**TERMS AND CONDITIONS**

**(“Agreement”)**

**Definitions**

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

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

**“Product(s)”** means the specific Hillrom product(s) referenced on the Purchase Order sold and licensed to Customer under this Agreement. Available Products currently sold/licensed by Hillrom are:

(A) NaviCare Nurse Call (“NNC”);

(B) CenTrak Staff Locating to be used in conjunction with NNC (“ESL,” or “Enhanced Staff Locating”);

\*Please note that AT and TM may bear the suffix “-(TELE)” or “-(CET)” to denote the use of a TeleTracking or Cetani software interface as applicable.

**“Licensed Software”** means the Hillrom proprietary software (including updates thereto) licensed for use with a Product.All other software used with Products shall be termed “**Third Party Programs**.” Without limitation, ESL, Free ESL, AT, TM and HH are all Third Party Programs.

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

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

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

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

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

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

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

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

**NaviCare Bed Data Interface – Additional License Terms and Conditions**

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

**Open Source Software.** The Products may include open source software (i) for which Hillrom does not claim copyright ownership for the source code, and (ii) which source code is made freely available to the general public. Open Source Software includes, but is not limited to, software licensed under the GNU General Public License (“GPL”) or the GNU Lesser General Public License (“LGPL”). Any source code, attributions or terms for such open source technology are provided in the documentation and/or in user files (which are identified in the documentation) within the Licensed Software program. End user’s rights and remedies under this Agreement with respect to such Open Source Software shall apply, but only for end user’s use of the Open Source Software as part of the Product which is in compliance with the terms of this Agreement and with the terms of any relevant open source license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Assignment.** Hillrom and the Customer may assign this Agreement by following the assignment procedures established in the FAR.

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

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

**Business Associates Addendum.** Unless the parties have entered into a separate Business Associate Agreement, the Business Associates Addendum attached hereto shall apply to those circumstances where Hillrom is acting as a business associate. IMPORTANT NOTE: The Business Associate Agreement attached at Appendix 4 is not intended to apply to the Department of Veterans Affairs Veterans Health Administration (“VHA”). If the Covered Entity is the VHA then the “Business Associate Agreement Between the Department of Veterans Affairs Veterans Health Administration and Hillrom Company, Inc., effective April 1, 2014 applies instead.

**EXHIBIT a**

**NaviCare® Nurse Call (“NNC”)**

**Limited Warranty, Software, Parts and Labor Service Contracts**

1. **APPLICATION:** This Exhibit A applies where NNC is a Product unless NNC is covered under a General Services Administration Schedule (“GSA Schedule”) in which case the GSA Schedule shall apply instead. Further, in the event of any conflict between the terms of these terms and conditions and the terms of an applicable GSA Schedule, then the GSA Schedule terms shall control.
2. **HILLROM PROVIDED COMPONENTS.** Hillrom warrants that the Hillrom Provided Components will perform substantially in accordance with the published specifications and Product documentation and be free from manufacturer’s defects from the date of shipment to Customer for the duration of applicable Warranty Period.
   1. **Warranty Periods.** The Warranty Period is eighteen (18) months from the date of shipment for servers, monitors, bed connectors, pillow speakers, POE switches, call cords, cabling, LCDs and any other Hillrom Provided Components other than those otherwise set forth in this paragraph. The 18 month Warranty Period effectively provides Customer with a twelve (12) month warranty period plus a maximum six (6) month allowance for implementation or construction, and may be extended by Customer’s purchase of the optional ESA program, below. For all consumable products such as badge batteries the Warranty Period is ninety (90) days from the date of shipment. For audio devices (excluding LCDs), dome lights, RCBs, RLRs and call switches the Warranty Period is five (5) years from the date of shipment, however, this warranty is limited to coverage only for manufacturer’s defects.
   2. **Repair/Replacement.** Hillrom’s obligations under this warranty are expressly limited to repairing or replacing, within the Warranty Period, those warranted Hillrom Provided Components that, in the reasonable discretion of Hillrom, are found to be non-conforming. Where necessary, labor associated with repair or replacement of warranted Hillrom Provided Components is also provided for a period of up to eighteen (18) months following the date of shipment of the applicable Hillrom Provided Components. The stated labor period may be extended with the purchase of Hillrom’s optional ESA program, below. Hillrom Provided Components that do not materially conform to Product documentation must be returned to Hillrom immediately. Customer must contact Hillrom Technical Support at 800-445-3720 and request a return material authorization (“RMA”) number, in order to initiate a return.
   3. **Warranty Exclusions.** Hillrom will not provide any warranty services with respect to the following:
3. Electrical work external to the Product;
4. Batteries (except original Hillrom UPS battery), badges, cables, wire, connectors, light bulbs, keyboards and mouse;
5. Third Party Programs;
6. Customer supplied products;
7. Customer set up or alterations of Products by Customer or by others not authorized by Hillrom, without prior written consent of Hillrom;
8. Significant reconfiguration of Products by anyone not authorized by Hillrom;
9. Services for any Product with missing or altered serial numbers;
10. Charges from any party for warranty services provided at the request of Customer that are not covered by an agreement between such party and Hillrom or that are not authorized in advance in writing by Hillrom;
11. Charges from any party that made modifications to the Product without the advance written approval of Hillrom;
12. Repair of damage or impaired functionality caused by:
    * 1. Customer’s failure to purchase software maintenance;
      2. Neglect, misuse or improper use, management or supervision of the Product, including but not limited to the use of improper supplies and accessories with the components;
      3. Any causes external to the Product that adversely affect the operability or serviceability of the Product including, but not limited to fire, water, wind, lightning earthquake (or other acts of God) and the failure to provide adequate electrical power, air conditioning or humidity control;
      4. Use of the Product for purposes other than for which it was designed;
      5. Use of the Product with software other than the Hillrom Provided Software or with hardware other than the Hillrom Provided Components; or
      6. Unauthorized relocation of the Product by Customer prior to re-certification by Hillrom.

