



DeWight Dopslauf, C.P.M., CPPO
Harris County Purchasing Agent

May 05, 2023

Commissioners Court
Harris County, Texas

RE: Job No. 170263

Members of Commissioners Court:

Please approve the attached Order(s) authorizing the County Judge to execute the attached Second Amendment to the Agreement(s) for the following:

Description: Digital Radiography System for the Harris County Joint Processing Center

Vendor(s): Fujifilm Medical Systems, USA, Inc.

Amount: \$53,680 previously approved funds for the term 02/04/2023 - 02/03/2024
32,787 additional funds for the term 02/04/2023 - 02/03/2024
\$86,467

Reviewed By: • Harris County Purchasing • Sheriff's Office

The Amendment adds additional services and funding. Purchase order(s) will be issued upon Commissioners Court approval

Sincerely,

DeWight Dopslauf
Purchasing Agent

TB
Attachment(s)
cc: Vendor(s)

FOR INCLUSION ON COMMISSIONERS COURT AGENDA MAY 16, 2023



**AMENDMENT TO THE AGREEMENT BETWEEN
HARRIS COUNTY AND FUJIFILM MEDICAL SYSTEMS USA, INC.**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Amendment to the Agreement is made and entered into by and between Harris County (the “County”), a body corporate and politic under the laws of the State of Texas, by and through the Harris County Sheriff’s Office (the “Department”), and Fujifilm Medical Systems USA, Inc. (“Contractor”). The County and Contractor are referred to herein collectively as the “Parties” and individually as a “Party.”

Recitals

On February 13, 2018, the County entered into an agreement with Contractor to provide a digital radiography system for the Harris County Joint Processing Center (the “Master Agreement”).

The Parties amended the Master Agreement for the first time (“First Amendment”) for the purpose of establishing the initial maintenance, support, and warranty term.

The Parties now desire to amend the Master Agreement for the second time (“Second Amendment”) for the purpose of establishing the Services and associated costs for Year 5 of coverage.

Contractor warrants and represents that it is willing and capable of providing the Services.

Terms

I.

This Second Amendment shall be governed by the Master Agreement, incorporated herein by reference.

II.

The Master Agreement is hereby amended to establish the Services and associated costs for Year 5 of coverage, beginning on February 4, 2023 and running through February 3, 2024, as further detailed on the “Quote” attached hereto as Exhibit A..

III.

LIMIT OF APPROPRIATION: Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this Amendment, that the total maximum compensation that Contractor may become entitled to for the Services performed under this

ment, and the total maximum sum that the County shall become liable to pay to Contractor under this ment, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Eighty-Six Thousand Four Hundred Sixty-Seven and 45/100 Dollars (\$86,467.45) as certified available by the Harris County ditor as evidenced by the issuance of a Purchase Order from the Harris County Purchasing gent.

Contractor understands and agrees, said understanding and agreement also being of the absolute essence of this ment, that the total maximum compensation that Contractor may become entitled to hereunder, and the total maximum sum that the County shall become liable to pay to Contractor hereunder, shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order. ny Services performed or expenses incurred by the Contractor prior to the issuance of a Purchase Order are at the Contractor's own expense and are not reimbursable. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of this ment is limited to the funds on the Purchase Order; and that when all the funds so certified are expended, Contractor's sole and exclusive remedy shall be to terminate this ment.

If the Services and charges to be provided for will equal or exceed the amount certified available, Contractor will notify the County immediately. If the amount certified is depleted prior to the end of the term of this ment, Contractor may terminate all Services hereunder upon the total depletion of the certified funds unless the County, at its sole option, certifies additional funds, as evidenced by a written amendment to this greement and the Purchase Order, in which event Contractor shall continue to provide the Services herein specified to the extent funds are available.

With regard to any renewal or extension of this ment, the County has not allocated any funds for any renewal or extension period beyond the current fiscal year. Therefore, if the County exercises any renewal option, the renewal is subject to the future allocation and certification of funds for the renewal period and in accordance with the terms and conditions of this ment. Failure to certify funds or to certify sufficient funding for any reason shall not be considered a breach of this ment.

IV.

All other terms and provisions of the Master greement shall remain in full force and effect as originally written.

V.

It is expressly understood and agreed that the Master greement is incorporated herein by reference. In the event of any conflict between the terms and provisions of this ment, or any portion thereof, and the terms and provisions of any other part or portion of the Master greement, this Second ment shall control.

I.

Execution, Multiple Counterparts: This Amendment may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Amendment.

FUJIFILM MEDICAL SYSTEMS USA, INC. HARRIS COUNTY

By Hidetoshi Izawa
Name: Signer Name: Hidetoshi Izawa
Title: Signing Reason: I approve this document
Date: 3/9/2023
680C11BB137049F2A9024F5122283413

By: _____
LINA HIDALGO
COUNTY JUDGE

APPROVED AS TO FORM:
CHRISTIAN D. MENEFE
COUNTY ATTORNEY

By: Cherelle Sims
Cherelle Sims
Assistant County Attorney
C.A. File 23GEN0539

XHIBIT A

“Quote”

(follows behind)

Customer Invoicing Information

CUSTOMER NAME

HARRIS COUNTY SHERIFF'S DEPT.
1200 BAKER STREET
HOUSTON TX 77002-1206

Attn: Paul Thomas
Telephone: 402-691-2861
Email Address: Paul.Thomas@sherriff.hctx.net

Company Contact Information

FUJIFILM Healthcare Americas Corp.
81 Hartwell Ave.
Lexington, MA 02421
Attn.: David Partridge
Email: David.Partridge@fujifilm.com
Service Agreement # 800057 Year #5
ASM: Brad Taylor

Date: **December 2, 2022**

AGREEMENT

FUJIFILM Healthcare Americas Corp. ("HCUS") agrees to provide the services specified herein with respect to the equipment specified on the attached Master Service Agreement Detail Page (such equipment, the "Equipment").

