by credit card, Seller has the right to charge the Purchaser any credit card fees imposed on the Seller by the financial institution.

4.2 Late Payment. A service charge of 1½% per month, not to exceed the maximum rate allowed by law, shall be made on any portion of Purchaser's outstanding balance which is not paid within thirty (30) days after invoice date, which charge shall be determined and compounded on a daily basis from the due date until the date paid. Payment of such service charge shall not excuse or cure Purchaser's breach or default for late payment. In addition, in the event that Purchaser fails to make any payment to Seller within this thirty (30) day period, including but not limited to any payment under any service contract, promissory note or other agreement with Seller, then Seller shall have no obligation to continue performance under any agreement with Purchaser.

4.3 Payment of Lesser Amount. If Purchaser pays, or Seller otherwise receives, a lesser amount than the full amount provided for under this Agreement, such payment or receipt shall not constitute or be construed other than as on account of the earliest amount due Seller. Seller may accept any check or payment in any amount without prejudice to Seller's right to recover the balance of the amount due or to pursue any other right or remedy. No endorsement or statement on any check or payment or in any letter accompanying a check or payment or elsewhere shall constitute or be construed as an accord or satisfaction.

4.4 Where Payment Due Upon Installation or Completion. Should any terms of payment provide for either full or partial payment upon installation or completion of installation or thereafter, and the installation or completion is delayed for any reason for which Seller is not responsible, then the Products shall be deemed installed upon delivery and, if no other terms were agreed upon in writing signed by the parties, the balance of payments shall be due no later than thirty (30) days from delivery regardless of the actual installation date.

4.5 Default; Termination. Each of the following shall constitute an event of default under this Agreement: (i) a failure by Purchaser to make any payment due Seller within ten (10) days of receipt of notice of non-payment from Seller; (ii) a failure by Purchaser to perform any other obligation under this Agreement within thirty (30) days of receipt of notice from Seller; (iii) a default by Purchaser or any affiliate of Purchaser under any other obligation to or agreement with Seller, Siemens Financial Services, Inc. or Siemens Medical Solutions Health Services Corporation, or any assignee of the foregoing (including, but not limited to, a promissory note, lease, rental agreement, license agreement or purchase contract); or (iv) the commencement of any insolvency, bankruptcy or similar proceedings by or against the Purchaser (including any assignment by Purchaser for the benefit of creditors). Upon the occurrence of any event of default, at Seller's election: (a) the entire amount of any indebtedness and obligation due Seller under this Agreement and interest thereon shall become immediately due and payable without notice, demand, or period of grace; (b) Seller may suspend the performance of any of Seller's obligations hereunder, including, but not limited to, obligations relating to delivery, installation and warranty services; (c) Purchaser shall put Seller in possession of the Products upon demand; (d) Seller may enter any premises where the Products are located and take possession of the Products without notice or demand and without legal proceedings; (e) at the request of Seller, Purchaser shall

SIEMENS

Siemens Medical Solutions USA, Inc.
51 Valley Stream Parkway, Malvern, PA 19355
Fax: (866) 309-6967

SIEMENS REPRESENTATIVE
Stephen Argo - (336) 210-6178

assemble the Products and make them available to Seller at a place designated by Seller which is reasonable and convenient to all parties; (f) Seller may sell or otherwise dispose of all or any part of the Products and apply the proceeds thereof against any indebtedness or obligation of Purchaser under this Agreement (Purchaser agrees that a period of 10 days from the time notice is sent to Purchaser shall be a reasonable period of notification of sale or other disposition of the Products by or for Seller); (g) if this Agreement or any indebtedness or obligation of Purchaser under this Agreement is referred to an attorney for collection or realization, Purchaser shall pay to Seller all costs of collection and realization (including, without limitation, a reasonable sum for attorneys' fees, expenses of title search, all court costs and other legal expenses) incurred thereby; and (h) Purchaser shall pay any deficiency remaining after collection of or realization by Seller on the Products. In addition, Seller may terminate this Agreement upon written notice to Purchaser in the event that Purchaser is not approved for credit or upon the occurrence of any material adverse change in the financial condition or business operations of Purchaser.

4.6 Financing. Notwithstanding any arrangement that Purchaser may make for the financing of the purchase price of the Products, the parties agree that any such financing arrangement shall have no effect on the Purchaser's payment obligations under this Agreement, including but not limited to Sections 4.1 and 4.2 above.

5. EXPORT TERMS

5.1 Unless other arrangements have been made, payment on export orders shall be made by irrevocable confirmed letter of credit, payable in U.S. dollars against Seller's invoice and standard shipping documents. Such letter of credit shall be in an amount equal to the full purchase price of the Products and shall be established in a U.S. bank acceptable to Seller. Purchaser shall procure all necessary permits and licenses for shipment and compliance with any governmental regulations concerning control of final destination of Products.

5.2 Purchaser shall not, directly or indirectly, violate any U.S. law, regulation or treaty, or any other international treaty or agreement, relating to the export or reexport of any Product or associated technical data, to which the U.S. adheres or with which the U.S. complies. Purchaser shall defend, indemnify and hold Seller harmless from any claim, damage, liability or expense (including but not limited to reasonable attorney's fees) arising out of or in connection with any violation of the preceding sentence. If Purchaser purchases a Product at the domestic price and exports such Product, or transfers such Product to a third party for export, outside of the U.S., Purchaser shall pay to Seller the difference between the domestic price and the international retail price of such Product pursuant to the payment terms set forth herein. Purchaser shall deliver to Seller, upon Seller's request, written assurance regarding compliance with this section in form and content acceptable to Seller.

6. DELIVERY, RISK OF LOSS

6.1 Delivery Date. Delivery and completion schedules are approximate only and are based on conditions at the time of acceptance of Purchaser's order by Seller. Seller shall make every reasonable effort to meet the delivery date(s) quoted or acknowledged, but shall not be liable for any failure to meet such date(s). Partial shipments may be made.

6.2 Risk of Loss; Title Transfer. Unless otherwise agreed to in writing, the following shall apply:

(a) For Products that do not require installation by Seller or its authorized agent or subcontractor, and for options and add-on products purchased subsequent to delivery and installation of Products purchased under this Agreement, delivery shall be complete upon transfer of possession to common carrier, F.O.B. Shipping Point, whereupon title to and all risk of loss, damage to or destruction of the Products shall pass to Purchaser.

(b) For Products that require installation by Seller or its authorized agent or subcontractor, delivery shall be complete upon delivery of the Products to Purchaser's designated site, F.O.B. Destination; title to and all risk of loss, damage to or destruction of such Products shall pass to Purchaser upon completion of the installation by Seller or its authorized agent or subcontractor.

(c) All freight charges and other transportation, packing and insurance costs, license fees, custom duties and other similar charges shall be the sole responsibility of the Purchaser unless included in the purchase price or otherwise agreed to in writing by Seller. In the event of any loss or damage to any of the Products during shipment, Seller and Purchaser shall cooperate in making a claim against the carrier.

7. SECURITY INTEREST/FILING

7.1 From the F.O.B. point, Seller shall have a purchase money security interest in the Products (and all accessories and replacements thereto and all proceeds thereof) until payment in full by Purchaser and satisfaction of all other obligations of Purchaser hereunder. Purchaser hereby (i) authorizes Seller to file (and Purchaser shall promptly execute, if requested by Seller) and (ii)

irrevocably appoints Seller its agent and attorney-in-fact to execute in the name of Purchaser and file, with such authorities and at such locations as Seller may deem appropriate, any Uniform Commercial Code financing statements with respect to the Products and/or this Agreement. Purchaser also agrees that an original or a photocopy of this Agreement (including any addenda, attachments and amendments hereto) may be filed by Seller as a Uniform Commercial Code financing statement. Purchaser further represents and covenants that (a) it will keep the Products in good order and repair until the purchase price has been paid in full, (b) it will promptly pay all taxes and assessments upon the Products or the use thereof, (c) it will not attempt to transfer any interest in the Products until the purchase price has been paid in full, and (d) it is solvent and financially capable of paying the full purchase price for the Products.

8. CHANGES, CANCELLATION, AND RETURN

8.1 Orders accepted by Seller are not subject to change except upon written agreement.

8.2 Orders accepted by Seller are noncancellable by Purchaser except upon Seller's written consent and payment by Purchaser of a cancellation charge equal to 10% of the price of the affected Products, plus any shipping, insurance, inspection and refurbishment charges; the cost of providing any training, education, site evaluation or other services; and any return, cancellation or restocking fees with respect to any Third Party Products ordered by Seller on behalf of Purchaser. Seller may retain any payments received from Purchaser up to the amount of the cancellation charge. In no event can an order be cancelled by Purchaser or Products be returned to Seller after shipment has been made.

8.3 Seller shall have the right to change the manufacture and/or design of its Products if, in the judgment of Seller, such change does not alter the general function of the Products.

9. FORCE MAJEURE

9.1 Seller will make every effort to complete shipment, and installation where indicated, but shall not be liable for any loss or damage for delay in delivery, inability to install or any other failure to perform due to causes beyond its reasonable control including, but not limited to, acts of government or compliance with any governmental rules or regulations, acts of God or the public, war, civil commotion, blockades, embargoes, calamities, floods, fires, earthquakes, explosions, storms, strikes, lockouts, labor disputes, or unavailability of labor, raw materials, power or supplies. Should such a delay occur, Seller may reasonably extend delivery or production schedules or, at its option, cancel the order in whole or part without liability other than to return any unearned deposit or prepayment.

10. WARRANTY

10.1 Seller warrants that the Products manufactured by Seller and sold hereunder shall be free from defects in material or workmanship under normal use and service for the warranty period. The final assembled Products shall be new although they may include certain used, reworked or refurbished parts and components (e.g., circuit boards) that comply with performance and reliability specifications and controls. Seller's obligation under this warranty is limited, at Seller's option, to the repair or replacement of the Product or any part thereof. Unless otherwise set forth in the Product Warranty attached hereto and incorporated herein by reference, the warranty period shall commence upon the earlier of the date that the Products have been installed in accordance with 12.6 hereof, which date shall be confirmed in writing by Seller, or first patient use, and shall continue for 12 consecutive months. Seller makes no warranty for any Products made by persons other than Seller or its affiliates, and Purchaser's sole warranty therefor, if any, is the original manufacturer's warranty, which Seller agrees to pass on to Purchaser, as applicable. The warranty provided by Seller under this Section 10 extends only to the original Purchaser, unless the Purchaser obtains the Seller's prior written consent with respect to any sale or other transfer of the Equipment during the term of the warranty.