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

1. **LICENSED SOFTWARE.** So long as Customer renders payment annually for software maintenance, Hillrom warrants that the Hillrom Licensed Software shall perform substantially in accordance with the published specifications and Product documentation. Hillrom’s obligations under this warranty are expressly limited to replacing or correcting, at its option any Hillrom Licensed Software that, in the reasonable discretion of Hillrom, is found to be non-conforming.
2. **Software Maintenance Agreement (“SMA”)**. The SMA provides support services and software updates to Supported Versions of the NNC Licensed Software only. The program commences initially upon the date of shipment of the applicable NNC system and continues for the following eighteen (18) months. Thereafter the program must be renewed on an annual basis. The SMA program provides Minor Releases, Major Releases and remote technical assistance. Services related to the installation or configuration of Minor Releases shall be provided to Customer at the then current Services rate.
3. **Remote Technical Assistance**. Customer’s designated representative(s) will notify Hillrom’s Technical Support Center upon discovery of any deficiency in the NNC system and will describe the deficiency to Hillrom with adequate specificity to ensure Hillrom may identify and verify the problem. A Hillrom Technical Support Representative will, if available, access Customer’s NNC system via remote access using the intelligent device management (IDM) tool (hereinafter “Hillrom Remote Services”), to verify the malfunction. Customer acknowledges and agrees that Hillrom may utilize a Hillrom Remote Services tool, which may monitor Customer’s NNC systems, NNC system events and conditions via remote access through a secure 443 port using 128-bit (or higher) SSL encryption.
4. **Participation, Fees, and Renewal**. SMA fees are due and payable annually in advance of the applicable support period. In the event Customer elects not to participate in the SMA program, Customer shall not be entitled to receive SMA services or remote technical assistance. Customers who fail to participate and who subsequently seek to enroll in the SMA program, shall pay the annual software maintenance fee for the year of participation. Hillrom warrants the Services, provided hereunder, shall be performed in a professional manner, in accordance with industry standards. If Hillrom receives notice of defects in the Services within the Warranty Period, Hillrom shall re-perform said Services.
5. **optional Parts AND LABOR PROGRAM - EXTENDED Service Agreement (“ESA”).** Eighteen months after the date of shipment of the applicable NNC system, Customer may purchase an optional Extended Services Agreement (“ESA”). The ESA program extends the initial warranty coverage for certain Hillrom Provided Components and offers additional on-site labor for both the Licensed Software and certain Hillrom Provided Components. Contact your Hillrom representative for additional details of current ESA proposals and terms.
6. **Limitations and Exclusions**. Any goods or Services provided outside of the explicit scope of those set forth in this Exhibit are billable at Hillrom’s current fee for Service rates with a four (4) hour minimum. Such rates are inclusive of travel and expenses. The warranties stated herein are not transferable and apply only to Hillrom Provided Components and Licensed Software installed by Hillrom or an authorized Hillrom representative.

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

**EXHIBIT B**

**CenTrak Staff locating USED IN CONJUNCTION WITH NNC (“ESL”)**

**End user LIcense Agreement & Warranty TERMS AND CONDITIONS**

1. **APPLICATION:** This Exhibit B applies where ESL is a Product.
2. **Warranty, Maintenance, and End User License Agreement**. Hillrom extends to End User the same warranties under the same terms and conditions offered by CenTrak, Inc. (“CenTrak”). A copy of CenTrak’s end user license, warranty and maintenance terms is attached at Appendix 1.

**THE warranties SET FORTH IN THE ATTACHED appendix 1 constitutes END USER’S sole warranties FOR esl and are in lieu of all other representations or warranties express or implied or statutory, including but not limited to the implied warranties of merchantability or fitness for a particular purpose, and all other remedies. The limited warranties therefore, REPLACE, supersede, and render null and void any other warranty related thereto. Hillrom does not WARRANT THAT THE OPERATION OF esl WILL BE ERROR FREE OR UNINTERRUPTED. Hillrom shall not BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES INCLUDING LOST REVENUES AND LOST PROFITS EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.**

**Centrak End user LIcense Agreement & Warranty**

THIS END USER LICENSE AGREEMENT (“EULA”) sets forth the respective rights and responsibilities as between End User and CenTrak, Inc., a Delaware corporation (“CenTrak”), relative to the CenTrak Software.

**RECITALS**

A. CenTrak Inc. (“CenTrak”) develops and markets wireless products and networks, including software and hardware, based on radio frequency identification (“RFID”) tags to help individuals and organizations keep track of people, activities, and or physical assets.

B. Hillrom Company, Inc., an authorized reseller of CenTrak (“Reseller”), sold the CenTrak Equipment and CenTrak Software to End User solely for use with the real time locating product which End User purchased from Reseller (“RTLS Product”).