COVERAGE TERM

Year #5 coverage for term dates: 2/4/23 - 2/3/24

SERVICE RATE

The Annual Service Rate will be billed in advance at an annual rate of:

Contract YEAR 5: \$ 86,467.45

	\$	-
Total Value	\$	86,467.45

PAYMENT OPTIONS: ANNUAL SEMIANNUAL QUARTERLY

Price is the same regardless of Payment Option chosen. This proposal is valid for sixty (60) days from quotation date.

FMSU cannot accept payment (either in whole or in part) by credit card, p-card or any other charge card for invoices that exceed \$10,000.

SERVICE TERMS

Standard Service Coverage:

See **Section A** on the attached Service Agreement Detail Page(s)

☐ Non-Cancellable ☒ ****Cancellable**

****See T&Cs for conditions of contract cancellation terms**

ACCEPTANCE

This Agreement is subject to the Terms and Conditions attached hereto and is independent of any other HCUS Service Agreement.

Signature of Authorized Agent

Date

Customer Purchase Order Number

Print Name and Title

Accepted by FUJIFILM Healthcare Americas Corp.

Date



MASTER SERVICE AGREEMENT DETAIL PAGE

SECTION A

MyChoice Critical Standard Coverage:

- Maintenance parts (excluding consumables and glassware unless included below)
- Labor and travel
- 24 x 7 / 365 phone support by a Certified Technical Support Engineer.
- One (1) preventive maintenance inspection and calibration (if applicable) per service agreement year, unless otherwise specified in FMSU Service Manual.
- During the annual PM, HCUS will update the Fujifilm application software to the latest version that the original Operating System and PC hardware will support.
HCUS does not install Microsoft Operating Systems patches or Antivirus software.
If a new application software version requires a new operating system or PC hardware, customer can elect to purchase at then current pricing for these items.
- All work performed by HCUS trained Certified Customer Service Engineers.
- One (1) hour telephone response and 4 hour on-site response for hard down systems within 150 miles of FMSU personnel.
- Active Line Remote Monitoring for applicable products.

PRICING

SECTION B: Optional Service Coverage

Description	Site Name	Serial #	MyChoice Comprehensive Standard Coverage	24x7 365 Coverage	Harris Sheriff Annual Price		Period 5		Total Cost
DEL FLOOR MOUNTED TUBE STAND	Harris Sheriff	00715-0318-W	YES	YES	\$ 7,080.00		\$ 7,080.00		\$ 7,080.00
DEL STA BUCKY NON-TLT WALL STAND	Harris Sheriff	00698-0318-W	YES	YES	\$ 6,720.00		\$ 6,720.00		\$ 6,720.00
CLINICA ROOM - Prorated to end of Warranty 8-28-23	Harris Sheriff	GBF21C3244A	YES	YES	\$ 7,080.00		\$ 3,084.16		\$ 3,084.16
CLINICA TUBE - Prorated to end of Warranty 8-28-23	Harris Sheriff	N/A	YES	YES	\$ 2,900.00		\$ 1,263.29		\$ 1,263.29
SMNS-X-RAY TUBE SV 150/40/80 C-100 (DS2)	Harris Sheriff	100064	YES	YES	\$ 2,900.00		\$ 2,900.00		\$ 2,900.00
SMNS-X-RAY TUBE SV 150/40/80 C-100 (DS2)	Harris Sheriff	3076	YES	YES	\$ 2,900.00		\$ 2,900.00		\$ 2,900.00
DEVO II GOS 17X17 FPD DR-ID 1202 A	Harris Sheriff	76550832	YES	YES	\$ 9,480.00		\$ 9,480.00		\$ 9,480.00
DEVO II GOS 17X17 FPD DR-ID 1202 A	Harris Sheriff	86351528	YES	YES	\$ 9,480.00		\$ 9,480.00		\$ 9,480.00
DEVO II CSI 24X30 DR-ID 1213 SE A E	Harris Sheriff	86450450	YES	YES	\$ 6,660.00		\$ 6,660.00		\$ 6,660.00
D-EVO 2 C24 (UPGRADE ONLY)	Harris Sheriff	16351317	YES	YES	\$ 6,660.00		\$ 6,660.00		\$ 6,660.00
D-EVO 2 G43(UPGRD ONLY)	Harris Sheriff	16253480	YES	YES	\$ 15,120.00		\$ 15,120.00		\$ 15,120.00
D-EVO 2 G43(UPGRD ONLY)	Harris Sheriff	6553178	YES	YES	\$ 15,120.00		\$ 15,120.00		\$ 15,120.00
80KW UPGRADE PACKAGE	Harris Sheriff	3256	YES	YES	included		included		\$ -
80KW UPGRADE PACKAGE	Harris Sheriff	6721	YES	YES	included		included		\$ -
COLLIMATOR N FD 11 EL	Harris Sheriff	11784	YES	YES	included		included		\$ -
D-EVO 2 MP (UPGRADE ONLY)	Harris Sheriff	6926310	YES	YES	included		included		\$ -
D-EVO MC (CONTROL CABINET)	Harris Sheriff	17221515	YES	YES	included		included		\$ -
D-EVO MC (CONTROL CABINET)	Harris Sheriff	17221578	YES	YES	included		included		\$ -
D-EVO MP (POWER SUPPLY UNIT)	Harris Sheriff	26500057	YES	YES	included		included		\$ -
D-EVO MP (POWER SUPPLY UNIT)	Harris Sheriff	26500062	YES	YES	included		included		\$ -
DEL SYSTEM CONTROL UNIT(112-5644G1)	Harris Sheriff	NA13	YES	YES	included		included		\$ -
DELL GX790 CORE-R/B 800043543,800048134	Harris Sheriff	G08NXV1	YES	YES	included		included		\$ -
DEVO II DOCKING STAND DR-1200 DS	Harris Sheriff	86324783	YES	YES	included		included		\$ -
DEVO II MP PS DR-ID1200 MP E	Harris Sheriff	86322953	YES	YES	included		included		\$ -
DEVO II MP PS DR-ID1200 MP E	Harris Sheriff	86322960	YES	YES	included		included		\$ -
HP PRODESK 600G5 FDX CONSOLE V13.0	Harris Sheriff	MXL0091Y4C	YES	YES	included		included		\$ -
HP PRODESK 600G5 FDX CONSOLE V13.0	Harris Sheriff	MXL0091Y61	YES	YES	included		included		\$ -
HP PRODESK 600G5 FDX CONSOLE V13.0	Harris Sheriff	MXL0091Y4N	YES	YES	included		included		\$ -
MAN CEILING STAND 3D V 3M BRIDGE	Harris Sheriff	3076	YES	YES	included		included		\$ -
POLYDOROS RF RAD 80 DIGITAL GENERATOR	Harris Sheriff	3653	YES	YES	included		included		\$ -
SIEMENS COLLIMATOR ML0111 EL(10092611)	Harris Sheriff	11016	YES	YES	included		included		\$ -
SIEMENS X-RAY TABLE MOVING GRID	Harris Sheriff	2086	YES	YES	included		included		\$ -
SMNS MEMBRANE CONTROL CONSOLE (7759876)	Harris Sheriff	6695	YES	YES	included		included		\$ -
SMNS MEMBRANE CONTROL CONSOLE (7759876)	Harris Sheriff	6723	YES	YES	included		included		\$ -
TCHSCRN 19INLCD R/B 800048059 DNO	Harris Sheriff	G17C016756	YES	YES	included		included		\$ -
TOUCHSCREEN 19 INCH LCD R/B 800046122	Harris Sheriff	K12C003648	YES	YES	included		included		\$ -
TOUCHSCREEN 19 INCH LCD R/B 800046122	Harris Sheriff	K12C003649	YES	YES	included		included		\$ -
Contract Cost Totals					\$ 92,100.00		\$ 86,467.45		\$ 86,467.45