10.2 No warranty extended by Seller shall apply to any Products which have been damaged by fire, accident, misuse, abuse, negligence, improper application or alteration or by a force majeure occurrence as described in Section 9 hereof or by the Purchaser's failure to operate the Products in accordance with the manufacturer's instructions or to maintain the recommended operating environment and line conditions; which are defective due to unauthorized attempts to repair, relocate, maintain, service, add to or modify the Products by the Purchaser or any third party or due to the attachment and/or use of non-Seller supplied equipment, parts or software, without Seller's prior written approval; which failed due to causes from within non-Seller supplied equipment, parts or software; which have been damaged from the use of operating supplies or consumable parts not approved by Seller. In addition, no warranty extended by Seller shall apply to any transducer or probe failure due to events such as cracking from high impact drops, cable rupture from rolling equipment over the cable, or delamination from cleaning

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with inappropriate solutions. Seller's obligation under this warranty is limited to the repair or replacement, at Seller's option, of defective parts. Seller may effectuate such repair at Purchaser's facility, and Purchaser shall furnish Seller safe and sufficient access for such repair. Repair or replacement may be with parts or products that are new, used or refurbished. Repairs or replacements shall not interrupt, extend or prolong the term of the warranty. Purchaser shall, upon Seller's request, return the noncomplying Product or part to Seller with all transportation charges prepaid, but shall not return any Product or part to Seller without Seller's prior written authorization. Purchaser shall pay Seller its normal charges for service and parts for any inspection, repair or replacement that is not, in Seller's sole judgment, required by noncompliance with the warranty set forth in Section 10.1. Seller's warranty does not apply to consumable materials, disposables, supplies, accessories and collateral equipment, except as specifically stated in writing or as otherwise set forth in the Product Warranty attached hereto and incorporated herein by reference, nor to products or parts thereof supplied by Purchaser.

10.3 This warranty is made on condition that immediate written notice of any noncompliance be given to Seller and Seller's inspection reveals that the Purchaser's claim is valid under the terms of the warranty (i.e., that the noncompliance is due to traceable defects in original materials and/or workmanship).

10.4 Purchaser shall provide Seller with full and free access to the Products, network cabling and communication equipment as is reasonably necessary for Seller to provide warranty service. This access includes establishing and maintaining connectivity to the Products via VPN IPsec Tunneling (non-client) Peer-to-Peer connection, modem line, internet connection, broadband internet connection or other secure remote access reasonably required by Seller, in order for Seller to provide warranty service, including remote diagnostics, monitoring and repair services.

10.5 Warranty service will be provided without charge during Seller's regular working hours (8:30-5:00), Monday through Friday, except Seller's recognized holidays. If Purchaser requires that service be performed other than during these times, such service can be made available at an additional charge, at Seller's then current rates. The obligations of Seller described in this section are Seller's only obligations and Purchaser's sole and exclusive remedy for a breach of product warranty.

10.6 SELLER MAKES NO WARRANTY OTHER THAN THE ONE SET FORTH HEREIN AND IN THE ATTACHED PRODUCT WARRANTY COVERING THE APPLICABLE PRODUCT CATEGORY. SUCH WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSES, AND SUCH CONSTITUTES THE ONLY WARRANTY MADE WITH RESPECT TO THE PRODUCTS AND ANY DEFECT, DEFICIENCY OR NONCONFORMITY IN ANY PRODUCT, SERVICE OR OTHER ITEM FURNISHED UNDER THIS AGREEMENT.

10.7 In the event of any inconsistencies between the terms of this Section 10 and the terms of the attached Product Warranty, the terms of the attached Product Warranty shall prevail.

11. LIMITATION OF LIABILITY

11.1 In no event shall Seller's liability hereunder exceed the actual loss or damage sustained by Purchaser, up to the purchase price of the Products. The foregoing limitation of liability shall not apply to claims for bodily injury or damages to real property or tangible personal property arising as a result of Seller's negligence or a product defect.

11.2 SELLER SHALL NOT BE LIABLE FOR ANY LOSS OF USE, REVENUE OR ANTICIPATED PROFITS, COST OF SUBSTITUTE PRODUCTS OR SERVICES, LOSS OF STORED, TRANSMITTED OR RECORDED DATA, OR FOR ANY INDIRECT, INCIDENTAL, UNFORESEEN, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SALE OR USE OF THE PRODUCTS. THE FOREGOING IS A SEPARATE, ESSENTIAL TERM OF THIS AGREEMENT AND SHALL BE EFFECTIVE UPON THE FAILURE OF ANY REMEDY, EXCLUSIVE OR NOT.

12. INSTALLATION - ADDITIONAL CHARGES

12.1 General. Unless otherwise expressly stipulated in writing, the Products covered hereby shall be installed by and at the expense of Seller except that Seller shall not provide rigging or site preparation services unless otherwise agreed to in writing by Seller for an additional charge. Seller will not install accessory items such as cabinets, illuminators, darkroom equipment or processors for X-Ray and CT equipment, unless otherwise agreed to in writing by Seller.

12.2 Installation by Seller. If Seller specifies it will install the Products, the following applies: subject to fulfillment of the obligations set forth in 12.4 below, Seller shall install the Products covered hereby and connect same to the requisite safety switches and power lines to be installed by Purchaser. Except as otherwise specified below, if such installation and connection are performed by Seller's technical personnel, prices shown include the cost thereof, provided that the installation and connection can be performed within the Continental United States or Puerto Rico and during normal business hours. Any overtime charges or other special expenses shall be additional charges to the prices shown.

12.3 Trade Unions. In the event that a trade union, or unions, or other local labor conditions prevent Seller from performing the above work with its own employees or contractors, then Purchaser shall either make all required arrangements with the trade union, or unions, to permit Seller's completion of said work or shall provide the personnel, at Purchaser's sole cost and expense. Moreover, any additional cost incurred by Seller and related to such labor disputes shall be paid by the Purchaser and Seller's obligations under such circumstances will be limited to providing engineering supervision of installation and connection of Seller equipment to existing wiring.

12.4 Purchaser's Obligations. Purchaser shall, at its expense, provide all proper and necessary labor and materials for plumbing service, carpentry work, conduit wiring, and other preparations required for such installation and connection. All such labor and materials shall be completed and available at the time of delivery of the Products by Seller. Additionally, the Purchaser shall provide free access to the premises of installation and, if necessary, safe and secure space thereon for storage of Products and equipment prior to installation by Seller. Purchaser shall be responsible, at its sole cost and expense, for obtaining all permits, licenses and approvals required by any federal, state or local authorities in connection with the installation and operation of the Products, including but not limited to any certificate of need and zoning variances. Purchaser shall provide a suitable environment for the Products and shall ensure, at its sole cost and expense, that its premises are free of asbestos, hazardous conditions and any concealed, unknown or dangerous conditions and that all site requirements are met. Seller shall delay its work until Purchaser has completed the removal of the asbestos or other hazardous materials or has taken any other precautions and completed any other work required by applicable regulations. Purchaser shall reimburse Seller for any increased costs and expenses incurred by Seller that are the result of or are caused by any such delay. In the event that Seller is requested to supervise the installation of the Products, it remains the Purchaser's responsibility to comply with local regulations. Seller is not an architect and all drawings furnished by Seller are not construction drawings.

12.5 Regulatory Reporting. In the event that any regulatory activity is performed by other than Seller authorized personnel, Purchaser shall be responsible for fulfilling any and all reporting requirements.

12.6 Completion of Installation. Installation shall be complete upon the conclusion of final calibration and checkout under Seller's standard procedures to verify that the Products meet applicable written performance specifications. Notwithstanding the foregoing, first use of the Products by Purchaser, its agents or employees for any purpose after delivery shall constitute completion of installation.

13. PATENT, TRADEMARK AND OTHER INFRINGEMENT CLAIMS

13.1 Infringement by Seller. Seller warrants that the Products manufactured by Seller and sold hereunder do not infringe any U.S. patent or copyright. If Purchaser receives a claim that any such Product, or parts thereof, infringe upon the rights of others under any U.S. patent or copyright, Purchaser shall notify Seller immediately in writing. As to all infringement claims relating to Products or parts manufactured by Seller or one of its affiliates:

(a) Purchaser shall give Seller information, assistance and exclusive authority to evaluate, defend and settle such claims.

(b) Seller shall then, at its own expense, defend or settle such claims, procure for the Purchaser the right to use the Products, or remove or modify them to avoid infringement. If none of these alternatives is available on terms reasonable to Seller, then Purchaser shall return the Products to Seller and Seller shall refund to Purchaser the purchase price paid by the Purchaser less reasonable depreciation for Purchaser's use of the Products. The foregoing states Seller's entire obligation and liability, and the Purchaser's sole remedy, for claims of infringement.

13.2 Infringement by Purchaser. If some or all of the Products sold hereunder are made by Seller pursuant to drawings or specifications furnished by the Purchaser, or if Purchaser modifies or combines, operates or uses the Products other than as specified by Seller or with any product, data, software, apparatus or program not provided or approved by Seller, then the indemnity obligation of Seller under Section 13.1 shall be null and void and should a claim be made that such Products infringe the rights of any third party under patent, trademark or otherwise, then Purchaser shall indemnify and hold Seller

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harmless against any liability or expense, including reasonable attorneys' fees, incurred by Seller in connection therewith.

14. DESIGNS AND TRADE SECRETS; LICENSE; CONFIDENTIALITY

14.1 Any drawings, data, designs, software programs or other technical information supplied by Seller to Purchaser in connection with the sale of the Products are not included in the sale of the Products to Purchaser, shall remain Seller's property and shall at all times be held in confidence by Purchaser. Such information shall not be reproduced or disclosed to others without Seller's prior written consent.