**1.** **IMPORTANT NOTICE.** THIS IS AN END USER AGREEMENT FOR THE CENTRAK SOFTWARE. THIS AGREEMENT IS BINDING UPON END USER.

**2.** **Definitions.**

2.1 “CenTrak Documentation” means the user and operations manuals, guides and related materials provided to End User to facilitate use of the CenTrak Products.

2.2 “CenTrak Equipment” means CenTrak’s hardware and other tangible products, such as Stars, Monitors, Tags and accessories such as attachments and batteries, sold by Reseller to End User.

2.3 “CenTrak Products” means CenTrak Software and CenTrak Equipment licensed or sold, as applicable, by CenTrak currently or in the future.

2.4 “End User” is the customer which procured the CenTrak Product from Reseller and is using it in its site(s).

2.5 “EULA” shall have the meaning set forth in the introductory paragraph above.

2.6 “CenTrak Software” means the object code form of computer programs and CenTrak Documentation relating to such computer programs developed by CenTrak or its suppliers to be used on servers or within CenTrak Equipment where data related to the CenTrak Product is passed to application software or is aggregated. CenTrak Software includes (a) computer programs used to create and manage the network for the CenTrak Equipment, interface with all the components of the CenTrak Equipment, manage and compute location information, monitor system health monitoring and provide other functionality, (b) computer programs used on the CenTrak server embedded in a separate medium (such as CD) for use separate from or in conjunction with the CenTrak Equipment, (c) computer programs used in the server that are downloaded from CenTrak, and (d) CenTrak Documentation related to the CenTrak Software.

2.7 “Term” has the meaning set forth in Section 5.1 below.

**3. Software License and Restrictions.**

3.1 License. Subject to the terms and conditions of this EULA, and End User’s performance under the terms and conditions of its agreement with Reseller, CenTrak grants End User a non-exclusive, non-transferable, license to use the CenTrak Software for End User’s internal purposes, solely for use with CenTrak Products sold or licensed hereunder.

3.2 Usage. Use of the CenTrak Software with software applications other than the Hillrom RTLS Product, will require the End User to purchase and sign a separate license directly with CenTrak. End User will ensure that CenTrak will have remote access to the CenTrak Software and the configuration files and data logs it produces for various purposes including performance evaluation, maintenance, and software improvements.

3.3 No Distribution. End User may not, directly or indirectly, relocate, move, license, timeshare, loan, lease or otherwise distribute (through a third party service bureau or otherwise) the CenTrak Products or any copies of the CenTrak Software.

3.4 Ownership. All rights, title and interest in and to, and ownership of, the CenTrak Software and the continuous monitoring data received by the Global Monitoring System as described in the section “Mandatory Software Maintenance” (“Maintenance Data”) and any modifications and derivative works thereof, whether created by CenTrak, End User or a third party, will remain at all times solely and exclusively with CenTrak. Maintenance Data does not include information proprietary to End User such as personal locating information. Nothing in this EULA will be construed to grant End User any rights of any kind with respect to any portion of the CenTrak Software except as expressly set forth in this EULA. For the sake of clarity, notwithstanding anything to the contrary herein, End User shall not be permitted to modify or create derivative works of the CenTrak Software.

3.5. Trade Secrets. End User agrees that the CenTrak Products are the sole property of CenTrak and includes valuable trade secrets of CenTrak. End User agrees to treat CenTrak Software as the Confidential Information (as defined in Section 6 below) of CenTrak and will not without the express written authorization of CenTrak: (i) demonstrate, sell, lend, duplicate, market or distribute CenTrak Products to any third party without the written authorization of CenTrak; (ii) publish or otherwise disclose information relating to performance of the CenTrak Products to any third party; or (iii) permit examination of the CenTrak Products by End User employees, contractors or consultants who either do not have a need to do so for the sole purpose of assisting End User with the exercise of its rights under this Agreement or are not subject to confidentiality and intellectual property restrictions with respect to CenTrak Products substantially similar to those in this Agreement.

3.6 Reverse Engineering and Other Restrictions. End User will not, and will not allow any third party to tamper with, modify, decompile, disassemble, derive the source code or otherwise reverse engineer or attempt to obtain the source code or internal design of the CenTrak Products for any purpose whatsoever (collectively, “Restricted Acts”). If applicable law permits End User to take any of the Restricted Acts notwithstanding the previous prohibition, and End User wishes to take any Restricted Act notwithstanding the previous prohibition, End User will first provide CenTrak with thirty (30) days prior written notice. CenTrak may terminate this EULA at any time during such notice period without liability arising from such termination. Upon termination, End User will immediately return all copies and embodiments of the CenTrak Software to CenTrak and cease using the CenTrak Software.

3.7 Proprietary Notices. End User agrees to maintain, not remove or destroy, and reproduce on all copies of the CenTrak Products, any names, logos, copyright notices, trademarks, other proprietary markings and confidential legends that appear on the CenTrak Products.

3.8 Control of Duplication. End User will not, nor will it allow any third party to, circumvent the protection controlling the duplication or use of the CenTrak Software, for example and without limitation, the software lock controlling the number of copies End User may make of the CenTrak Software.

* 1. No Source Code. End User acknowledges and agrees that its rights under this EULA do not include rights to source code. In its exercise of the rights granted under this EULA, End User agrees not to take any action that would result in any requirement to disclose or make available to other parties the CenTrak Software in source code format.