*See Addendum A - Optional and Site-Wide Service Definitions for detailed descriptions



**FUJIFILMHEALTHCARE AMERICAS
CORP.**

**MY CHOICE MASTER SERVICE AGREEMENT
TERMS AND CONDITIONS**

1. SCOPE

1.1 For the term set forth on the face of this MY CHOICE MASTER SERVICE AGREEMENT (this "Agreement"), FUJIFILM Healthcare Americas Corp. ("HCUS") will provide selected preventive maintenance and remedial maintenance services on the equipment specified in the Master Service Agreement Detail Page attached to this Agreement (such equipment, the "Equipment") in accordance with the terms and conditions set forth herein. Such selected services (collectively, "Services") are further described herein and in the Optional and Site-wide Service Definitions included in Addendum A to this Agreement, which may be updated, modified or amended from time to time in HCUS's sole discretion.

1.2 In the event that (i) the term of this Agreement does not include the Equipment warranty period, or (ii) the term of this Agreement does not commence immediately upon the expiration of the HCUS warranty, or (iii) the Equipment was serviced prior to commencement of the term of this Agreement by anyone other than HCUS or an authorized HCUS 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 HCUS prior to the commencement of Services under this Agreement. Any inspection as well as any repairs or adjustments deemed necessary by HCUS during such inspection shall be made at HCUS's then current rates. Repairs and adjustments will be completed prior to the commencement of Services under this Agreement.

1.3 If this Agreement includes any training courses, such training courses may consist of on-site training at Customer's site or at HCUS's training facility, self-study or computer based training. Customer will be responsible for tuition less discount (if applicable) and for all travel and lodging costs.

2. SERVICES - GENERAL

2.1 Scheduled Preventive Maintenance. During the term of this Agreement, HCUS will provide Preventive Maintenance inspections for the Equipment at least annually. Preventive Maintenance will include, without limitation, those actions which HCUS, in its sole discretion, considers necessary to insure proper operation of the Equipment. Unless otherwise noted, Preventive Maintenance shall be performed at Customer's facilities specified on the face of this Agreement during HCUS's normal working hours, 8:30 AM to 5:00 PM local time, Monday through Friday ("Normal Hours," which do not include the following HCUS recognized holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day). Preventive Maintenance inspections may be performed concurrently during Remedial Maintenance (described in Section 2.2 below), and in that event may be unscheduled. Normal Hours restrictions under this Section 2.1 will not apply where Customer has selected After Hours PMs, Coverage Up to 9PM or 24x7 365 Services as described in Addendum A to this Agreement.

2.2 Remedial Maintenance during Normal Hours. HCUS will provide Remedial Maintenance necessary to maintain the Equipment in good working order upon Customer's request for service, which request may be oral or in writing. Remedial Maintenance will be performed at Customer's facilities specified on the face of this Agreement during Normal Hours. Normal Hours restrictions under this Section 2.2 will not apply where Customer has selected 24x7 365 Services or to the extent that Customer has selected Coverage Up to 9PM as described in Addendum A to this Agreement.

2.3 Remedial Maintenance Outside of Normal Hours. Remedial Maintenance will be performed outside Normal Hours at Customer's request only, at HCUS's then current labor rates, including, without limitation, any additional charge for overtime labor, travel and expenses. There will be a minimum two-hour travel and four-hour labor charge for all Remedial Maintenance performed pursuant to this Section 2.3. Additional

charges will not apply where Customer has selected 24x7 365 Services or to the extent Customer has selected Coverage Up to 9PM as described in Addendum A to this Agreement.

2.4 Maintenance Parts. Except as otherwise specified on the face of this Agreement, Section A or in Addendum A to this Agreement, HCUS will provide all necessary replacement parts for maintaining the Equipment, except for X-Ray Tubes, at no cost to Customer. Such replacement parts, when furnished, will be new or used, reworked or refurbished parts that comply with applicable performance and reliability specifications for the Equipment. All replaced parts removed from the Equipment shall become the property of HCUS unless such replaced 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 HCUS, such replaced parts shall remain the property of Customer and shall be disposed of by Customer in strict compliance with all applicable laws, rules and regulations.