14.2 For all goods purchased hereunder which utilize software for their operation, such "Applications Software" shall be licensed to Purchaser under the terms of Seller's Software License Schedule as attached hereto.

14.3 Diagnostic/Maintenance Software is not included under 14.2 above, is available only as a special option under a separate Diagnostic Materials License Agreement and may be subject to a separate licensing fee.

14.4 Seller and Purchaser shall maintain the confidentiality of any information provided or disclosed to the other party relating to the business, customers and/or patients of the disclosing party, as well as this Agreement and its terms (including the pricing and other financial terms under which the Purchaser will be purchasing the Products hereunder). Each party shall use reasonable care to protect the confidentiality of the information disclosed, but no less than the degree of care it would use to protect its own confidential information, and shall only disclose the other party's confidential information to its employees and agents having a need to know this information. The obligations of confidentiality set forth herein shall not apply to any information in the public domain at the time of disclosure or that is required to be disclosed by court order or by law.

15. ENGINEERING CHANGES

15.1 Seller makes no representation that engineering changes which may be announced in the future will be suitable for use on, or in connection with, the Products.

16. ASSIGNMENT

16.1 Neither party may assign any rights or obligations under this Agreement without the written consent of the other and any attempt to do so shall be void, except that Seller may assign this Agreement without consent to any subsidiary or affiliated company, and may delegate to authorized subcontractors or service suppliers any work to be performed under this Agreement so long as Seller remains liable for the performance of its obligations under this Agreement. This Agreement shall inure to and be binding upon the parties and their respective successors, permitted assigns and legal representatives. Seller shall have no obligations under this Agreement to any assignee of Purchaser that is not approved by Seller in advance.

17. DAMAGES, COSTS AND FEES

17.1 In the event that any dispute or difference is brought arising from or relating to this Agreement or the breach, termination or validity thereof, the prevailing party shall NOT be entitled to recover from the other party any punitive damages. The prevailing party shall be entitled to recover from the other party all reasonable attorneys' fees incurred, together with such other expenses, costs and disbursements as may be allowed by law.

18. MODIFICATION

18.1 This Agreement may not be changed, modified or amended except in writing signed by duly authorized representatives of the parties.

19. GOVERNING LAW; WAIVER OF JURY TRIAL

19.1 This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.

19.2 EACH OF THE PARTIES EXPRESSLY WAIVES ALL RIGHTS TO A JURY TRIAL IN CONNECTION WITH ANY DISPUTE UNDER THIS AGREEMENT.

20. COST REPORTING

20.1 Purchaser agrees that it will fully and accurately account for and report in all cost reports and otherwise fully and accurately disclose to federal and state health care program payors and fully and accurately reflect where and as appropriate to the applicable reimbursement methodology, all services and other items, including any and all discounts, received from Seller under this Agreement, in compliance with all applicable laws, rules and regulations, including but not limited to the Social Security Act and implementing regulations relating to Medicare, Medicaid and other federal and state health care reimbursement programs

21. INTEGRATION

21.1 These terms and conditions, including any attachments or other documents incorporated by reference herein, constitute the entire agreement and the complete and exclusive statement of agreement with respect to the subject matter hereof, and supersede any and all prior agreements, understandings and communications between the parties with respect to the Products.

22. SEVERABILITY; HEADINGS

22.1 No provision of this Agreement which may be deemed unenforceable will in any way invalidate any other portion or provision of this Agreement. Section headings are for convenience only and will have no substantive effect.

23. WAIVER

23.1 No failure and no delay in exercising, on the part of any party, any right under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right preclude the further exercise of any other right.

24. NOTICES

24.1 Any notice or other communication under this Agreement shall be deemed properly given if given in writing and delivered in person or mailed, properly addressed and stamped with the required postage, to the intended recipient at its address specified on the face hereof. Either party may from time to time change such address by giving the other party notice of such change in accordance with this section.

25. RIGHTS CUMULATIVE

25.1 The rights and remedies afforded to Seller under this Agreement are in addition to, and do not in anyway limit, any other rights or remedies afforded to Seller by any other agreement, by law or otherwise.

26. END USER CERTIFICATION

26.1 Purchaser represents, warrants and covenants that it is acquiring the Products for its own end use and not for reselling, leasing or transferring to a third party (except for lease-back financings).

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Software License Schedule to the Siemens Medical Solutions USA, Inc. General Terms and Conditions

1. DEFINITIONS: The following definitions apply to this Schedule:

"Agreement" shall mean the attached (i) Quotation for Products and/or Services including the Terms and Conditions of Sale and applicable schedules; and/or (ii) Software License Agreement describing the software licensed herein and the specific system for which the license is issued.

"Licensor" shall mean Siemens Medical Solutions USA, Inc.

"Licensee" shall mean the end-user to whom Licensor provides Software or Documentation for its internal use under the Agreement.

"Software" shall mean the software described in the attached Agreement, including the following as contained therein: (i) software programs consisting of a series of statements or instructions to be used directly or indirectly in a programmable controller or computer to bring about a certain result and (ii) databases consisting of systemized collections of data to be used or referenced directly or indirectly by a programmed controller or computer. Notwithstanding the foregoing, "Software" does not include "firmware" as such term is conventionally understood. Diagnostic/Maintenance Software also is not included within the scope of the Software licensed under this Schedule, and is available only as a special option under a separate Diagnostic Materials License Agreement and may be subject to a separate licensing fee.

"Documentation" shall mean the documents and other supporting materials which are intended to support the use of an associated product, including (but not limited to) instructions, descriptions, flow charts, logic diagrams and listings of the Software, in text or graphic form, on machine readable or printed media.

"Designated Unit" shall mean a single control unit or computer identified on the first page of the Agreement, on which Software licensed hereunder may be used by Licensee.

2. SCOPE: The following terms and conditions shall apply to all Software and Documentation provided by Licensor to Licensee under the Agreement (whether included with other products listed in the Agreement or listed separately in the Agreement), together with any updates or revisions thereto which Licensor may provide to Licensee, and all copies thereof, except any Software and/or Documentation licensed directly by Licensor's supplier under a separate end-user license agreement accompanying the Software or the Documentation, in which case Licensee agrees to be bound by that license agreement as a condition to using the Software and/or Documentation. Except as expressly provided herein, and provided that in no event shall the warranties or other obligations of Licensor with respect to such Software or Documentation exceed those set forth in this Schedule, this Schedule shall be subject to the liability limitations and exclusions and other terms and conditions set forth in the Agreement. **ANY USE OF THE SOFTWARE, INCLUDING BUT NOT LIMITED TO USE ON THE DESIGNATED UNIT, WILL CONSTITUTE LICENSEE'S AGREEMENT TO THIS SOFTWARE LICENSE SCHEDULE (OR RATIFICATION OF ANY PREVIOUS CONSENT).**

3. SOFTWARE AND DOCUMENTATION LICENSE: Subject to the payment of any applicable annual license fee(s), whether stated separately or included in the purchase price of another product, and to Licensee's acceptance of all of the obligations set forth herein and to the fulfillment of those obligations, Licensor or, if applicable, its licensor or supplier, hereby grants to Licensee a paid-up, nonexclusive and nontransferable (except as expressly provided in this Schedule) limited license to use the Software provided by Licensor under the Agreement solely for Licensee's own use on the Designated Unit and to use the Documentation in support of Licensee's authorized use of the Software, for the purpose of operating the Designated Unit in accordance with the instructions set forth in the user's manual supplied with the Designated Unit and for no other purpose whatsoever. A separate license is required for each Designated Unit on which the Software is to be used. Licensee may obtain from Licensor one copy of the Software licensed hereunder for backup and archival purposes only as is necessary to support Licensee's own authorized use of the Software, provided that Licensee includes on or in all copies (in any form) all copyright, trade secret or other proprietary notices contained on or in the Software as provided by Licensor. Additional copies of the Documentation may be licensed from Licensor at its then applicable charges. Licensee may make the Software and Documentation (including any copies) available only to its employees and other persons on Licensee's premises to whom such disclosure is necessary to enable Licensee to use the Software or Documentation within the scope of the license provided in this Schedule. If the Software is supplied to any unit or agency of the United States Government other than

the Department of Defense, the Software and Documentation are classified as "restricted computer software" and the Government's rights in the Software and Documentation shall be as provided in paragraph (c) (2) of the Commercial Computer Software-Restricted Rights clause in FAR 52.227-19 and any successor laws, rules or regulations thereto. If the Software is supplied to the United States Department of Defense, the Software is classified as "commercial computer software" and the Government is furnished the Software and Documentation with "restricted rights" as defined in paragraph (c) (1) of the Rights in Technical Data and Computer Software clause in DFARS 252.227-7013 and any successor laws, rules or regulations thereto.

4. PROPRIETARY PROTECTION AND CONFIDENTIALITY: Ownership of and title to the Software and Documentation and all copies, in any form, licensed under this Schedule are and will remain in Licensor or its suppliers at all times. Licensee shall not (i) remove any copyright, trade secret or other proprietary right notices contained on or in the Software or Documentation as provided by Licensor, (ii) reproduce or modify any Software or Documentation or copy thereof, (iii) reverse assemble, reverse engineer or decompile any Software, or copy thereof, in whole or in part (except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation), (iv) sell, transfer or otherwise make available to others the Software or Documentation, or any copy thereof, except as expressly permitted by this Schedule, or (v) apply any techniques to derive any trade secrets embodied in the Software or Documentation. Licensee shall take all appropriate actions to ensure that: (i) the Software does not leave the Designated Unit's equipment location as set forth above, (ii) the Software is not copied by Licensee or any third parties, and (iii) the Software is not used in any equipment other than the Designated Unit. Licensee shall secure and protect the Software and Documentation and copies thereof from disclosure and shall take such actions with its employees and other persons who are permitted access to the Software or Documentation or copies as may be necessary to satisfy Licensee's obligations hereunder. Prior to disposing of any computer medium, computer memory or data storage apparatus, Licensee shall ensure that all copies of Software and Documentation have been erased therefrom or otherwise destroyed. In the event that Licensee becomes aware that any Software or Documentation or copies are being used in a manner not permitted by the license, Licensee shall immediately notify Licensor in writing of such fact and if the person or persons so using the Software or Documentation are employed or otherwise subject to Licensee's direction and control, Licensee shall use reasonable efforts to terminate such impermissible use. Licensee will fully cooperate with Licensor so as to enable Licensor to enforce its proprietary and property rights in the Software. Licensee agrees that, subject to Licensee's reasonable security procedures, Licensor shall have immediate access to the Software at all times and that Licensor may take immediate possession thereof upon termination or expiration of the associated license or this Schedule. Licensee's obligations under this paragraph shall survive any termination of a license, the Schedule or the Agreement.