3.10 Audit. Upon thirty (30) days written notice to End User, and at mutually agreeable times, CenTrak shall have the right to examine End User’s premises, books and records, during End User’s normal business hours, for End User’s compliance with the restrictions and obligations in this EULA. Such audits will not occur more frequently than once per calendar year. If CenTrak determines that End User has used the CenTrak Software in violation of this EULA, End User shall immediately cease such violating use, reimburse CenTrak for the costs of such audit, and pay CenTrak any additional fees for the excess use according to CenTrak’s then-current CenTrak price list and policies.

3.11 Title to CenTrak Software. Title to CenTrak Software remains with CenTrak or its supplier. With respect to CenTrak Software, the word “purchase” or similar or derivative words as used herein are understood to mean “license.”

3.12 License Fees. License fees for the CenTrak Software are included in the price paid by End User to Reseller.

**4.0** **No Warranty, Indemnification or Support.** CENTRAK PROVIDES NO WARRANTY OR SUPPORT (EXCEPT AS PROVIDED FOR IN THE “CENTRAK WARRANTY AND DISCLAIMER” OR PROVIDED FOR UNDER SOFTWARE MAINTENANCE), OR (ii) INDEMNIFICATION TO END USER, EXPRESS OR IMPLIED, AND WHETHER THROUGH COURSE OF DEALING, USAGE OF TRADE, OR OTHERWISE, AND THE CENTRAK PRODUCT IS DELIVERED “AS IS”. EXCEPT AS DESCRIBED IN THE WARRANTY CHART, CENTRAK DISCLAIMS ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. Neither CenTrak nor its licensors represent or warrant that the CENTRAK Products are without defect or error.

**5.** **Term and Termination**

5.1 Term. This EULA commences on the Effective Date and continues unless terminated earlier in accordance with the terms hereof.

5.2 Termination for Cause. CenTrak may terminate this EULA if End User materially breaches this EULA and fails to cure such breach within thirty (30) days of written notice of such breach by CenTrak.

5.3 Effect of Termination. Upon the termination of this EULA for any reason, all rights, licenses, privileges and obligations granted or received by End User under this EULA will immediately cease and terminate.

6. **Confidential Information**. End User will diligently preserve the confidential information and intellectual property of CenTrak, including but not limited to, information about the CenTrak Products, such as performance, method of use, installation process, pricing and all such information that is designated as confidential or that by its nature would reasonably be expected to be kept confidential (“Confidential Information”) and will exercise at least such care as End User employs to preserve the confidentiality of its own Confidential Information, but not less than reasonable care. End User may not disclose any Confidential Information of CenTrak to any third party or use it for any purpose other than in connection with this EULA. Confidential Information does not include information that (a) was known to End User without restriction prior to the receipt of the Confidential Information from CenTrak; (b) is received by End User without restriction independently of CenTrak; (c) was generally known to the public prior to disclosure to the End User; or (d) becomes generally known to the public through no fault of End User. Confidential Information includes without limitation the CenTrak Software and CenTrak Documentation. Upon termination of this EULA, End User shall return all CenTrak Confidential Information to CenTrak or shall destroy such information and confirm such destruction to CenTrak with a written certification of an authorized officer of End User within fifteen (15) days of such termination.

**7. Limitation of Liability**

EXCEPT AS STATED HEREIN OR IN A SEPARATE SOFTWARE MAINTENANCE AGREEMENT, IN NO EVENT WILL CENTRAK HAVE ANY LIABILITY TO END USER OR ANY THIRD PARTY FOR ANY DAMAGES OR ANY CLAIM ARISING UNDER OR RELATING TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED UNDER THIS AGREEMENT THE TOTAL LIABILITY, IF ANY, OF CENTRAK FOR ALL DAMAGES AND BASED ON ALL CLAIMS, WHETHER ARISING FROM BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, INDEMNITY, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE, ARISING FROM THE CENTRAK PRODUCT IS LIMITED TO THE PRICE PAID TO RESELLER FOR THE CENTRAK PRODUCTS.

IN NO EVENT WILL CENTRAK BE LIABLE TO END USER OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF REVENUES, LOSS OF PROFITS OR LOSS OF DATA, EVEN IF CENTRAK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8. Miscellaneous.**

8.1 Amendments. This EULA may be amended, supplemented or modified only by written agreement executed by CenTrak and End User.

8.2 Binding Effect; Assignment. This EULA will be binding upon, and inure to the benefit of, End User’s and CenTrak’s respective permitted successors and permitted assigns; provided that neither this EULA nor any of End User’s rights, privileges, duties or obligations under this EULA may be assigned, sublicensed, sold, mortgaged, pledged or otherwise transferred or encumbered by End User without the prior written consent of CenTrak, including without limitation by merger, acquisition, sale of stock or assets, or otherwise by operation of law. Notwithstanding anything to the contrary herein, CenTrak may assign this EULA without End User’s consent to (i) any parent, affiliate, subsidiary, division or to any successor to its business without consent of End User; or (ii) an acquirer of substantially all of the assets of that portion of the CenTrak’s business to which this EULA applies.

8.3 Notices. Any written notice required by this EULA will be deemed made (a) when delivered by personal service, (b) when sent by facsimile transmission (with transmission confirmation received) and confirmed immediately in writing by a copy sent by recognized international overnight courier service (such as FedEx), (c) one (1) business day after being sent by recognized international overnight courier service (such as FedEx), or (d) when received, if sent by certified or registered mail, postage prepaid, return receipt requested.