2.5 Replacement Flat Panel Detectors. In the event Customer selects coverage for Flat Panel Detectors (FPDs), No-Fault Detector Coverage or Drop Only Detector Coverage will apply depending upon Customer's choice of Services as described in Section A of this Agreement and Addendum A to this Agreement. Pursuant to such coverage, HCUS will provide, at Customer's request, a replacement FPD for each FPD damaged during the term of this Agreement. FPDs provided under this Agreement will be new parts or rebuilt parts equivalent in the judgment of HCUS to new parts. All replaced FPDs shall become the property of HCUS. Customer shall be charged a replacement fee for each replaced FPD as specified in Addendum A to this Agreement. Such coverage shall be subject to the Exclusions set forth in Section 3 hereof. Replacement Extended Imaging Panels - These devices include two or more FPDs embedded into one frame. These units are eligible for replacement due to electronic failure; however, they are intended to be used in a stand and are not eligible for replacement due to physical damage as part of a service agreement. This category includes devices such as the GL Panel and the Longtail Panel.

2.6 H C U S Application Software Updates and Support. Except as otherwise specified in Section A of this Agreement, whenever the Equipment covered by this Agreement utilizes HCUS's application software, HCUS will provide all maintenance and updates for such application software as part of this Agreement unless specifically excluded under the My Choice PM Only Coverage service plan or is otherwise specifically excluded by Customer. Such updates will solely relate to previously purchased capabilities or capacities of the Equipment. Application software upgrades that provide new features or capabilities or that require hardware changes will be offered to Customer at purchase prices established by HCUS. In addition, some upgrades may require applications training performed by HCUS's personnel that will be offered at HCUS's rates and terms then in effect. HCUS retains the sole right to determine whether an upgrade requires such training.

2.7 Software Maintenance and Support Services. Should Customer require software support and maintenance services for HCUS PACS, RIS, CV or other software products licensed to Customer by HCUS (such support and maintenance services, collectively, “Software Support”), Software Support shall be subject to the maintenance and support provisions of the applicable End User Purchase, License and Services Agreement between HCUS and Customer (“EULA”). In the absence of a EULA, Customer agrees that Software Support shall be provided in accordance with HCUS's then current standard EULA posted at <https://www.fujifilm.com/us/en/terms-and-conditions/customer>.

2.8 Optional and Site-Wide Services Definitions - Addendum A. The foregoing general terms shall apply to Services provided to Customer under this Agreement except where specifically noted. Some Services may vary or not be applicable to the extent Customer selects a different service standard under Section A of this Agreement or one or more of Optional or Site-wide Coverage options under Section B or C of this Agreement. Such optional Services are described in Addendum A to this Agreement. To the extent the provisions of this Section 2 conflict with Addendum A to this Agreement, the provisions of Addendum A to this Agreement shall control.

2.9 End of Life Service Life Support. HCUS will provide Customer an end of service life notification in writing for Equipment which has reached its end of service life, is discontinued or for which associated spare parts have become limited or unavailable (“EOL”) as soon as reasonably possible prior to the scheduled EOL

date for such Equipment. EOL Equipment covered by this Agreement shall be supported at HCUS's discretion, in accordance with the provisions of this Agreement for EOL Equipment defined in Section A and Addendum A hereto. Such services shall be provided to the extent practicable and subject to the availability of associated spare parts for the remainder of the Term of this Agreement. Maintenance Fees for EOL Equipment shall be adjusted accordingly. HCUS will make commercially reasonable efforts to acquire replacement parts for corrective and preventative maintenance from certified HCUS suppliers. In the event that replacement parts are unavailable or the cost of such parts exceeds 50% of the value of this Agreement, then either party may cancel this Agreement with respect to the EOL Equipment without penalty in accordance with the termination provisions of Section 6.1. EOL Equipment will be eligible for renewal service coverage on an EOL Equipment only agreement subject to the provisions of this Section 2.9.

2.10 CT General Maintenance and Tube Replacement: In the event Customer selects CT General Maintenance and Tube Replacement services for the FCT FUJIFILM System, HCUS will provide general maintenance for the system in accordance with the provisions of this Agreement (CT Coverage). HCUS will replace CT tubes which fail under normal operating circumstance and not otherwise excluded under the provisions of Section 3 hereof. Customer shall be charged a fee for Ct Coverage pursuant to a three tier system as specified in Addendum A to this Agreement. Such coverage shall be subject to the exclusions set forth in Section 3 hereof.

3. EXCLUSIONS FROM MAINTENANCE SERVICES

3.1 HCUS shall have no obligation to provide maintenance Services or replacement parts on the Equipment in connection with:

- (a) repair, replacement or maintenance arising from (i) any intentional acts or negligence of Customer's employees, agents or invitees (except for FPDs where Customer has selected FPD replacement coverage and damage resulted from Customer's negligence or accidental causes), (ii) attempts to repair or service the Equipment made by anyone other than HCUS's personnel without the prior approval of HCUS or its authorized agents, (iii) use of special attachments or devices not provided by HCUS for the Equipment or (iv) misuse of the Equipment, including, without limitation, use of the Equipment for any application or function for which it was not designed;
- (b) repairs or maintenance of accessories, attachments, supplies, machines or other devices not furnished by HCUS or of electrical work external to the Equipment;
- (c) maintenance required by damage to the Equipment resulting from transportation or relocation of the Equipment by Customer; or
- (d) any Excusing Event (as defined in Section 7 hereof).

3.2 If HCUS is called upon to service or repair the Equipment under this Section 3, Customer will be billed in a separate invoice for labor, parts and expenses at HCUS's then current rates.