5. UPDATES AND REVISIONS: During the warranty period or under a separate service contract or software update subscription, revised or updated versions of the Software licensed under this Schedule may be made available, at Licensor's option, to Licensee to use or to test while Licensee continues use of a previous version. Licensee has the right to decide whether to install any such revised or updated versions or to continue use of the previous version after giving due regard to the United States Food and Drug Administration rules and regulations. However, Licensee shall pay Licensor for any services necessitated by any modifications of the Software by Licensee or by Licensee's failure to utilize the current non-investigational version of the Software provided by Licensor. Software updates that provide new features or capabilities or that require hardware changes will be offered to Licensee at purchase prices established by Licensor. Licensor retains the sole right to determine whether an update represents an enhancement of a previously purchased capability or a new capability for which the Licensee will be charged. In addition, some updates may require Applications Training performed by Licensor's personnel that will be offered at Licensor's prevailing rates. Licensor retains the sole right to determine whether an update requires such training.

6. DELIVERY, RISK OF LOSS AND TITLE: Notwithstanding the provisions of Section 6 of the attached Terms and Conditions of Sale, if any, the Software and Documentation licensed hereunder shall be delivered on or about the delivery date stated in the Agreement unless a separate delivery

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Revised 03/15/05

SIEMENS

Siemens Medical Solutions USA, Inc.
 51 Valley Stream Parkway, Malvern, PA 19355
 Fax: (866) 309-6967

SIEMENS REPRESENTATIVE
 Stephen Argo - (336) 210-6178

AX Warranty Information

<u>Product</u> (New Systems and "Proven Excellence" Refurbished Systems Only)	<u>Period of Warranty¹</u>	<u>Coverage</u>	
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X-Ray System (not including consumables)	12 month	Full Warranty (parts & labor)	Includes Flat Panel Detectors
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Following parts will include warranty as listed below:

Image Intensifier Tubes (Sirecon, Optilux)	First 12 month Month 13 through 24	Prorated credit given to customer against replacement cost	credit percentage = (24- month in use)/24*100
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Flat Panel Detectors	First 12 month Month 13 through 36	Prorated credit given to customer against replacement cost	credit percentage = (36- month in use)/36*100
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General Diagnostic tubes (Opti tubes, Optitop tubes) Metal Center tubes Conventional ball bearing	12 month		
--	----------	--	--

Air cooled tubes (Megalix CM)	Prorated by month up to month 12 or up to 35,000 SLU ² whichever occurs first	Prorated credit given to customer against replacement cost	credit percentage = (12- month in use)/12*100
---------------------------------------	---	--	---

Water cooled tubes (Megalix CM ... W)	Prorated by month up to month 12 or up to 80,000 SLU ² whichever occurs first	Prorated credit given to customer against replacement cost	credit percentage = (12- month in use)/12*100
---	---	--	---

Liquid metal bearing (Megalix CAT) Standard	Warranty to 80,000 SLU ² or first 12 month whichever occurs first		
	Month 13 through 24 up to a maximum of 160,000SLU	Prorated credit given to customer against replacement cost, parts only	credit percentage = (24-month in use)/24*100

TV Camera tubes (exposure tubes) and cathode-ray tubes (CRT)	12 month		
--	----------	--	--

Consumables	Not covered		
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Post-Warranty (after expiration of system warranty) – Replacement parts only!

Items above	Like described above, but parts only	Like described above, but parts only	Like described above, but parts only
Spare Parts	6 month	Parts only	

Note: Optional extended warranty coverage can be obtained by purchase of a service agreement.

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¹ Period of warranty commences from the date of first use or completion of installation, whichever occurs first. In the event the completion of installation is delayed for reasons beyond Siemens' control, the stated warranty period shall commence 60 days after delivery of equipment.

² SLU: Siemens Load Unit (1 exposure or 2 seconds cine DCM (Digital Cline Mode) or 15 seconds Digital Pulsed Fluoroscopy (DPF)

District / Sales Office

SIEMENS MEDICAL SOLUTIONS USA, INC.
 110 MacAlyson Ct
 Cary, NC 27511-6495
 Attn: Doug Weatherspoon
 Phone: (919) 468-7457
 Fax: (919) 468-7317
 Email: doug.weatherspoon@siemens.com

Sold To

LENOIR MEMORIAL HOSPITAL
 100 AIRPORT RD
 KINSTON, NC 28501

Bill To

LENOIR MEMORIAL HOSPITAL
 100 AIRPORT RD
 KINSTON, NC 28501

Payer

LENOIR MEMORIAL HOSPITAL
 100 AIRPORT RD
 KINSTON, NC 28501

Siemens Medical Solutions USA, Inc. is pleased to submit the following proposal for service and maintenance described herein at the stated prices and terms. Subject to your acceptance of the terms and conditions on the face and general terms and conditions Document hereof.

Item #	System Name	Functional Location	Service Agreement	Contract Duration	Warranty Period Price	Partial Year Price	Annual Price
1	Artis zee Floor		Silver contract	Warranty + 5 Years	\$0	\$0	\$82,584
2	syngo X Workplace		Silver contract	Warranty + 5 Years	\$0	\$0	\$7,989

The following are alternate/optional systems for this contract:

Opt/Alt	Item #	System Name	Functional Location	Service Agreement	Contract Duration	Warranty Period Price	Partial Year Price	Annual Price	initialed
Opt	1	Powerware 9390 100-160 kVA UPS w/ 1 Battery Cabinet		OEM contract	Warranty + 5 Years	\$0	\$0	\$11,933	<i>[Signature]</i>

Includes:

Labor and Parts as listed in the Glossary section.
 Principal Coverage Period (PCP) as stated in Exhibit A for each system.
 System Updates.
 Access to Siemens UPTIME service support center for technical telephone support (remote diagnostics, if available to the site and the equipment).

Excludes:

Consumables (batteries, leads, padding, storage media, cassettes, etc.); **non-Siemens** components and accessories (such as VCR, injector, laser printer, MR surface coils, tables/table tops, chiller, UPS, etc.) unless specifically identified in Exhibit A. Parts defective due to "acts of God", abuse, misuse, neglect, thermal and shock. Glassware (unless purchased as an option).

Terms of payment: Net 30 days from invoice date. Past due payment is subject to 1.5% interest charge per month.

Customer's Acceptance

(By) *[Signature]* (Signature)

Name and Title

VP, CUSTOMER SUPPORT SERVICES

Acceptance Date 11/11/11

Siemens Medical Solutions USA, Inc.

(By) _____ (Signature)

Doug Weatherspoon Service Sales Executive

Name and Title

Customer P.O. # _____ (enter PO # for contract billing)
 _____ (Initial if P.O. not required for billing)
 _____ (Initial if P.O. is required but will be issued prior to warranty expiration)
 Standing P.O. # _____ (for T&M charges outside of the contract)

This service agreement proposal is valid for 30 days. Agreement becomes effective upon customer signature and Siemens acceptance. Customer's acceptance acknowledges receipt and agreement to Terms and Conditions set forth on all pages of this proposal.

Exhibit A

Item #1:

Equipment:	Artis zee Floor		
Equipment Location:	LENOIR MEMORIAL HOSPITAL		
Address:	100 AIRPORT RD, 1678, KINSTON, NC 28501		
Functional Location:	Service Quote Nr: 1-34MWKV Rev 0	Equipment Quote Nr: 1-345SYG	Payment Frequency: Monthly
Warranty Agreement: Extended Warranty	Warranty Start: Upon Warranty Commencement	Warranty End: 1 Year Duration	Warranty Price: \$0
Service Agreement: Silver contract	Contract Start: Upon Warranty Expiration	Contract End: 5 Year Duration	Annual Price: \$82,584

Coverage applies during the Warranty or Contract Period as indicated:	Warranty Period	Contract Period
Principal Coverage Period	08:00am - 05:00pm M-F	08:00am - 05:00pm M-F
Uptime Guarantee	97%	95%
Phone Response	30 min	60 min
On-Site Response	4 hours	8 hours
Parts Order Requirement	Noon	6pm
Parts Delivery	Same Day	Next Day
Siemens Remote Services	✓	✓
Safety Checks	✓	✓
Planned Maintenance	✓	✓
Quality Assurance	✓	✓
Updates	✓	✓
Technical Phone Support	✓	✓
Labor	✓	✓
Travel	✓	✓
LifeNet Access	✓	✓
Application Hotline Phone Support	✓	✓
General Spare Parts Coverage	✓	✓
Siemens Virus Protection SELECT	✓	✓
Travel	✓	✓
Megalix CAT Plus Tube and FD (16 inch) Bundle	✓	✓
Accredited Self Study Program	N/A	Qty 1
e.learning subscription for 12 months / 12 CEUs	N/A	Qty 1
syngo Evolve for Artis zee family	N/A	✓

The Options or Alternatives listed below will be included in the warranty or contract as indicated, only if initialed:

Opt/Alt	Option / Alternative	Add to Warranty Price	Add to Contract Annual Price	Initial
Opt	Guardian Select	\$0	\$10,950	<i>Wiley</i>

GUARDIAN SELECT PROGRAM:

- Includes:
- Real time preventive monitoring
 - Fast access to expert decision from Level 2 technical support
 - System performance reports
 - Room down continuous repair effort (extends room down repairs past PCP, up to 1:00am local time)
 - Uplifts standard Uptime Guarantee to 98%
 - Customer is required to provide a full time VPN connection

No further Options or Alternatives are included in the above listed equipment.

