

Bid

CAPITAL EQUIPMENT SUPPLIER AGREEMENT

for

Mammography Imaging Equipment

between

VIZIENT SUPPLY, LLC

and

HOLOGIC, INC.

XR0653

VIZIENT SUPPLY, LLC

CAPITAL EQUIPMENT SUPPLIER AGREEMENT

THIS CAPITAL EQUIPMENT SUPPLIER AGREEMENT (this “Agreement”) is made and entered effective September 1, 2020 (the “Effective Date”), by and between **VIZIENT SUPPLY, LLC**, a Delaware limited liability company (“Vizient”), and **HOLOGIC, INC.**, a Delaware corporation (“Supplier”). Vizient and Supplier are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties.”

WHEREAS, Vizient is engaged in providing purchasing opportunities with respect to high quality products and services to individual entities or groups of entities designated by Vizient to purchase under its contracts (each a “Member” and collectively, the “Members”);

WHEREAS, Members participate in Vizient’s programs through their membership or other participatory status in certain organizations as determined from time to time by Vizient, including, without limitation Vizient, Inc. and Provista, Inc. (each, a “Client,” and collectively, the “Clients”);

WHEREAS, a list of Members is maintained by Vizient in an electronic database (the “Vizient Database”) and Supplier agrees to abide by the membership classifications set forth in the Vizient Database;

WHEREAS, Supplier is the manufacturer and/or supplier (as appropriate) of the equipment (including replacement parts) and other capital products (collectively, “Equipment”), and/or parts, supplies and other non-capital products (collectively, “Supplies”), and/or the provider of services (“Services”) listed on Exhibit A hereto and customized derivatives of the Equipment, Supplies, Services listed on Exhibit A (collectively, the “Products”); and the provider of any specifications attached hereto as Exhibit B (“Non-Price Specifications”);

WHEREAS, in response to Vizient’s request for proposal, Supplier submitted a written offer to Vizient to make the Products available for purchase by Members at the prices listed in Exhibit A;

WHEREAS, Vizient and Supplier intend for Supplier to make the Products available for purchase and/or lease by (i) Members directly from Supplier or Authorized Distributor at the prices listed in Exhibit A, and (ii) recognized aggregation groups of Members (as from time to time determined by Vizient, the “Recognized Aggregation Groups”) directly from Supplier or Authorized Distributor at the prices listed in Exhibit A, each in accordance with the forms of end user, purchase, lease, license, financing or servicing agreements, if any, attached hereto as Exhibit D (collectively, “Forms”).

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter expressed, Vizient and Supplier agree as follows:

1. Contract Award.

A. In General. For the Initial Term and any Renewal Terms (as defined below), Supplier shall make the Products available for purchase and/or lease by the Members and Recognized Aggregation Groups at the prices listed in Exhibit A. In addition to making the Products available for purchase and/or lease directly by the Members and Recognized Aggregation Groups, Supplier may make some or all of the Products available for purchase by the Authorized Distributors (defined below) for resale to the Members and/or Recognized Aggregation Groups. Unless otherwise stated, all Products shall be new.

B. Authorized Distributors. As used in this Agreement, Authorized Distributors shall mean those distributors with whom Vizient and/or one or more Clients have entered into arrangements to distribute the Products to Members and any consolidated logistics centers or central distribution locations set up by groups of Members as distribution centers ("Authorized Distributors"). A list of Authorized Distributors is maintained by Vizient in the Vizient Database, which list may be amended by Vizient from time to time. A distributor shall become an "Authorized Distributor" for purposes of this Agreement at the time Vizient adds the distributor to the Vizient Database and shall cease to be an "Authorized Distributor" for such purposes at the time Vizient removes the distributor from the Vizient Database. Any limitations on the scope of an Authorized Distributor's authority shall also be set forth in the Vizient Database. Supplier represents, warrants and covenants that Supplier's agreements, if any, with an Authorized Distributor for Products shall not adversely impact Member terms in this Agreement.

2. Product Pricing and Non-Price Financial Value.

A. Firm Pricing. Except for price reductions, including without limitation, pursuant to this Section, prices listed in Exhibit A of this Agreement will remain fixed for the Term (as defined below).