4. LOCATION AND ACCESS TO EQUIPMENT

4.1 Location. The Equipment shall not be moved to another location without reasonable notice to and the consent of HCUS, subject to the following exceptions: (i) any portable Equipment may be moved to other locations within the same facility with reasonable notice to HCUS prior to scheduled maintenance; (ii) if any Equipment is located in a trailer, van or other vehicle, such Equipment may be moved from the Equipment location identified on the Equipment Detail List; provided, however, that HCUS will not be required to service such Equipment if Customer does not notify HCUS at least thirty (30) days in advance of such Equipment's new location prior to a scheduled service event, or such Equipment is located more than 25 miles from the original Equipment location when a scheduled service event arises or Services are otherwise required under this Agreement; and (iii) if any fixed Equipment is moved to any other location within Customer's facility, then either (a) Customer shall engage HCUS to relocate such fixed Equipment, at HCUS's then current rates, or

(b) if HCUS does not perform the relocation services, then HCUS may suspend Services under this Agreement until HCUS performs an inspection of such fixed Equipment, at Customer's cost and at HCUS's then current rates, to determine if any repairs or adjustments are necessitated as a result of any such relocation. If Customer refuses to allow HCUS to inspect relocated Equipment under this Section 4.1(iii)(b), this Agreement will automatically terminate.

4.2 Physical Access. Customer shall provide reasonable access to the Equipment for HCUS's personnel for purposes of providing Services under this Agreement. If reasonable access is not provided to HCUS's personnel, Customer will be billed at HCUS's then current labor rates due to the fact that the HCUS representative is denied access to the Equipment. Whenever Remedial Maintenance is provided outside Normal Hours in accordance with Section 2.3 hereof, Customer shall provide a knowledgeable representative on-site with signature authority to accept the completion of work performed and to authorize billing.

4.3 Remote Access. In the event Customer selects Active Line Monitoring Services as part of its standard or optional service selections, Customer shall provide HCUS with remote access to the Equipment. The remote access shall be provided through Customer's network as is reasonably necessary for HCUS to be able to provide Active Line Monitoring Services.

5. PAYMENT

5.1 Customer shall pay within thirty (30) days of the date of the invoice the total amount of the payment option selected on the face of this Agreement, including, without limitation, all applicable federal, state and local taxes. Customer shall also pay within thirty (30) days of the date of the invoice all charges based upon HCUS's then applicable rates for all work requested by Customer, which is not the responsibility of HCUS to perform pursuant to this Agreement, including, without limitation, services arising out of any of the causes listed in Sections 3 and 4 hereof. If the aggregate amount of an invoice exceeds \$10,000, FUJIFILM Medical Systems U.S.A., Inc. cannot accept the payment of such amount (either in whole or in part) by credit card, p-card or any other charge card.

5.2 Notwithstanding anything to the contrary contained in this Agreement or herein, any breach or default by Customer under any other agreement between Customer and HCUS shall, at the option of HCUS, be deemed a breach or default, as the case may be, under this Agreement by Customer and HCUS may, at its option, either avail itself of its rights under Section 6 hereof or, upon reasonable notice to Customer, suspend services under this Agreement until such time as such breach or default, as the case may be, has been cured.

6. TERM AND TERMINATION

6.1 The term of this Agreement is as set forth on the face of this Agreement; provided, however, that this Agreement may be terminated for the following reasons: (a) at any time upon mutual consent in writing; (b) by either party in the event of default by the other party, which remains uncorrected for ninety (90) days after notice of such default is given to such other party; (c) by either party upon ninety (90) days prior written notice to such other party; or (d) termination pursuant to Section 4.1 (iii)(b) hereof. Notwithstanding anything to the contrary set forth herein, this Section 6.1(c) will not apply if the Non-cancellable option is selected on the face of this Agreement.

7. EXCUSED PERFORMANCE

HCUS will not be liable for any failure to perform or delayed performance of any part of this Agreement if HCUS's performance is prevented, hindered, or delayed by reason of any cause beyond the reasonable control of HCUS (such cause, an "Excusing Event"), including, without limitation, labor disputes, strikes, other industrial disturbance, acts of God, floods, shortages of materials, earthquakes, casualty, war, acts of the public enemy, riots, insurrections, embargoes, or laws, blockages, actions, restrictions, regulations or orders of any government, government agency or subdivision.

8. ADDITIONAL EQUIPMENT

Upon expiration of the new equipment warranty, each additional unit of Equipment purchased by Customer from HCUS, whether before or after the commencement date of this Agreement, shall not automatically be covered by the terms of this Agreement. The Annual Service Rate for each such new unit of Equipment shall be HCUS's standard annual service rate for such unit in effect on the date such new unit becomes covered by this Agreement. The Total Annual Service Rate and the Total Annual Service Charge shall be adjusted to reflect the Annual Service Rate for such new unit if Customer requests that such unit be added to this Agreement.

9. WARRANTY: DISCLAIMER OF WARRANTY; LIMITATION OF LIABILITY

9.1 Warranty and Disclaimer of Warranty. HCUS warrants that the parts and Services provided to Customer pursuant to this Agreement will be free from defects in material and workmanship at the time such services are provided. In the event of HCUS's breach of any warranty or obligation under this Agreement, HCUS's sole obligation shall be to make all necessary adjustments, repairs and replacements such as replacing any parts installed pursuant to this Agreement which are defective at the time of installation. HCUS MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR NON- INFRINGEMENT, WITH RESPECT TO SERVICES OR PARTS PROVIDED BY HCUS PURSUANT TO THIS AGREEMENT.