Item #2:

Equipment:	syngo X Workplace		
Equipment Location:	LENOIR MEMORIAL HOSPITAL		
Address:	100 AIRPORT RD, 1678, KINSTON, NC 28501		
Functional Location:	Service Quote Nr: 1-34MWKV Rev 0	Equipment Quote Nr: 1-345SYG	Payment Frequency: Monthly
Warranty Agreement: Extended Warranty	Warranty Start: Upon Warranty Commencement	Warranty End: 1 Year Duration	Warranty Price: \$0
Service Agreement: Silver contract	Contract Start: Upon Warranty Expiration	Contract End: 5 Year Duration	Annual Price: \$7,989

Coverage applies during the Warranty or Contract Period as indicated:	Warranty Period	Contract Period
Principal Coverage Period	08:00am - 05:00pm M-F	08:00am - 05:00pm M-F
Uptime Guarantee	97%	95%
Phone Response	30 min	60 min
On-Site Response	4 hours	8 hours
Parts Order Requirement	Noon	6pm
Parts Delivery	Same Day	Next Day
Safety Checks	✓	✓
Planned Maintenance	✓	✓
Quality Assurance	✓	✓
Updates	✓	✓
Technical Phone Support	✓	✓
Labor	✓	✓
LifeNet Access	✓	✓
Application Hotline Phone Support	✓	✓
Siemens Virus Protection SELECT	✓	✓
Siemens Remote Services	✓	✓
Travel	✓	✓
General Spare Parts Coverage	✓	✓

No further Options or Alternatives are included in the above listed equipment.

Optional/Alternative System #1:

Equipment:	Powerware 9390 100-160 kVA UPS w/ 1 Battery Cabinet		
Equipment Location:	LENOIR MEMORIAL HOSPITAL		
Address:	100 AIRPORT RD, 1678, KINSTON, NC 28501		
Functional Location:	Service Quote Nr: 1-34MWKV Rev 0	Equipment Quote Nr: 1-345SYG	Payment Frequency: Monthly
Warranty Agreement: OEM Basic Warranty	Warranty Start: Upon Warranty Commencement	Warranty End: 1 Year Duration	Warranty Price: \$0
Service Agreement: OEM contract	Contract Start: Upon Warranty Expiration	Contract End: 5 Year Duration	Annual Price: \$11,933

Coverage applies during the Warranty or Contract Period as indicated:	Warranty Period	Contract Period
Principal Coverage Period	08:00am - 05:00pm M-F	08:00am - 05:00pm M-F
On-Site Response	8 hrs	8 hrs
Parts Delivery	Next Business Day	Next Business Day
Planned Maintenance	✓	✓
Labor	✓	✓
General Spare Parts Coverage	✓	✓
Travel	✓	✓
Site Visits During PCP	✓	✓
Technical Phone Support	✓	N/A
Technical Phone Support (24X7)	N/A	✓

No further Options or Alternatives are included in the above listed equipment.

Glossary

Deliverables	Description
Accredited Self Study Program	This accredited self-study program provides the latest trends in imaging. These hot topic review articles will be mailed directly to your institution and will provide up to 24 Category A Continuing Education Credits fully recognized by ARRT and NMTCB. A comprehensive study guide accompanies each article to help ensure focus on technologist-relevant information.
Application Hotline Phone Support	UPTIME Clinical Applications Phone Support is provided with this contract during modality specified hours, call 1-800-888-7436 with your questions and to receive direct access to a Clinical Education Specialist.
e.learning subscription for 12 months / 12 CEUs	This annual e.learning subscription will provide access for up to (2) technologists to utilize a total of up to (12) Category A Continuing Education Credits to engage in a variety of multi-modality self-paced education topics from clinical fundamentals to product specific training and beyond. These online offerings provide the flexibility and convenience to maintain continuing education requirements and are fully recognized by ARRT and NMTCB. For every subscription purchased an additional (2) technologists and 12 CEUs will be added. Expires per contract expiration. To engage in this offering, the selected users will need to visit www.medical.siemens.com/education Select Clinical Training and Continuing Education>Virtual Education>Modality selection. Click the link for service contract customers and fill out necessary information for account setup.
General Spare Parts Coverage	Replacement of standard spare parts. Excludes high-vacuum components (image intensifiers, x-ray tubes, CT tubes, mammography tubes). Excludes consumables (batteries, leads, padding, storage media, cassettes, radioactive sources, etc.), shock wave components, transducers, TEE's and special probes, flat panel detectors, MMLC, and waveguides. Excludes non-Siemens parts (MR surface coils, VCR, injector, laser, printer, chiller, UPS, etc.) unless specifically identified in Exhibit A. <u>For Oncology only:</u> Excludes high-vacuum components (including Magnatron, Klystron and Thyatron), waveguides, and other glassware, including tubes. Excludes HD270, multileaf collimator (58-leaf), Optifocus 82-leaf MLC, Optivue flat panel, Beamview, Micromoduleaf Collimator, Lantis computer hardware, Coherence RT Archive, Lantis and Coherence software subscription and support.
Guardian Select (Optional)	The Siemens Guardian Program™ offers you proactive online monitoring of your system's performance on an ongoing real-time basis. By continuously monitoring your system for possible deviations from current norms, the Guardian Program provides for a high level of system availability, making it possible to detect and resolve system errors before malfunctions occur. In the event of a system error message, one of our certified support engineers will immediately evaluate and initiate appropriate actions.. An expert opinion on the exact status of your system is also offered within the first 15 minutes.
Labor	Unlimited coverage of on-site labor during the Principal Coverage Period indicated. Preferred labor rates for billable service outside of Principal Coverage Period (at current prevailing tiered rates).
LifeNet Access	The LifeNet portal provides access to customer service information related to diagnostic imaging equipment. Access includes service and PM management tools, equipment performance reports, service documentation, asset management and service contract management tools and much more.
Megalix CAT Plus Tube and FD (16 inch) Bundle	X-ray tube and Detector are covered for the full value of replacement for Wear and Failure. Coverage of the detector and tube is bundled and is provided at a discounted rate.
On-Site Response	Siemens guarantees on-site CSE arrival within a specific time period (see Exhibit A) after a call for service has been placed with the UPTIME Service Center. This on-site response applies in system/room down situations only. (See Response Time Guarantee in General Terms and Conditions for additional information.)
Parts Delivery	Spare parts arrival for on-site repair of room-down/system-down is typically the Same Day following the time the parts order is submitted.
Parts Order Requirement	Parts order must be placed with Siemens by noon (Customer's local time) in order to receive Parts Delivery commitment as specified.
Phone Response	The response time indicated on Exhibit A provides preferred call-handling of a service event. This call-back response is the telephone response to the customer by the UPTIME center personnel or the CSE to provide the status of the service call.
Planned Maintenance	Preventive services carried out in accordance with the equipment's specific maintenance plan. This includes: tracking and scheduling of required maintenance tasks; exchange of wear and tear parts according to maintenance plan; care measures; adjustments to factory specifications; verification of specified performance and functionality; documentation and detailed protocol of system condition.
Principal Coverage Period	Hours defined in Exhibit A during which agreed-upon services are provided.
Quality Assurance	Quality Assurance tasks are performed to keep the system within the quality specifications as issued by the Equipment's specifications. This consists of: tracking and scheduling of required quality assurance tasks, check of measuring and image quality parameters; verification of specified quality parameters; adjustments to factory quality specifications; and documentation and detailed quality report of system condition.
Safety Checks	Safety Checks are performed to insure compliance with all local and federal safety guidelines and regulations. This service consists of tracking and scheduling of required tests, mechanical safety checks (e.g. mechanical movements etc.), electrical safety checks (e.g. leakage currents, insulation etc.), and reporting of findings and results.

Deliverables	Description
Siemens Remote Services	SRS is the efficient and comprehensive infrastructure for the complete spectrum of medical device-related remote services. Permanent connection via VPN broadband required.
Siemens Virus Protection SELECT	<p>Siemens Virus Protection SELECT consists of the following service features:</p> <p><u>Virus scanner installation</u>: Expert installation of the certified and tested virus scanner Trend Micro OfficeScan</p> <p><u>Ongoing remote virus scanner updates</u>: Constant automatic remote updates of the latest validated virus pattern and scan engine</p> <p><u>Security Hotline</u>: The local Uptime Service Center is our customer's contact for up-to-date virus information and rapid response support.</p> <p><u>Remote updates with relevant hotfixes</u>: Regular remote IT-security relevant and carefully validated software updates (Hotfixes)</p> <p>Siemens Virus Protection is available for all <i>syngo</i>-based systems which are</p> <ul style="list-style-type: none"> - connected to our SRS infrastructure by a VPN broadband connection - covered by one of our service agreements - equipped with the required software version, which includes the Virus Scanner as well as the necessary CA-based Managed Node Package (MNP). <p>Siemens will not be liable for system failures and loss of patient data, caused by a virus.</p>
Site Visits During PCP	
syngo Evolve for Artis zee family	At least 1 software upgrade. 1 hardware upgrade to the main system if necessary to enable the software upgrade. syngo MultiModality Workplace and refurbished systems excluded in all cases.
Technical Phone Support	Direct access to specialists at the Siemens Uptime Service Center for fast diagnosis and technical support. Technical Phone Support is available to Siemens customers over the telephone, 24 hours a day, 7 days a week.
Technical Phone Support (24X7)	Direct access to specialists at the Siemens Uptime Service Center for fast diagnosis and technical support.
Travel	Includes travel time for Customer Service Engineer to and from Customer's site. Subject to change to reflect currently prevailing rates, if occurring outside of the Principal Coverage Period indicated.
Updates	Modifications or reliability enhancements to equipment. Includes two types: Mandatory (safety and performance-related update instructions) and Non-mandatory (reliability-related service instructions). Does not include enhancements to the operating system or additional functionality.
Uptime Guarantee	Siemens guarantees that the Equipment will function at the minimum Uptime Performance level as specified on Exhibit A. System availability is calculated over a 12-month period, calculated over the Principal Coverage Period. Siemens Remote Services (SRS) connection via VPN broadband is required. (See Uptime Guarantee of General Terms and Conditions for further details.)