B. Market Competitive Pricing and Non-Price Terms. Supplier acknowledges and agrees that competitive line item pricing, non-price terms, and discounts shall be offered to Vizient. Supplier shall lower prices listed in Exhibit A, or increase any discount applicable to the purchase or lease of the Products as necessary to assure market competitiveness and pricing commensurate with market competitive commitment.

C. Response Duration. If at any time during the Term, Vizient receives information from any source that indicates Supplier's pricing or non-price terms are not in compliance with this Section ("Non-Compliant Pricing"), Vizient may provide written notice of such information to Supplier, and Supplier shall, within ten (10) business days for all Products, advise Vizient in writing of all price reductions necessary to assure compliance with this Section. Such adjustments, if necessary, will become effective upon mutual agreement by the Parties.

D. Breach. If Supplier fails to comply with Section 2. A-C, such action shall constitute a Material Breach (as defined below) of this Agreement. Without limiting the generality of the foregoing, if Supplier implements an unauthorized price increase, such action shall constitute a Material Breach of this Agreement.

E. Price Corrections. For each instance Supplier requests a price correction resulting in pricing higher than as provided for in this Agreement, Supplier shall pay to Vizient as liquidated damages, and not as a penalty (i) \$500 for the first request in any twelve (12)-month period, (ii) \$1,000 for the second request in any 12-month period, and (iv) \$2,500 for all subsequent request in any 12-month period. Supplier will provide written documentation to Vizient stating the cause of the incorrect pricing in this Agreement and reason for the requested price correction. In the event Vizient agrees to change the price, the Parties shall execute an amendment documenting the change within thirty (30) days of receipt of payment for liquidated damages.

3. Member Access to Agreement. Other than requiring Members to execute a GPO Designation Form described in section 18.O below, Supplier shall not restrict any Member's ability to purchase any of the Products from or through Supplier pursuant to this Agreement. Supplier agrees that all Members identified in the Vizient Database that execute the GPO Designation Form shall be deemed to have designated Vizient as their respective GPO for all Products available hereunder. In the event that, subsequent to its execution of a GPO Designation Form, a Member executes a GPO Designation Form stating its intent to purchase Products from Supplier pursuant to an agreement that Supplier has with another GPO, Supplier shall notify Vizient, and Vizient shall have ten (10) business days to verify the applicable Member's action. Following such verification period, if Vizient determines that the applicable Member intended to designate an alternate GPO for all Products available hereunder, sales of Products to that Member shall no longer be under and pursuant to this Agreement. If at any time a Member subsequently wishes to purchase Products under and pursuant to this Agreement, that Member may access this Agreement and Supplier will re-designate Vizient as its respective GPO for all Products available hereunder by submitting a new GPO Designation Form. Following such submission, all sales of Products to that Member shall be under and pursuant to this Agreement. The Members currently accessing agreement XR0345 effective May 1, 2019 are entitled to, at their respective election, to access the pricing tiers under this Agreement or the Previous Agreement for the Term of this Agreement. Members that have previously signed a designation form under do not have to sign a new designation form under this agreement. The form of the designation form is attached hereto as Exhibit G.

4. Term and Termination.

A. Term. This Agreement shall have an initial term of three (3) years beginning on the Effective Date (the "Initial Term"). Upon the expiration of the Initial Term, this Agreement shall renew automatically for two (2) additional one year periods (each, a "Renewal Term") unless (i) Vizient delivers written notice of termination at least ninety (90) days prior to the expiration of the then-current Term (defined below), or (ii) Supplier delivers written notice of termination at least one hundred eighty (180) days prior to the expiration of the then-current Term. The Initial Term and any Renewal Terms are referred to collectively in this Agreement as the "Term."

B. Without Cause Termination. Vizient may terminate this Agreement at any time, with or without cause, by delivering at least ninety (90) days' prior written notice to Supplier. Supplier may terminate this Agreement at any time, with or without cause, by delivering not less than one hundred eighty (180) days' prior written notice to Vizient.

C. Breach of Contract. Upon a material breach of this Agreement (as referenced in this Agreement, "Material Breach"), by either Party that is not cured within fifteen (15) days of the non-breaching Party's written notice of such Material Breach, the non-breaching Party may, at its election:

- (1) terminate this Agreement immediately by delivering written notice to the breaching Party;
- (2) where Supplier is the breaching Party, Vizient may add one or more suppliers of competing products to its contract portfolio; and/or
- (3) exercise any other right or remedy available in law or in equity.