9.2 Limitation of Liability. HCUS's total liability under this Agreement for any claims arising under, in connection with or relating in any way to this Agreement shall be limited to money damages in an amount not to exceed the Annual Service Rate paid by Customer. 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 HCUS. In addition, HCUS 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 or damage sustained by Customer or any third party or to the extent that such loss or damage is due to an Excusing Event. HCUS SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, UNFORESEEN OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SAVINGS, LOST REVENUES, LOSS OF USE OR DOWNTIME, AND LOST DATA, WHETHER BASED ON CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF HCUS HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, ARISING OUT OF, IN CONNECTION WITH OR RELATING TO THIS AGREEMENT, OR THE USE OR PERFORMANCE OF THE EQUIPMENT.

10. MISCELLANEOUS

10.1 Assignment. The rights and obligations of Customer under this Agreement shall not be assignable in full or in part by operation of law or otherwise without the prior written consent of HCUS.

10.2 Waiver. Any forbearance, failure or delay by either party in exercising any right, power or remedy hereunder shall not be deemed to be a waiver of such right, power or remedy; any single or partial exercise of any right, power or remedy by either party hereunder shall not preclude the further exercise thereof; and every right, power or remedy of each party shall continue in full force and effect until such right, power or remedy is specifically waived by an instrument in writing executed by such party.

10.3 Governing Law. The laws of the State of New York shall govern this Agreement, without giving effect to its conflict of laws provisions.

10.4 Severability. In the event any one or more of the provisions of this Agreement or the terms and conditions set forth herein shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement and hereof shall be unimpaired and any such invalid, illegal or unenforceable provision shall be replaced by a provision which, being valid, legal and enforceable, comes closest to the intention of the parties underlying such invalid, illegal or unenforceable provision.

10.5 Notice. Notices to the parties shall be sent to their respective addresses as set forth in this Agreement by certified mail, return receipt requested, or by overnight courier.

10.6 Confidentiality.

- (a) During the course of this Agreement, the parties acknowledge that they may exchange certain Information concerning their respective businesses, the businesses of their subsidiaries and affiliates and their future business relationship (the "Business Relationship"). For purposes of this Agreement, the term "Information" shall mean all information, regardless of form, that the disclosing party deems to be confidential and proprietary to it or its subsidiaries or affiliates (including but not limited to business plans, customer lists, information on product pricing and other terms of sale, technical data, trade secrets or know-how (including research, product plans and specifications), products, services, investors, partners, distributors, markets, market studies, computer software and programs (including object code and source code), data, databases and database technologies, developments, inventions, processes, compilations, flowcharts, formulae, technology, sketches, designs, drawings, diagrams, manuals, schematics, samples, engineering, hardware configuration information, and marketing, finance or other business information) that is disclosed, directly or indirectly, by the disclosing party to the receiving party pursuant to this Agreement. For purposes of this section 10.6, "subsidiaries and affiliates" shall mean any corporation, firm, partnership or other entity that directly or indirectly controls, is controlled by, or is under common control with, either party. The parties agree that "Information" includes the fact that the Business Relationship itself is being conducted.
- (b) The receiving party, its subsidiaries and affiliates (collectively referred to as "Recipient") agree to maintain in confidence the Information with at least the same degree of care Recipient holds its own confidential and proprietary information, but at all times with no less than reasonable care. Recipient will not use the Information except for its evaluation of the Business Relationship pursuant to this Agreement. Recipient will disclose the Information only to its employees and independent contractors directly concerned with the evaluation of the Business Relationship and on a need-to-know basis only, and Recipient will not disclose the Information to any third party or use the Information for any other purpose.
- (c) Recipient's preceding obligations of non-disclosure and the limitation upon the right to use the Information shall not apply to the extent that Recipient can demonstrate that the Information is: i) in the possession or control of Recipient prior to the time of disclosure hereunder; ii) at the time of disclosure or thereafter becomes public knowledge through no fault or omission of Recipient; iii) lawfully obtained by Recipient from a third party under no obligation of confidentiality to the disclosing party; or iv) developed independently by personnel of the Recipient who have not had access to Information received from the disclosing party.
- (d) All proprietary rights (including but not limited to patent rights, copyrights and trade secrets) in and to the Information shall remain the disclosing party's property, and nothing in this Agreement shall be construed as granting any license under the Information, or any proprietary rights now or hereafter owned or controlled by either party. A party shall not cause or permit the reverse engineering, reverse assembly or reverse compilation of any Information of the disclosing party or include any Information of the disclosing party in any patent or patent application.
- (e) Upon the request of the disclosing party, Recipient either will return promptly to the disclosing party or destroy, with such destruction certified in writing by an authorized officer of the Recipient, all of the Information, including all copies thereof.
- (f) Recipient agrees that a breach of this Agreement may result in irreparable harm to the disclosing party. In seeking enforcement of any of these obligations, the disclosing party therefore shall be entitled to seek injunctive and other equitable relief to prevent or restrain the breach of this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall be construed as prohibiting the disclosing party from pursuing any other remedies that may be available to it, whether at law or in equity.
- (g) In the event Recipient is required by law, regulation or court order to disclose any Information, Recipient

will promptly notify the other party in writing prior to making any such disclosure in order to allow the disclosing party to seek a protective order or other appropriate remedy from the proper authority. Recipient will cooperate with the disclosing party in seeking such order or other remedy. If the disclosing party is not successful in precluding the requesting legal body from requiring the disclosure of the Information, Recipient will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded to such Information.

10.7 Access to Books and Records. To the extent Section 952 of the Omnibus Reconciliation Act of 1980 (Public Law 96-499) is found applicable to this Agreement and the value or cost of services rendered thereunder exceeds \$10,000 or more over a 12-month period, then until the expiration of four (4) years after furnishing of services pursuant to this Agreement, HCUS agrees to make available, upon their written request, to the Secretary of the United States Department of Health and Human Services (the "DHHS"), the Comptroller General of the United States or to any of their respective duly authorized representatives, this Agreement, HCUS's books, documents and records that are necessary to certify the extent of any costs of Customer arising from this Agreement, or such other information as otherwise required by law. Further, if HCUS carries out any of its duties arising from this Agreement through a subcontract, the value or cost of which is \$10,000 or more over a 12-month period, with a related organization, such subcontract shall contain a clause to the effect that, until the expiration of four (4) years after furnishing such service pursuant to such subcontract, the related organization shall make available, upon their written request, to the Secretary of the DHHS, the Comptroller General of the United States or any of their respective duly authorized representatives, the subcontracts, books, documents and records of such organization that are necessary to verify the nature and extent of such costs, or such other information as otherwise required by law.