Any such notice given to CenTrak shall be sent to the following addresses:

|  |
| --- |
| CenTrak  5 Caufield Place  Newtown, PA 18940  Attn: Legal Department  Tel: 215-860-2928  e-mail: [legal@centrak.com](mailto:legal@centrak.com) |

Any such notice given to End User shall be sent to any of End User’s addresses on file with Reseller.

By giving to the other party written notice thereof, the parties hereto and their respective permitted successors and assigns will have the right from time to time and at any time during the Term of this EULA to change by written notice their respective addressee or address for notices.

8.4 Applicable Law. The validity of this EULA and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the substantive laws of the state within the United States, or where applicable, of the Canadian province, in which the CenTrak Product is licensed for use. Where the CenTrak Product is licensed for use outside of the United States or Canada, the substantive law of the state of Delaware shall apply.

8.5 Export Control; Government Use. End User will not export or re-export the CenTrak Products, including any technical data, except as authorized and permitted by, and in compliance with, the laws and regulations, including but not limited to all export and re-export laws and regulations, of the United States.

End User will ensure that whenever the CenTrak Products are provided to the government of the United States of America, any agency thereof or any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other activity with the government of the United States of America such transaction is governed by a written agreement that provides that the CenTrak Software is provided with RESTRICTED RIGHTS and that use, duplication, or disclosure by the Government is subject to restrictions as set forth in accordance with FAR 12.211 (Technical Data) and 12.212 (Computer Software) and, for Department of Defense purchases, DFAR 252.227-7015 (Technical Data -- Commercial Items) and 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), or the similar acquisition regulations of other applicable U.S. Government organizations, as applicable.

8.6 Severability. If any provision of this EULA is invalid or unenforceable in any circumstances, it will be interpreted as much as possible to reflect the intent of the parties, and its application in any other circumstances and the remaining provisions of this EULA will not be affected thereby.

8.7 Entire Agreement. This EULA constitutes the entire agreement and understanding of the parties relating to the subject matter thereof. This EULA supersedes all prior written and oral agreements and all other communications between End User and CenTrak regarding the subject matter hereof. No contradictory terms and conditions of any purchase order, invoice or other document issued by End User relating to the subject matter of this EULA shall be binding, unless agreed by the parties pursuant to Section 8.1 above.

8.8 Waiver of Breach. No waiver by a party of any breach of this EULA will constitute a waiver of any other breach of the same or other provisions of this EULA. No waiver by a party will be effective unless made in a record signed or otherwise authenticated by an authorized representative of such party.

8.9 Relationship of the Parties. The parties are independent contractors. Nothing in this EULA or in the activities contemplated by the parties will be deemed to create an agency, partnership, employment or joint venture relationship between the parties. Neither party will have any responsibility nor liability for the actions of the other party except as expressly provided in this EULA. Neither party will have any right or authority to bind or obligate the other party in any manner or make any representation or warranty on behalf of the other party. This EULA is made and entered into for the sole protection and benefit of CenTrak, its licensors and suppliers and End User, and no other person or entity shall be a direct or indirect beneficiary of or shall have any direct or indirect cause of action or claim arising from this EULA.

8.10 Headings. Any headings of sections herein are for convenience only and do not affect in any way the scope, intent or meaning of the provisions to which they refer.

8.11 Survival. Sections 3 through 7 will survive the expiration or earlier termination of this EULA.

8.12 Force Majeure. If the performance of this EULA, or of any of the obligations specified in this EULA (except for payment), is prevented, delayed, or restricted by reason of any act of God, act of war, or any other cause beyond the reasonable control of the affected party, the party so affected will be excused from performance for the duration of such cause, provided that the party so affected will use its best efforts to avoid or remove the cause of non-performance and will resume performance as soon as reasonably possible whenever such cause is removed.

**CENTRAK WARRANTY and DISCLAIMER**

**Equipment and Software:**

CenTrak is pleased to provide the five (5) year limited warranty as set forth in the Warranty Chart below, to the original purchaser of the CenTrak Product. This warranty is not transferable and applies only to CenTrak Equipment installed by a Reseller or an authorized CenTrak installer.

The following limited warranty sets out the entire obligation of CenTrak with respect to the CenTrak Equipment and CenTrak Software, therefore, replaces, supersedes and renders null and void any other Warranty related thereto.

CenTrak warrants that the CenTrak Equipment will perform substantially in accordance with the published specifications and CenTrak Documentation and be free from defects in material and workmanship from the date of shipment to End User for duration of the Warranty Period set forth in the warranty chart attached hereto. Please note that references to “12/18” means that the Warranty Period for that particular item is twelve (12) months from certification or eighteen (18) months from the date of shipment (whichever comes first). CenTrak’s obligations under this warranty are expressly limited to repairing or replacing, at its option within the Warranty Period, any CenTrak Equipment that, in the reasonable discretion of CenTrak, is found to be defective. CenTrak Equipment that does not materially conform to CenTrak Documentation must be returned pursuant to CenTrak’s warranty return policy.

So long as End User renders payment (annually) for the mandatory software maintenance, CenTrak warrants that the CenTrak Software shall perform substantially in accordance with the published specifications and CenTrak Documentation. CenTrak’s obligations under this warranty are expressly limited to replacing or correcting, at its option any CenTrak Software that, in the reasonable discretion of CenTrak, are found to be non-conforming.