In the event that Vizient adds one or more suppliers of competing products to its contract portfolio pursuant to Section 4.C.(2), Supplier agrees that such action will not result in any changes to the terms of this Agreement, including without limitation, pricing and Administrative Fees (defined below).

D. Immediate Termination. In the event either Party breaches Section 13 (Compliance with Law and Government Program Participation), the non-breaching Party shall have the right to immediately terminate this Agreement upon written notice to the breaching Party.

E. Supplier Bankruptcy. In the event that Supplier becomes bankrupt or insolvent, makes an unauthorized assignment, goes into liquidation, has proceedings initiated against it for the purpose of seeking a receiving order or winding up order, or applies to the courts for protection from its creditors, Vizient shall have the right to terminate this Agreement upon written notice to Supplier.

F. Non-Payment or Insolvency of a Member. In the event that a Member fails to pay Supplier for Products, becomes bankrupt or insolvent, makes an assignment for the benefit of creditors or goes into liquidation, or if proceedings are initiated for the purpose of having a receiving order or winding up order made against a Member, or if a Member applies to the courts for protection from its creditors, then this Agreement shall not terminate, but Supplier shall have the right, upon prior written notice to Vizient and the Member, to discontinue the sale of Products to that Member.

5. Product Supply.

A. Delivery and Invoicing: Equipment (i.e., capital Products). Supplier agrees to promptly deliver Equipment ordered directly by Members to Members and Equipment ordered by the Authorized Distributors on behalf of Members to the Authorized Distributors, FOB origin, and shall direct its invoices to the ordering organization in accordance with this Agreement. F.O.B. Origin means title and risk of loss to the Products passes to the Member at the shipping dock of Supplier or Supplier's supplier or authorized agent. Supplier is responsible for the cost of insurance paid to cover any losses from Supplier's shipment point to Member's receipt. Supplier shall assist Member in processing any loss claims and Member shall be paid directly by Supplier's insurer.

Supplier agrees to prepay and absorb charges for transporting Equipment to the ordering organization. Within seven (7) calendar days after receipt of a purchase or lease order from a Member, Supplier will provide estimated lead time from the date of such purchase or lease order until delivery of the Product at the Member's location. If the Supplier estimated lead time is greater than thirty (30) days, Member may cancel the order without penalty. The actual delivery lead times may be increased by the ordering Member based on its needs. Supplier acknowledges and agrees that Member rights under this Agreement will not be adversely impacted by any agreement between Supplier and an Authorized Distributor.

B. Delivery and Invoicing: Supplies (i.e., consumables, disposables, reagents). Supplier agrees to promptly deliver Supplies ordered directly by Members to Members and Supplies ordered by the Authorized Distributors on behalf of Members to the Authorized Distributors, FOB origin, and shall direct its invoices to the ordering organization in accordance with this Agreement. F.O.B. Origin means title and risk of loss to the Products passes to the Member at the shipping dock of Supplier or Supplier's supplier or authorized agent. Supplier is responsible for the cost of insurance paid to cover any losses from Supplier's shipment point to Member's receipt. Supplier shall assist Member in processing any loss claims and Member shall be paid directly by Supplier's insurer. Supplier agrees to prepay and absorb charges, if any, for transporting Supplies to the ordering organization. Supplier acknowledges and agrees that Member rights under this Agreement will not be adversely impacted by any agreement between Supplier and an Authorized Distributor.

C. Payment.

(1) Payment Terms. Supplier shall offer payment terms that are net forty-five (45), days from receipt of invoice. Supplier represents, warrants, and covenants that Supplier's agreements, if any, with an Authorized Distributor for Products shall not adversely impact Member payment terms hereunder

(2) Electronic Payable Programs. Intentionally omitted.

D. Freight Management. In the event a Member chooses to utilize a freight management program for the delivery of Products Supplier shall:

(1) Ship goods FOB Origin/bill third-party via the carrier designated by Member;;

(2) Bill the cost of shipping third-party to the carrier account designated by Member; and

(3) Place the Member's purchase order number into a field on carrier's manifest that will pass the purchase order number back to Member on carrier's invoice.