10.8 Reporting. Should Customer seek reimbursement from a government entity for products made available as a result of this Agreement, Customer represents and warrants that it is aware of, and covenants that it will comply with, applicable law and regulation pertaining to discounted sales, including, without limitation, the provisions of Section 1128B(b) of the Social Security Act 42 USC 1320a-7b(b) as well as all other regulations pertaining to such transactions. Without limiting the generality of the foregoing, Customer acknowledges that all price concessions, including, without limitation, discounts, credits and rebates, may constitute discounts off the prices of goods and services furnished hereunder. Discounted pricing must be fully and accurately reported on all claims for payment filed with applicable Medicare, Medicaid and state agency cost reports, in accordance with all applicable federal and state laws and applicable agreements. Customer should also retain a copy of this Agreement and communications regarding this Agreement, together with the invoice(s) for the purchase, and permit agents of the DHHS or any state agency access to such records upon request.

10.9 HIPAA Provisions. To the extent required by the provisions of the Health Insurance Portability and Accountability Act ("HIPAA") and the regulations promulgated thereunder, HCUS does hereby assure Customer that it will appropriately safeguard protected health information made available to or obtained by it pursuant to this Agreement ("PHI"). Without limiting the obligations of HCUS otherwise set forth in this Agreement or imposed by applicable law, HCUS agrees to comply with applicable requirements of law relating to PHI and with respect to the Services performed for Customer hereunder. To that end, HCUS and Customer agree to be bound by the terms and conditions of HCUS's current Business Associate Agreement, a copy of which can be found on HCUS's website at contracts.fujimed.com.

10.10 Entire Agreement. This Agreement and these terms and conditions set forth herein and made a part of this Agreement supersede any prior agreements, written or oral, between the parties regarding the subject matter of this Agreement or hereof, contain the entire understanding between the parties regarding the subject matter of this Agreement and hereof and, except as provided herein or therein, may be amended or altered only by execution by both parties of an instrument in writing.

Addendum A

Optional and Site-Wide Service Definitions

24 x7 365	Coverage including on-site visits 24x7, 365 days per year excluding HCUS holidays
Coverage up to 9PM	Coverage including all on-site service visits up to 9PM daily, except weekends and HCUS holidays.
After hour PMs	Preventive Maintenance (PM) visits performed between the hours of 5PM and 9PM, except weekends and HCUS holidays.
Applications Days	Customer is entitled to on-site clinical applications day(s) performed by HCUS – in 8 hour blocks of time, which can be used for Image Quality Assessment - Applies to items on the X-Ray
After hour Upgrades	In the event of a software or hardware upgrade purchase, upgrades performed between 5PM and 9PM
Tube Coverage	Tubes - Covers the replacement of Unity, Speed Suite, Carbon Suite, D-EVO Suite, GO 1, GO 2, Shimadzu Portable, AcSelerate, Cristalle, Aspire HD+, and Aspire HD X-Ray Tubes.
Battery Coverage	Covers battery replacement for FCR GO 1, 2, and Shimadzu portables due to malfunction. Customer abuse not covered.

No-Fault Detector Coverage	<p>D-EVO Flat Panel Detectors (FPDs) excluding Extended Imaging Panels.</p> <p>Replaced for:</p> <ul style="list-style-type: none">- Any and all damage which renders the FPD inoperable,- Damaged/cracked glass substrate of the Thin Film Transistor (TFT) sensor inside the FPD- Damage caused by fluids. <p>Customer will be charged a Replacement Fee for each FPD provided under this option as follows unless otherwise specified in Section A of this Agreement:</p> <p>D-EVO I Panels</p> <ul style="list-style-type: none">- \$5,000 for the first Replacement FPD provided per covered serial number in an Agreement year.- \$8,000 for the second Replacement FPD provided per covered serial number in an Agreement year.- \$15,000 for the third Replacement FPD and each Replacement FPD thereafter per covered serial number in an Agreement year. <p>ES, D-EVO II, and D-EVO III Panels</p> <ul style="list-style-type: none">- \$5,000 for each Replacement FPD provided per covered serial number in an Agreement year. <p>For the purposes of this option, a covered serial number means the serial number of each FPD covered on the start date of this Agreement and each subsequent anniversary date.</p> <ul style="list-style-type: none">- Labor for installation and calibration of replacement FPDs is NOT included and will be billed at HCUS's then current time and materials rates.- FPD replacement is subject certain exclusions specified in the Terms and Conditions.- Replaced FPDs are subject to inspection and analysis by HCUS.
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Drop Only Detector Coverage	<p>Drop coverage provides a replacement FPD only when the glass substrate of the TFT is cracked or broken in conjunction with a drop excluding Extended Imaging Panels.</p> <p>Customer will be charged a Replacement Fee for each FPD provided under this option as follows unless otherwise specified in Section A of this Agreement:</p> <p>D-EVO I Panels</p> <ul style="list-style-type: none"> - \$5,000 for the first Replacement FPD provided per covered serial number in an Agreement year. - \$8,000 for the second Replacement FPD provided per covered serial number in an Agreement year. - \$15,000 for the third Replacement FPD and each Replacement FPD thereafter per covered serial number in an Agreement year. <p>D-EVO II and ES Panels</p> <ul style="list-style-type: none"> - \$5,000 for each Replacement FPD provided per covered serial number. - A covered serial number is defined as the serial number of each FPD provided in a service agreement year. - Labor for installation and calibration of replacement FPDs is not included and Customer will be billed at prevailing time and materials rates. - Preventive maintenance is not covered. - Coverage applies to drops during ordinary usage only. - Agreement is non-cancellable unless HCUS fails to deliver in accordance with the contract terms and conditions.
Drop Only Detector Pooling Coverage	Same terms as Drop Only Detector Coverage except all the FPDs covered under this option are covered as one serialized unit in the event of the drop.
Cosmetic Coverage/Kits (as needed)	HCUS will replace the exterior panels as needed on the covered portable units under contract - maximum once per year, FCR Go only.
Bio-Med Training	Customer elects to attend Bio-Med training classes at HCUS. Customer pays tuition less discount (if