Siemens Medical Solutions USA, Inc. General Terms and Conditions

1. Scope

For the term set forth on the first page hereof under the heading "Contract Duration", Siemens will provide remedial maintenance service on the equipment described on the preceding pages hereof (the "Equipment") when requested by the Customer, as well as planned maintenance inspections, when scheduled, as further described in the Glossary section attached hereto, in order to keep the Equipment operating in accordance with the manufacturer's specifications. Siemens will make every effort to respond to service calls at a mutually agreed upon arrival time consistent with the provisions cited in Section 2.

In the event that (i) the term of this Agreement does not include the Equipment warranty period (as indicated on the first page hereof under the heading "Contract Duration"), or (ii) the term of this Agreement does not commence immediately upon the expiration of the Siemens warranty, or (iii) the Equipment was serviced prior to commencement of the term by anyone other than Siemens or an authorized Siemens dealer or service provider, or (iv) the Equipment was moved from its original location or is not connected to its original power supply (other than portable or mobile Equipment), then the Equipment is subject to inspection by Siemens to determine if it is in good operating condition prior to the commencement of services under this Agreement. Any inspection as well as any repairs or adjustments deemed necessary by Siemens during such inspection shall be made at Siemens' per-call rates and terms then in effect and shall include charges for parts, with all such repairs or adjustments to be completed prior to the commencement of service under this Agreement.

If this Agreement includes any training courses, such training courses may consist of on-site training at the Customer site or a Siemens training facility, self-study or computer based training. In some cases, tuition will cover travel and lodging for off-site training, and in other cases Customer will be responsible for all travel and lodging costs. Details of the training are provided on the previous page(s).

2. Principal Coverage Period (PCP)

Service and maintenance will be provided during the principal coverage period ("PCP") as defined on Exhibit A, excluding the following holidays: New Years Day, Memorial Day (observed), Independence Day, Labor Day, Thanksgiving Day, Christmas Day. If one of the foregoing holidays falls on a Saturday, then the holiday will be observed on the previous Friday, and if the holiday falls on a Sunday, the holiday will be observed on the following Monday. Unless an extended hours coverage option has been selected, labor and travel required outside the PCP will be charged at Siemens' per-call rates and terms then in effect.

3. Replacement Parts

Siemens will supply at its own expense, necessary parts, except as indicated in the Glossary section, provided replacement of the parts is required because of normal wear and tear or otherwise deemed necessary by Siemens and further provided that the Siemens-manufactured parts are available from the factory. All Parts will be new, standard parts, or used, reworked or refurbished parts that comply with applicable performance and reliability specifications. Exchange parts removed from the Equipment shall become the property of Siemens unless such exchange parts constitute "hazardous wastes", "hazardous substances", "special wastes" or other similar materials, as such terms are defined by any federal, state or local laws, rules or regulations, in which case, at the option of Siemens, the exchange parts shall remain the property of the Customer and shall be disposed of by the Customer in strict compliance with all applicable laws, rules and regulations.

4. Planned Maintenance (PM)

Planned maintenance will be carried out according to the manufacturer's recommended schedule. Planned maintenance generally includes checking mechanical and electrical safety, lubrication, functional testing and adjusting for optimum performance as specified in the detailed planned maintenance work plan.

5. Software Maintenance

Whenever the Equipment covered by this Agreement utilizes Siemens' operating system software, Siemens will provide all maintenance and updates for such operating system software as part of this Agreement. Such updates will solely enhance previously purchased capacities of the Equipment. Operating system software upgrades that provide new features or capabilities or that require hardware changes will be offered to Customer at purchase prices established by Siemens. In addition, some upgrades may require applications training performed by Siemens' personnel that will be offered at Siemens' rates and terms then in effect. Siemens retains the sole right to determine whether an upgrade requires such training.

Nothing in this Agreement shall in any way grant to Customer any right to or license in any diagnostic service software utilized by Siemens in servicing the Equipment. Such service software is and remains the property of Siemens and is available to Customer pursuant to the terms and conditions of a separate diagnostic materials license agreement, which may require payment of a license fee. This service software shall be disabled by Siemens upon cancellation or termination of this Agreement.

6. Equipment; Location; Remote Access

The Equipment covered under this Agreement is limited to the Siemens furnished Equipment described on the face sheet(s). The Equipment shall not be moved to another location unless Customer obtains the prior written consent of Siemens, subject to the following exceptions (i) portable Equipment (e.g., Ultrasound

equipment, but not including any equipment that is housed in a mobile vehicle, van or trailer) may be moved to other locations within the same facility, so long as the Customer informs Siemens of the location of the Equipment when Siemens is scheduled to provide on-site service; (ii) if Equipment is located in a trailer, van or other form of mobile vehicle, the Equipment may be moved from the Equipment Location identified on Exhibit A, provided, however, that Siemens shall not be required to service such Equipment, and the Response Time and Uptime Performance Guarantees (if any) shall not apply, if either (a) the Customer does not notify Siemens at least one (1) month in advance of the Equipment's mobile route, or (b) the Equipment is moved more than 25 miles from the original Equipment Location; and (iii) if fixed Equipment is moved to any other location within the Customer's facility, then either (a) the Customer will engage Siemens to relocate the Equipment, at Siemens' then current rates and charges, or (b) if Siemens does not perform the services necessary to relocate the Equipment, then Siemens may suspend services with respect to such Equipment until Siemens performs an inspection of the Equipment, at the Customer's cost, to determine if any repairs are necessitated as a result of any such relocation (in which case the Customer shall be separately charged for such repairs, including parts and labor, at Siemens' rates and charges then in effect).

Siemens service personnel will be given full and free access to the Equipment to perform inspections and service/maintenance on the Customer's premises, and will make specific appointments for such maintenance. If the Equipment is not made available at the appointed time, waiting time beyond a reasonable allowance will be charged at Siemens' per-call rates and terms then in effect.

Customer shall provide Siemens with both on-site and remote access to the Equipment. The remote access shall be provided through the Customer network as is reasonably necessary for Siemens to provide services under this Agreement. Remote access will be established through a broadband internet based connection to either a Customer owned or Siemens provided secure end-point. The method of connection will be a Peer-to-Peer VPN IPsec tunnel (non-client based) with specific inbound and outbound port requirements.

In the event the Customer fails to provide or maintain the remote access connection for any Proactive Service Agreement (e.g., Pinnacle, Select, Essential, as identified in Exhibit A), then Siemens shall have the option to terminate this Agreement. In addition, in accordance with the terms of Section 22 hereof, any Uptime Performance Guarantee shall be void if the remote access connection is not provided and available 24 hours per day, 7 days a week.

7. Agreement Term; Price; Payment Terms

This Agreement shall be in effect for the period stated on the first page of this Agreement.

For the basic services to be provided by Siemens under the terms of this Agreement, Siemens shall send invoices to the Customer and payments shall be made in advance based on the payment frequency shown in Exhibit A under "Payment Frequency".

Invoices for all amounts due under this Agreement shall be sent to the Customer by regular U.S. mail, postage prepaid, at the address set forth on the first page hereof under "Bill To".

All payments to be made by Customer under this Agreement are due net thirty (30) days from the invoice date. Past due payments shall bear interest at the rate of 1 1/2% per month.

8. Causes for Exclusion/Separate Charges

This Agreement specifically excludes labor, parts and expenses necessary to repair Equipment:

- damaged by fire, accident, misuse, abuse, negligence, improper application or alteration or by a force majeure occurrence as described in Section 17 hereof, or by the Customer's failure to operate the Equipment in accordance with the manufacturer's instructions or to maintain the recommended operating environment and line conditions;
- defective due to unauthorized attempts to repair, relocate, maintain, service, add to or modify the Equipment by the Customer or any third party or due to the attachment and/or use of non-Siemens supplied parts, equipment or software without Siemens' prior written approval;
- defective due to any repair or service of the Equipment by the Customer or any third party prior to the commencement of the term of this Agreement;
- which failed due to causes from within non-Siemens supplied equipment, parts or software including, but not limited to, problems with the Customer's network;
- which is worn out and cannot be reasonably repaired due to the unavailability of spare parts from the original equipment manufacturer; or

• which is a transducer or probe and which is damaged or defective, or which failed, due to any of the foregoing causes or due to improper cleaning, disinfecting or TEE bite marks.

If Siemens is called upon to service or repair Equipment which falls under this Section 8, a separate invoice will be issued for labor, parts and expenses at Siemens' rates and terms then in effect.

This Agreement does not entitle the Customer to services related to information technology, patient and imaging workflow design and analysis, or problem diagnosis. Siemens' responsibility under this Agreement does not extend beyond the outbound or inbound sockets of the Equipment. In addition, changes, adjustments, additions or repairs required to or with respect to the Equipment resulting from issues, matters, items or concerns that are the responsibility of the Customer, such as changes related to Customer's network infrastructure, are not covered by this Agreement. This may include, but is not limited to, network IP address changes. Although the Equipment may have limited short term storage capacity, the storage of images, both patient and QA images, is the responsibility of the Customer.

If Siemens offers a Network Assistance option for the Equipment and the Customer purchases this option as indicated on Exhibit A, then Siemens shall assist the Customer in its efforts to identify the cause of any network or connectivity problems which may affect the operation of the Equipment; provided, however, that the price for this option does not include the cost of any repairs (labor, parts, etc.) to remedy such problems, which shall be the sole responsibility of the Customer. If the Customer does not purchase this option, or if this option is not offered by Siemens, then any assistance provided by Siemens to the Customer with respect to any network or connectivity issues shall require a P.O. from the Customer and shall be separately billed to the Customer at Siemens' then current rates and charges.