**THE FOREGOING EXPRESS WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CENTRAK DOES NOT WARRANT THAT THE OPERATION OF THE CenTrak Product WILL BE ERROR FREE OR UNINTERRUPTED. CENTRAK SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES INCLUDING LOST REVENUES AND LOST PROFITS EVEN IF NOTIFIED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.**

**Limitation. The CenTrak Limited Warranty does not apply to CenTrak Products that do not function in accordance with or conform to written specifications and/or CenTrak documentation due to End User Supplied Products. CenTrak Products shall not be considered non-conforming or otherwise defective due to functionality or inter-operability issues that arise by reason of End User supplied Products that do not meet CenTrak specifications. CenTrak offers no warranty for software (Including Third Party Programs), computer hardware, devices, wired or wireless network infrastructure, equipment or components that are not acquired from CenTrak. Warranty Service under any applicable initial warranty or extended service / software maintenance plan is not available for software, computer hardware, devices, equipment or components that are not acquired from CenTrak.**

**Exclusions**. CenTrak’s obligation shall not apply to (i) defects in the CenTrak Products that are the result of improper storage or use (including, without limitation,(A) operation of the CenTrak Products outside the environmental, hardware or software parameters defined in the documentation, and (B) failure to install properly all releases made available by CenTrak with respect to the CenTrak Software and all updates recommended by CenTrak and/or manufacturer, as applicable, with respect to any third party software or hardware products (including but not limited to operating system software) that materially affect the performance of the CenTrak Products; (ii) CenTrak Products for which installation, commissioning, use or maintenance has not been performed by CenTrak certified technicians, whom can be certified with CenTrak’s web based training and certification program, (iii) defects resulting from other hardware or software (including but not limited to operating systems, servers, networks, and third party software) not supplied by CenTrak, (iv) CenTrak Products, that due to no fault of CenTrak, have been subjected to any other kind of misuse or detrimental exposure not attributable to CenTrak, (v) CenTrak Products modified, altered, repaired, or relocated by any party other than CenTrak or CenTrak’s certified technician without CenTrak’s prior written consent, or (vi) the CenTrak Software not being used in a manner consistent with its intended use as set forth in the Documentation. Notwithstanding anything to the contrary herein, CenTrak does not warrant the uninterrupted or error free use of the CenTrak Software or that the CenTrak Products will operate with any hardware or software not specified in the documentation. In addition, CenTrak shall have no obligations to End User under this Agreement if End User (i) does not promptly notify CenTrak or Reseller of any product defect discovered within the warranty period or (ii) is in default of any material provision of this Agreement.

**Warranty Chart**

Please refer to the proposal for the applicable parts purchased.

DESCRIPTION WARRANTY

STAR 60 MONTHS

STAR - TIMING 60 MONTHS

STAR - REPEATER 60 MONTHS

CENTRAK ROOM MONITOR 60 MONTHS

VIRTUAL WALL MONITOR (SINGLE) 60 MONTHS

MONITOR DROP BOX 12/18 MONTHS

TAG - ASSETS 12/18 MONTHS

TAG - PATIENT 3 MONTHS

TAG - STAFF 12/18 MONTHS

TAG - ALERT 12/18 MONTHS

CENTRAK STAR-RCB CABLE - 18" 3 MONTHS

STAR POWER ADAPTER 12/18 MONTHS

CEILING TILE ATTACHMENT 60 MONTHS

CENTRAK STAR-RCB CABLE - 18" 3 MONTHS

MONITOR POWER ADAPTER 12/18 MONTHS

MONITOR MOUNTING PLATE 60 MONTHS

CEILING TILE ATTACHMENT 60 MONTHS

LITHIUM BATT PACK FOR VW MONITOR 3 MONTHS

CABLE - CAT3 RJ11 - 25 FOOT 3 MONTHS

IR REGENERATOR VW MONITOR 12/18 MONTHS

CEILING ATTACHMENT-METAL 9/16 3 MONTHS

CEILING ATTACHMENT-METAL 15/16 3 MONTHS

CEILING ATTACHMENT-METAL 5/16 3 MONTHS

CABLE-VW & BATT PACK CONN (QTY 1) 12/18 MONTHS

VW MONITOR IR BLOCKER- 4 INCH 3 MONTHS

CABLE-VW & BATT PACK CONN (QTY 2) 12/18 MONTHS

DIM BATTERY (CR123A) 3 MONTHS

CEILING ATTACHMENT-VW- (1 INCH) 3 MONTHS

CEILING ATTACHMENT-VW- (1/2 INCH) 3 MONTHS

DOUBLE SIDED ADHESIVE 12/18 MONTHS

SCREW ATTACHMENT-ADHESIVE PAD 12/18 MONTHS

CLIP WITH ADHESIVE PAD 12/18 MONTHS

BATTERY DOOR OPENER TOOL 12/18 MONTHS

COIN CELL LITHIUM BATTERY 3 MONTHS

BATTERY BACK COVER 3 MONTHS

STAFF TAG LANYARD 3 MONTHS

All batteries come with a 3 month warranty even if the batteries are provided as part of the above hardware or device.