	applicable) and is responsible for all training related T&E. Subject to availability.
Software Updates	Customer elects, unless included in the contract, to have annual software updates relative to its on- site HCUS equipment under contract.
Ad hoc additions and subtractions from contract	Customer reserves the right to omit equipment, upgrade service, or down-grade service on any HCUS equipment. Excludes Drop Only Detector Agreements.
Active Line Remote Monitoring	Customer receives 24 hour continuous remote monitoring on the elected equipment. A Business Associate Agreement (“BAA”) required between HCUS and customer.
End of Service Live Coverage – Labor Only	<ul style="list-style-type: none"> • Labor and Travel during normal working hours (8:30 A.M. TO 5:00 P.M. local time Monday through Friday). • Replacement Parts – Parts are scarce for the devices included below. Customer may buy parts from Fujifilm at a 40% discount. If replacement parts are unavailable through Fujifilm’s certified procurement network, Customer may purchase replacement parts through alternative sources. Fujifilm will install third party parts but makes no guarantee that they will function correctly. • One (1) preventive maintenance inspection and calibration (if applicable) per service agreement year, unless otherwise specified in HCUS Service Manual. PM replacement parts are subject to availability. • Software updates are limited to the last released version of Fujifilm Software based upon original OS & Application purchased configuration. Excludes software / hardware performance upgrades.

<p>End of Service Live Coverage – Labor and Parts</p>	<ul style="list-style-type: none"> • Labor and Travel during normal working hours (8:30 A.M. TO 5:00 P.M. local time Monday through Friday). • Replacement Parts – Parts are available but quantities are limited for the devices included below. If replacement parts are unavailable through Fujifilm’s certified procurement network, Customer may purchase replacement parts through alternative sources. Fujifilm will install third party parts but makes no guarantee that they will function correctly. In the event that replacement parts are unavailable or the cost of such parts exceeds 50% of the value of this Agreement, then either party may cancel this Agreement without penalty in accordance with the termination provisions of Section 6.1. • One (1) preventive maintenance inspection and calibration (if applicable) per service agreement year, unless otherwise specified in HCUS Service Manual. PM replacement parts are subject to availability. • Software updates are limited to the last released version of Fujifilm Software based upon original OS & Application purchased configuration. Excludes software / hardware performance upgrades.
<p>CT General Maintenance and Tube Replacement</p>	<p>a) General Maintenance will be provided in accordance with Section 2 of this Agreement. HCUS will replace Tubes which fail under normal operating circumstance and not otherwise excluded under the provisions of Section 3 of this Agreement during the term.</p> <p>b) CT General Maintenance and Tube coverage options consist of three tiers Low, Medium and High Usage. Service tiers and associated pricing are based on scan seconds of use per year as follows:</p> <p>i) Low Usage - Up to 70,000 scan seconds per year \$59,500 for general maintenance plus \$21,000 for tube replacement coverage</p> <p>ii) Medium Usage - Up to 100,000 scan seconds per year \$85,000 for general maintenance plus \$30,000 for tube replacement coverage</p>

	<p>iii) High Usage - Over 100,000 scan seconds \$110,500 for general maintenance plus \$39,000 for tube replacement coverage</p> <p>c) CT Tube replacements will be performed during standard working hours, as specified in Section 2 of the Agreement, unless the base plan does not include labor, in which case only parts will be provided.</p> <p>d) Overages: At the end of each contract year, HCUS will review Customers scan seconds of usage per device, and if the Customer has utilized scan seconds in excess of the selected coverage tier allotment, there will be a true up calculation for the prior year's usage and, if necessary, a modification of the selected coverage tier to a coverage tier consistent with Customer's actual usage. Overage charges are determined by measuring scan seconds per year. For example, if the Customer has selected the Low Usage Coverage Tier and actual scan seconds in any one contract year exceed 70,000 scan seconds, then, at the annual anniversary of the commencement date of this Agreement, a \$0.95 charge per additional scan second will apply and charged to Customer. Generally, if the actual scan seconds utilized in any one contract year exceeds the selected tier coverage threshold by greater than twenty-five percent (25%), then, at the anniversary date of the commencement date of this Agreement, the annual maintenance fee for CT Tube replacement coverage will be adjusted upward to the next tier coverage level for the remainder of term of this Agreement and retroactively applied to the previous contract year. Overage charges applicable to the previous year will be waived.</p> <p>e) Overages: At the end of each year, HCUS will review scan seconds and if Customer is over the selected tier allotment, there will be a true up for the prior year and a move to the appropriate tier for the next year.</p>
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ORDER OF COMMISSIONERS COURT
Authorizing execution of an amendment

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2023 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF AN AMENDMENT TO THE AGREEMENT
WITH FUJIFILM MEDICAL SYSTEMS USA, INC.**

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey, P.E.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Briones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order adopted follows:

IT IS ORDERED that County Judge Lina Hidalgo be, and she is hereby authorized to execute, for and on behalf of Harris County, an amendment to the Master Agreement with Fujifilm Medical Systems USA, Inc., for the purpose of adding additional services and funding for a cost not to exceed Eighty-Six Thousand Four Hundred Sixty-Seven and 45/Dollars (\$86,467.45). The Amendment is incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.