9. Default

Customer shall be in default under this Agreement upon: (i) a failure by Customer to make any payment due Siemens within ten (10) days of receipt of notice from Siemens that the payment was not made within the applicable payment period; (ii) a failure by Customer to perform any other obligation under this Agreement within thirty (30) days of receipt of notice from Siemens; (iii) a failure to grant Siemens access to the Equipment as set forth in Section 6 of this Agreement; (iv) a default by Customer or any affiliate of the Customer under any other obligation to or agreement with Siemens, Siemens Financial Services, Inc. or Siemens Medical Solutions Health Services Corporation, or any assignee of the foregoing (including but not limited to, a promissory note, lease, rental agreement, license agreement or purchase contract); or (v) the commencement of any insolvency, bankruptcy or similar proceedings by or against the Customer (including any assignment by Customer for the benefit of creditors). Upon the occurrence of any event of default hereunder, Siemens may, in addition to any and all other remedies available under law, elect to: (i) immediately cease providing services under this Agreement and any and all other agreements between the parties, or suspend any training courses, until the default is cured or corrected, (ii) terminate this Agreement, in which case Customer shall pay to Siemens (a) all amounts due under this Agreement through the effective date of termination, (b) as liquidated damages and not as a penalty, an amount equal to 25% of the remaining payments due under this Agreement from the date of termination through the scheduled expiration of the term of this Agreement, and (c) all costs and expenses of collection, including without limitation reasonable attorneys' fees and court costs incurred by Siemens as a result of the Customer's default, and/or (iii) commence collection actions (including court actions) for all sums due under this Agreement. All rights and remedies available to Siemens hereunder, by law or equity, shall be cumulative and there shall be no obligation for Siemens to exercise a particular remedy.

In the event that Customer cures all defaults hereunder, then prior to resumption of services under this Agreement, Siemens may inspect the Equipment to determine if it is in good operating condition. Such inspection shall be charged to the Customer at Siemens' per-call rates and terms then in effect. Any repairs or adjustments which Siemens determines are required due to (i) the use of any non-Siemens parts, (ii) the repair or service of the Equipment by the Customer or any third party during the suspension of services by Siemens, or (iii) any of the exclusions from coverage set forth in Section 8 of this Agreement, shall be charges to the Customer at Siemens' rates and terms then in effect and shall include charges for parts, with all such repairs or adjustments to be completed prior to the resumption of service under this Agreement.

10. Limitation of Liability

Siemens' entire liability and Customer's exclusive remedy for any direct damages incurred by the Customer from any cause whatsoever, and regardless of the form of action, whether liability in contract or in tort, arising under this Agreement or related hereto, shall not exceed an amount equal to the Annual Agreement Price for the specific item of Equipment under this Agreement that caused the damage or is the subject matter of, or is directly related to, the cause of action. Such maintenance charges will be those in effect for the specific item of Equipment when the cause of action arose. The foregoing limitation of liability shall not apply to claims by Customer or third parties for bodily injury or damage to real property or tangible personal property caused solely and directly by the gross negligence or willful misconduct of Siemens. In addition, Siemens shall have no liability hereunder to Customer to the extent that Customer's or any third party's acts or omissions contributed in any way to any loss it sustained or to the extent that the loss or damage is due to a force majeure occurrence as described in Section 17 hereof or any other cause beyond the reasonable control of Siemens.

THIS IS A SERVICE AGREEMENT. WITHOUT LIMITING THE LIMITATION OF LIABILITY SET FORTH IN THE PRECEDING PARAGRAPH, SIEMENS EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL SIEMENS BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOST REVENUES, LOSS OF USE OR DOWNTIME (EXCEPT AS OTHERWISE PROVIDED HEREIN), LOST DATA, OR FOR ANY INDIRECT, INCIDENTAL, UNFORESEEN, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF SIEMENS HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE EQUIPMENT.

11. Notices

Except for the issuance of invoices as set forth in Section 7 hereof, all notices required to be provided hereunder shall be in writing and shall be sent by overnight delivery via a nationally recognized delivery service or by certified or registered mail, postage prepaid, to Siemens at the address set forth on the first page of this Agreement and to the Customer at the address set forth under "Bill To" on the first page of this Agreement. Notice given in compliance with this Section 11 shall be sufficient for all purposes under this Agreement, and such notice shall be effective when sent. Either party may change its notice address only if notification is sent in writing pursuant to this Section 11.

12. Governing Law; Waiver of Jury Trial

This Agreement shall be governed by the laws of the Commonwealth of PA. TO THE EXTENT NOT PROHIBITED BY LAW, THE PARTIES WAIVE ALL RIGHTS TO A JURY TRIAL IN ANY LITIGATION ARISING FROM OR RELATED IN ANY WAY TO THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREBY.

13. Government Access Clause

Until the expiration of four (4) years after the furnishing of any services under this Agreement, Siemens shall make available upon written request of the Secretary of the Department of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Siemens which are necessary to certify the nature and extent of costs incurred under this Agreement. If Siemens carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a 12 month period with a related organization, such subcontract shall include a clause to the effect that until the expiration of four (4) years after the furnishing of any services under the subcontract, the related organization shall make available upon written request of the Secretary of the Department of Health and Human Services, the Comptroller General, or any of their duly authorized representatives, the subcontract and the books, documents and records of the related organization that are necessary to certify the nature and extent of costs incurred under that subcontract.

This provision shall apply if and solely to the extent that Section 1861 (v) (1) (I) of the Social Security Act applies to this Agreement.

14. Damages, Costs, And Fees

In the event that any dispute or difference is brought arising from or relating to this Agreement or the breach, termination, or validity thereof, the prevailing party shall not be entitled to recover from the other party punitive damages. The prevailing party shall be entitled to recover from the other party all reasonable attorneys fees and collection agency fees incurred, together with such other expenses, costs and disbursements as may be allowed by law.

15. Severability; Headings

No provision of this Agreement which may be deemed invalid, illegal or unenforceable will in any way invalidate any other portion or provision of this Agreement. Paragraph headings are for convenience only and will have no substantive effect.

16. Waiver

No failure, and no delay in exercising, on the part of any party, any right under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right preclude the further exercise of any other right.

17. Force Majeure

Siemens will not be liable to Customer for any failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control and without its fault or negligence including, but not limited to, governmental laws and regulations, acts of God or the public, war or other violence, civil commotion, blockades, embargoes, calamities, floods, fires, earthquakes, explosions, accidents, storms, strikes, lockouts, work stoppages, labor disputes, or unavailability of labor, raw materials, power or supplies. In addition, in the event of any determination pursuant to the provisions of a collective bargaining agreement between the Customer and any labor union representing any employees of the Customer preventing or hindering the performance of any of the obligations of Siemens under this Agreement, or determining that the performance of any such obligations violates provisions of that collective bargaining agreement, or in the event a trade union, or unions, representing any of the employees of the Customer otherwise prevents Siemens from performing any such obligations, then Siemens shall be excused from the performance of such obligations unless the Customer makes all required arrangements with the trade union, or unions, to permit Siemens to perform the work. The Customer shall pay any additional costs incurred by Siemens that are related to any labor dispute(s) that involve the Customer.

18. Confidentiality

Siemens and the Customer shall maintain the confidentiality of any information provided or disclosed to the other party, its employees or agents (a "receiving party") relating to the business, customers and/or patients of the disclosing party, including but not limited to know-how, technical data, processes, software, techniques, developments, inventions, research products and plans for future developments, proprietary matters of a business or technical nature, as well as this Agreement and its terms (including the pricing and other financial terms under which the Customer will be obtaining the services hereunder). Confidential Information shall also include all written materials (including correspondence, memoranda, manuals, training materials, notes and notebooks) and all computer software, models, mechanisms, devices, drawings or plans which may be disclosed or made available embodying Confidential Information. All Confidential Information shall be and remain the sole and exclusive property of the disclosing party. Each party shall use reasonable care to protect the confidentiality of the information disclosed, but no less than the degree of care it would use to protect its own confidential information, and shall only disclose the other party's confidential information to its employees and agents having a need to know this information. Confidential Information shall not include any information or data which (i) is or becomes public knowledge (through no fault of the receiving party or any of its employees or agents), (ii) is made available to the receiving party by an independent third party without any obligation of confidentiality, (iii) is already in the receiving party's possession at the time of receipt from the disclosing party (as such prior possession can be properly demonstrated by it), or (iv) is required by law to be disclosed, provided that the receiving party gives the disclosing party advance notice of the requirement for disclosure so that the disclosing party can take whatever action it deems necessary to protect the disclosure of its Confidential Information. In addition, this confidentiality provision shall not apply to any action brought by either party to enforce the terms of this Agreement against the other party.

Any unauthorized use, disclosure or misappropriation of any Confidential Information by the receiving party in violation of the foregoing may result in irreparable and continuing damage to the disclosing party; in the event of such breach, the disclosing party shall be entitled to obtain immediate injunctive relief and any other relief or remedies to which it may be entitled. The receiving party waives any requirement that the disclosing party post a bond or other security in connection with any petition filed by the disclosing party for injunctive relief. In the event that a court of competent jurisdiction determines that the receiving party has breached this provision, then the receiving party shall reimburse the disclosing party for the costs of any court proceedings and all reasonable attorney's fees.

19. End of Support Announcement

Notwithstanding anything to the contrary contained herein, in the event that Siemens makes a general announcement that it will no longer offer service agreements for an item of Equipment or components thereof, or provide a particular service agreement option or feature, whether due to the unavailability of spare parts or otherwise (an "EOS Announcement"), then upon no less than twelve (12) months prior written notice to the Customer, Siemens may, at its option, (i) cancel this Agreement or (ii) remove any affected Equipment, components, options or features from coverage under this Agreement, with a corresponding adjustment of the Annual Agreement Price. At the end of this twelve (12) month period and at the request of the Customer, Siemens will use commercially reasonable efforts to provide service or parts on a time and materials basis only, at Siemens' rates and terms then in effect, for any Equipment, components, options or features subject to an EOS Announcement.

20. Removal of Equipment from Coverage

The Customer may remove Equipment from coverage under this Agreement at any time upon no less than thirty (30) days prior written notice to Siemens if the use of the Equipment is permanently discontinued and the Equipment is removed from service. There is no fee for this cancellation. Prorated credit will be issued for any advance payments made by the Customer for the period after the effective date of removal (based on the notice requirement). In addition, if the Customer sells or otherwise transfers any of the Equipment to a third party and the Equipment remains installed and in use at the same location, but such third party does not assume the obligations of the Customer under this Agreement or enter into a new service agreement with Siemens with a term at least equal to the unexpired term of this Agreement, then the Customer may terminate this Agreement with respect to such Equipment upon no less than thirty (30) days prior written notice to Siemens, in which case the Customer shall pay to Siemens (i) all amounts due under this Agreement through the effective date of termination (based on the notice requirement) and (ii) as liquidated damages and not as a penalty, an amount equal to 25% of the remaining payments due under this Agreement for such Equipment from the date of termination through the scheduled expiration of the term of this Agreement.