**MANDATORY SOFTWARE MAINTENANCE**

**Maintenance Services.** End User is required to participate in the CenTrak Software maintenance program. So long as End User remains current on its payment of fees set forth herein, End User shall receive updates, upgrades, new releases, enhancements, and maintenance and patch releases to the CenTrak Software when such are made generally available to CenTrak End Users. Services related to the installation or configuration of updates to CenTrak Software shall be provided to End Users at the then current services rate.

**Telephone Support.** Telephone Support is provided 24 hours a day, 7 days a week. The Technical Support Center is staffed Monday through Friday (excluding public holidays) from 8:00 am to 6:00 pm Eastern Time, to respond to telephone and email problem calls. At all other times support services are available via a pager system.

**Installation Assistance.** End User will be provided with telephone assistance for the implementation or installation of CenTrak updates.

**Onsite Support.** Onsite support is available to End User at the current onsite support fee.

**Global Monitoring System (“GMS”).** The GMS receives continuous maintenance information from every component of the CenTrak RTLS, including every tag, every 10 minutes around the clock. This maintenance data is used to analyze the current and predict the future health of the system as a whole as well as each component. The GMS allows CenTrak to maintain the RTLS in a proactive rather than a reactive method. All of the maintenance services described herein are predicated upon End User providing internet access, one direction from the site to CenTrak remote server is sufficient, so that CenTrak’s GMS can be populated with sufficient information to monitor the system.

**Exclusions.** Any time incurred in diagnosing or fixing problems that are not caused by the CenTrak Software or are not covered by this Agreement are billable to the End User at then current rates, with a one-hour minimum per call. Any travel and expenses incurred in conjunction with out of scope maintenance and support shall be billed to End User at actual cost, provided all such travel and expenses shall be approved by End User in advance.

**Term.** End User’s participation in the CenTrak Software Maintenance Program is on an annual basis. End User will receive a proposal from Reseller within 90 days of the anniversary date of the commencement of maintenance services coverage, to renew its participation in the CenTrak Software Maintenance Program.

**Fees.** End User shall pay Reseller the annual fees set forth in the proposal for the software maintenance services provided hereunder. Failure to render annual maintenance and support fees may result in a reinstatement fee. The amount of the reinstatement fee shall be the cumulative maintenance fee End User would have paid had its participation in the software maintenance program continued uninterrupted.

**APPENDIX 4**

**BUSINESS ASSOCIATE ADDENDUM**

**(FOR NON-VETERANS HEALTH ADMINISTRATION COVERED ENTITIES ONLY)**

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

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

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

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

**NOW, THEREFORE**, the parties agree as follows:

1. Permitted Uses and Disclosures. Hillrom shall not use or disclose “PHI”, other than as permitted herein, or as Required by Law. Hillrom may use or disclose PHI as required to perform the Services under the Master Agreement and may further:
   1. Use PHI for its proper management and administration or to carry out its legal responsibilities.
   2. Disclose PHI for Hillrom’s proper management and administration or to carry out Hillrom’s legal responsibilities, provided that such disclosures are Required By Law, or Hillrom obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies Hillrom of any instances of which it is aware in which the confidentiality of the information has been breached.
   3. Use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
2. Restrictions. Hillrom shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of the Privacy Rule if done by Covered Entity, except as otherwise permitted in Section 1 (Permitted Uses and Disclosures).
3. Safeguards. Hillrom shall comply with the applicable requirements of the Security Rule with respect to electronic PHI. Hillrom agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
4. Reporting. Subject to Section 5 (Breach of Unsecured PHI), Hillrom shall promptly report to Covered Entity (i) any use or disclosure of PHI not provided for by this Agreement of which Hillrom becomes aware; and (ii) any Security Incident of which Hillrom becomes aware.
5. Breach of Unsecured PHI. With the exception of law enforcement delays that satisfy the requirements under 45 C.F.R. § 164.412, Hillrom shall notify Covered Entity in writing without unreasonable delay and in no case later than thirty (30) calendar days upon discovery of a Breach of Unsecured PHI. Such notice must include, to the extent possible, the name of each Individual whose Unsecured PHI has been, or is reasonably believed by Hillrom to have been, accessed, acquired, or disclosed during such Breach. Hillrom shall also provide, to the extent possible, Covered Entity with any other available information that Covered Entity is required to include in its notifications to Individuals under 45 C.F.R. § 164.404(c) at the time of Hillrom’s notification to Covered Entity or promptly thereafter as such information becomes available.
6. Subcontractors. To the extent that Hillrom uses one or more Subcontractors to perform its obligations under any agreement with Covered Entity and such Subcontractors create, receive, maintain or transmit PHI on behalf of Hillrom, Hillrom shall cause each such Subcontractor to agree to comply with the applicable provisions of the Security Rule and to agree to substantially the same restrictions and conditions that apply to Hillrom with respect to such PHI.
7. Access to PHI. Within a reasonable time after a written request by Covered Entity for access to PHI about an Individual contained in a Designated Record Set maintained by Hillrom, Hillrom shall make available to Covered Entity such PHI so that Covered Entity can comply with 45 C.F.R. § 164.524. In the event that any Individual requests access to PHI contained in a Designated Record Set directly from Hillrom, Hillrom shall, as soon as practicable, forward such request to Covered Entity. Any denials of access to PHI shall be the responsibility of Covered Entity.
8. Amendment of PHI. Within a reasonable time after receipt of a written request from Covered Entity for the amendment of an Individual’s PHI contained in a Designated Record Set maintained by Hillrom (for so long as PHI is maintained in the Designated Record Set), Hillrom shall provide such information to Covered Entity for amendment and incorporate any amendments to such PHI in accordance with 45 C.F.R. § 164.526.
9. Accounting of Disclosures. Within a reasonable time after written notice by Covered Entity to Hillrom that Covered Entity has received a request for an accounting of disclosures of PHI, Hillrom shall make available to Covered Entity such information as is in Hillrom’s possession and is required for Covered Entity to make the accounting required by 45 C.F.R. § 164.528. In the event the request for an accounting is delivered to Hillrom, Hillrom shall, as soon as practicable, forward such request to Covered Entity. To the extent that Hillrom maintains an electronic health record, Hillrom shall comply with the requirements of HITECH Act § 13405(c) and any implementing regulations as of the effective date for such provision and any implementing regulations, as such may be revised from time to time.
10. No Performance of Privacy Rule Obligations of Covered Entity. The parties agree that Covered Entity has not delegated one or more of its obligations under the Privacy Rule to Hillrom.
11. Access by HHS. Hillrom shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Hillrom on behalf of, Covered Entity available to the Secretary of HHS for purposes of determining Covered Entity’s compliance with the Privacy Rule.
12. Minimum Necessary. Covered Entity and Hillrom agree to make reasonable efforts, to the extent practicable and except as permitted by 45 C.F.R. § 164.502(b)(2) (as such is amended from time to time), to limit its uses, disclosures, and requests of PHI under this Agreement to a Limited Data Set or, if needed by Covered Entity or Hillrom, to the minimum necessary PHI to accomplish the intended purpose of such use, disclosure, or request. On the effective date of guidance or regulations issued by the Secretary of HHS in accordance with HITECH Act §§ 13405(b)(1)(B), this provision shall cease to apply and Covered Entity and Hillrom shall comply with such guidance in accordance with HITECH Act §§ 13405(b)(1)(C).
13. Covered Entity Obligations and Restrictions. Covered Entity shall not request that Hillrom use or disclose PHI in any manner that would not be permissible under the Privacy Rule, the Security Rule, or HITECH Act or its implementing regulations if done by Covered Entity. Covered Entity shall notify Hillrom of any changes or limitations regarding its notice of privacy practices issued under 45 C.F.R. § 164.520, its permission to use or disclose PHI, or other restrictions to which Covered Entity has agreed under 45 C.F.R. § 164.522, to the extent that any of these changes, limitations, or restrictions may affect Hillrom’s use or disclosure of PHI.
14. Term and Termination.
    1. Subject to Section 15 (Return or Destruction of PHI), the term of this Agreement shall commence as of the Effective Date and shall continue in effect until termination of the Master Agreement, unless terminated earlier in accordance with Section 13.b.
15. Licensee's termination rights shall be governed by FAR 52.212-4(l) and (m). Licensor's termination rights shall be governed by FAR 52.233-1.Return or Destruction of PHI. Upon termination of this Agreement for any reason, Hillrom shall, if feasible, return or destroy all PHI received from Covered Entity or created, received or maintained by Hillrom on behalf of Covered Entity and which Hillrom still maintains in any form. Notwithstanding the foregoing, to the extent that it is not feasible to return or destroy any such PHI, the terms and provisions of this Agreement shall survive termination of this Agreement with regard to such PHI, and Hillrom shall limit its further uses and disclosures to those purposes that make the return or destruction of PHI infeasible.
16. Survival. The obligations of Hillrom under Section 15 (Return or Destruction of PHI) shall survive the termination of this Agreement.
17. Notices. All communications or notices pertaining to this Agreement shall be addressed to the appropriate party as follows:

If to Customer:

Customer Privacy Officer

If to Hillrom:

Hillrom Holdings, Inc.

Attn: Privacy Officer

180 N Stetson Ave., Suite 4100

Chicago, IL 60601  
[privacy\_officer@Hillrom.com](mailto:privacy_officer@hill-rom.com)

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

1. Governing Law. This Agreement shall be interpreted under United States Federal law. .
2. Independent Contractors. None of the provisions of this Agreement are intended to create any relationship between the parties other than that of independent contractors.
3. Assignment. Neither party may assign its respective rights or obligations under this Agreement without the prior written consent of the other party and in accordance with the requirements of the Federal Acquisition Regulation (FAR). This Agreement is binding upon and inures to the benefit of the parties and their successors and assigns.
4. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.
5. Entire Agreement. This Agreement together with the underlying GSA Schedule Contract and GSA Purchase Order embodies and constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior oral or written business associate agreements, other contracts, commitments, and understandings pertaining to the subject matter hereof.
6. Capitalized Terms. Terms that are capitalized but not defined in this Agreement shall have the meaning given to such terms under HIPAA, the Privacy Rule, the Security Rule, or HITECH Act and its implementing regulations, as applicable.
7. Amendment.
   1. General. No amendment, modification, change, waiver, or discharge hereof shall be valid unless in writing and signed by an authorized representative of each party.
   2. Amendment to Comply with Law. The parties mutually agree to enter into good faith negotiations to amend this Agreement from time to time in order for Covered Entity or Hillrom to comply with the requirements of HIPAA, the Privacy Rule, the Security Rule, HITECH Act, and any implementing regulations that may be promulgated or revised from time to time. Any changes, amendments, or alterations are not effective unless mutually agreed upon in writing by authorized representatives of the parties.