21. HIPAA

To the extent required by the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") and the regulations promulgated thereunder, Siemens does hereby assure Customer that it will appropriately safeguard protected health information made available to or obtained by Siemens pursuant to this Agreement or any Service Schedule ("PHI"). Without limiting the obligations of Siemens otherwise set forth in this Agreement or imposed by applicable law, Siemens agrees to comply with applicable requirements of law relating to PHI and with respect to any task or other activity Siemens performs on behalf of Customer. Specifically, Siemens shall:

- (a) not use or disclose PHI other than as permitted or required by this Agreement or as required by law;
- (b) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any electronic PHI that it creates, receives, maintains or transmits on behalf of the Customer and

otherwise use appropriate safeguards to prevent use or disclosure of PHI, other than as provided for by this Agreement;

(c) report to Customer any use or disclosure of PHI not provided for by this Agreement, and report any security incident, of which Siemens becomes aware;

(d) ensure that any subcontractors or agents to whom Siemens provides PHI received from, or created or received by Siemens on behalf of, Customer agree to essentially the same restrictions and conditions that apply to Siemens with respect to PHI and implement reasonable and appropriate safeguards with respect to PHI;

(e) upon Customer's written request, make PHI available to the Customer as necessary for Customer to respond to individuals' requests for access to PHI about them, provided that the PHI in Siemens' possession constitutes a Designated Record Set and Siemens has been specifically engaged by Customer to so maintain and service such PHI on behalf of Customer;

(f) upon Customer's written request, make PHI available to Customer for amendment and incorporate any amendments to the PHI in accordance with applicable law, provided that the PHI in Siemens' possession constitutes a Designated Record Set and Siemens has been specifically engaged by Customer to so maintain and service such PHI on behalf of Customer;

(g) make available to Customer the information in its possession required to provide an accounting of disclosures of PHI as required by applicable law;

(h) mitigate, to the extent practicable, any harmful effect that is known to Siemens of a use or disclosure of PHI by Siemens in violation of the requirements of this Agreement or of law;

(i) provide notice of a breach of unsecured PHI to Customer without unreasonable delay, and in no case later than sixty (60) days after discovery of a breach. The notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by Siemens to have been, accessed, acquired, used, or disclosed. Siemens shall provide Customer with any other available information that Customer is required to include in notification to the individual under applicable law;

(j) make Siemens' internal practices, books, and records relating to the use and disclosure of PHI received from Customer available to the Secretary of the United States Health & Human Services for purposes of determining Customer's compliance with applicable law; and

(k) upon expiration or termination of this Agreement, return to Customer or destroy all PHI in its possession as a result of this Agreement and retain no copies of PHI, if it is feasible to do so. If return or destruction is not feasible, Siemens agrees to extend all protections contained in this Agreement to Siemens' use and/or disclosure of any retained PHI, and to limit further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

Siemens agrees that it will negotiate in good faith an amendment to this Agreement if, and to the extent required by, the provisions of HIPAA and regulations promulgated thereunder, in order to assure that this Agreement is consistent therewith.

22. Uptime Guarantee [DOES NOT APPLY TO EVERY SERVICE AGREEMENT]

For any Equipment that includes an Uptime Guarantee as specified in Exhibit A, Siemens guarantees that the Equipment will function at the minimum Uptime Performance (defined below) level set forth in Exhibit A (computed as described below).

"Uptime Performance" is defined as the capability of the Equipment to be utilized to treat or diagnose patients. The Equipment will be considered to be operational (i.e., it will not be considered to be "down"): (a) unless it cannot be utilized to treat or diagnose patients (room down); (b) if Siemens is prepared to perform maintenance services to make the Equipment operational but such service is refused by the Customer or is deferred by the Customer until a later time or date; (c) if the Equipment is not otherwise made available to Siemens' service engineers; (d) if the Equipment is down is due to, associated with, or caused by (i) misuse, negligence, or operator error, (ii) inadequate environmental conditions (not conforming with the environmental specifications provided by Siemens), including temperature and humidity, line power exceeding Siemens' requirements of voltage, frequency, impulses or transients, (iii) any of the exclusions set forth in Section 8 hereof, or (iv) acts of God or other force majeure events described in Section 17 hereof; or (e) during periods in which Siemens is performing scheduled or planned maintenance, changing high-vacuum components, and installing updates and/or upgrades. If the Equipment is not operational, then the Customer must immediately notify the Siemens Uptime Service Center (24-hour Service Call Dispatch Center). Downtime will not commence until such notification is given to Siemens.

For purposes of calculating the Uptime Performance level percentage, such computation shall be made over the PCP, to include any extended coverage hours as indicated on Exhibit A. The Equipment's Uptime Performance shall be calculated to comply with the above guidelines on an annual basis. If the Equipment's Uptime Performance level is found to be less than the guaranteed percentage, as computed in accordance with the above guidelines, Siemens will extend the term of this Agreement by seven (7) calendar days (30 calendar days for Oncology Care Systems) for every percentage point (rounded to the nearest percent) below the guaranteed percentage. These days will be added at the end of the term of this Agreement. For example, if the guaranteed percentage is 97%, then 96% Uptime Performance would result in an extension of seven (7) calendar days and 95% Uptime Performance would result in an extension of fourteen (14) calendar days. The foregoing states Siemens' entire obligation and liability, and the Customer's sole remedy, for Siemens' failure to meet the Uptime Performance Guarantee.

In order for the Uptime Performance Guarantee to be effective, the Customer must place all calls for service through Siemens' Uptime Service Center and must accept all Technical Assistance that is offered by Siemens, including, but not limited to,

telephone support and remote diagnostics. For any period of time that the Customer does not seek and accept Technical Assistance from Siemens, then the Equipment shall be considered to be operational.

The Customer agrees to allow connection to Siemens' Remote Service diagnostic equipment, where available, for the Equipment covered by this Agreement. Siemens Remote Service (SRS) is required for SRS-capable systems. The Uptime Performance Guarantee shall be void if the SRS connection is not provided and available 24 hours per day, 7 days a week.

23. Response Time Guarantee [DOES NOT APPLY TO EVERY SERVICE AGREEMENT]

Siemens guarantees that it shall meet any on-site response time as specified in Exhibit A for system "down" situations. Response time is measured from the time that the Customer notifies the Siemens Uptime Service Center that a system is down. The response time only applies during the PCP, to include any extended coverage hours (if selected by the Customer), as indicated on Exhibit A. For example, a request for on-site service made at noon on a Monday (where the PCP is 8:00 a.m. through 5:00 p.m., Mondays through Fridays) will have a guaranteed arrival time of 4:00 p.m. on the same day for customers with a four (4) hour response time and a guaranteed arrival time of 11:00 a.m. on the next day for customers with an eight (8) hour response time guarantee. A request for on-site service made at 9:00 a.m. on a Saturday will have a guaranteed arrival time of noon on the next Monday for customers with a four (4) hour response time and 4:00 p.m. on that Monday for customers with an eight (8) hour response time guarantee. If a request for on-site service is made outside the PCP (to include extended coverage hours, if selected by the Customer), Siemens will use its best efforts to have a CSE on-site as soon as possible.

If Siemens responds to a request for on-site service during the PCP but its work to repair or service the Equipment continues after the expiration of the PCP (to include any extended coverage hours, if applicable), then any work outside the PCP will be billed to the Customer, unless any optional Continuous Effort coverage that is available for the Equipment has been purchased as part of this Agreement. Continuous Effort coverage ensures that in room/system down situations, work will continue past the contracted PCP (including any extended coverage hours, if applicable, and/or core modality specific hours, as defined in the Glossary, if applicable) at no additional charge until the system is repaired or 1:00 a.m., whichever comes first, as long as the CSE has been on-site for one hour or more before the end of the contracted PCP (including any extended coverage hours and/or core modality specific hours, if applicable).

The remedy provided by Siemens for its failure to meet the on-site response time guarantee is as follows: for each one (1) hour or portion thereof that Siemens fails to meet the on-site response time guarantee, the Customer will receive one (1) free hour of overtime after the PCP for that service event. The foregoing states Siemens' entire obligation and liability, and the Customer's sole remedy, for Siemens' failure to meet the Response Time Guarantee.

24. Non-Assignment

Customer may not assign this Agreement unless it obtains the prior written consent of Siemens, which consent shall not be unreasonably withheld or delayed. Siemens may not assign this Agreement unless it obtains the prior written consent of the Customer, which consent shall not be unreasonably withheld or delayed, except that Siemens may assign without Customer approval to any subsidiary or affiliated company or any of its authorized dealers.

25. Reimbursement for Training Courses Upon Early Termination

If this Agreement includes any training courses and this Agreement is terminated or Equipment is removed from coverage as provided hereunder prior to the expiration of the term, then Siemens may bill the Customer for any balance due and owing with respect to those training courses that have been completed by the Customer, and Customer agrees to pay the same.

26. Execution; Counterparts

If the Customer is a corporation or partnership, the person signing this Agreement on its behalf certifies that such person is an officer or partner thereof, that his or her action was duly authorized by appropriate corporate or partnership action, that such action does not conflict with the corporate charter or bylaws or the partnership agreement, as the case may be, or any contractual provision binding on such corporation or partnership, and that no consent of any stockholders to his or her action is required.

This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original document but all of which together shall constitute one and the same agreement.

27. Entire Agreement

This Agreement, including all exhibits and addenda attached hereto, constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes all prior and contemporaneous oral or written representations or communications between the parties. This Agreement may not be modified or amended, except in writing executed by the appropriate designated officers of the parties hereto. Any variation in the terms and conditions contained in this Agreement (including, but not limited to, the inclusion of Customer's own terms and conditions in any purchase order or other document issued by Customer in response to and/or referencing Siemens' quotation for service or this Agreement) shall not be deemed to be a part of this Agreement and shall not be binding upon Siemens unless set forth in writing and executed by the appropriate designated officer of Siemens. Subject to the limitations expressed herein, this Agreement will be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives, and permitted assigns.