The Member shall be responsible for paying the freight carrier directly for the shipping services and Supplier shall be responsible for .any loss of, and the condition of, all

Products in transit, insurance, and the filing and settlement of any claims with carrier. Member shall not pay any handling fees, transfer fees or any similar fees unless Supplier receives prior written approval from Member.

Supplier will offer its full and timely cooperation in assisting Member, or its designee, to make Member's freight management program operate successfully. Supplier shall reimburse Member for total freight charges for any shipments that qualify for the Member's existing freight program, but as a result of Supplier error or omission, are not processed appropriately. In addition, all freight charges incurred by the Member for freight-included Products shipped under the selected freight program shall, upon Member's written demand, be reimbursed by Supplier.

E. Failure to Supply. In the event of Supplier's failure to perform its supply obligations in accordance with the terms of this Section 5:

- (1) Member(s) and/or Authorized Distributors may purchase or lease products equivalent to the Products from other sources and Supplier will be liable to the Member and/or Authorized Distributor for all reasonable costs in excess of the prices listed in Exhibits A not to exceed one hundred ten percent (110%) of the prices in Exhibit A for a period not to exceed one year after Supplier's first receipt of each unfulfillable order ;
- (2) any Member purchases from an alternative source will not affect the Member(s) pricing and purchases from an alternative source will be considered contracted sales for purposes of calculating Members' tiered pricing compliance for the duration of the failure to supply, plus ninety (90) days;
- (3) Supplier shall be in Material Breach of this Agreement.

The remedies set forth in this Section are cumulative, non-exclusive and in addition to any other rights and remedies Vizient, the Clients, the Members, and/or Authorized Distributor may have resulting from such failure.

F. Return or Recall of Products. Any Member or Authorized Distributor, in addition to and not in limitation of any other rights and remedies, shall have the right to return Products to Supplier, in accordance with Supplier's return goods policy attached hereto as Exhibit C. Notwithstanding anything in Exhibit C to the contrary, Supplier will not charge restocking fees or return shipping costs. In addition, Supplier shall reimburse Members or Authorized Distributors for any costs associated with any Product corrective action, withdrawal or recall requested by Supplier or required by any governmental entity including all reasonable costs in excess of the prices listed in Exhibit A, as appropriate. In the event a Product recall or a court action impacting supply occurs, Supplier shall notify Vizient in writing within two (2) business days' timeframe of any such recall or action. Supplier's obligations in this Section shall survive the expiration or earlier termination of this Agreement.

G. Supplies. Supplies necessary for the operation of the Equipment will be made available to the Members at the prices or discounts listed in Exhibit A. In the event that Supplies necessary for the operation of the Equipment are made available by Supplier to the Authorized Distributors for resale to the Members at the prices or discounts listed in Exhibit A, then all warranties and guarantees will remain in force for the benefit of the Member regardless of whether a Member purchases such Supplies directly from Supplier or from an Authorized Distributor.

H. Manuals/Schematics/Inspection Procedures. Supplier will provide to the Members one (1) complete and unabridged set of operator service manuals for each model of Equipment purchased or leased, including all subassemblies and peripheral devices (including those manufactured by others). The technical service manuals furnished to the Members will be at least as complete and comprehensive as those furnished to Supplier's technical service personnel and at a minimum must include theory of operation (including software), electrical and mechanical schematics, preventive maintenance procedure and schedules, replacement parts lists, and troubleshooting documentation. All updates to such manuals will be provided electronically to the applicable Members within two (2) weeks after the release of such updates.

I. Product Acceptance. Upon completion of the installation of Equipment, the Supplier shall ensure that the Equipment meets or exceeds the specifications set out in Supplier's published documentation for such Equipment. The Members shall have a period of at least sixty (60) days from the installation of Equipment purchased or leased from Supplier to conduct acceptance testing of such Equipment. Acceptance testing may include, but is not limited to, safety testing, calibration, performance testing, documentation inspection and testing for adherence to the Equipment's specifications. Formal acceptance of the Equipment and a Member's obligation to pay the first invoice in connection with such Equipment will occur in accordance with the terms agreed to between Member and Supplier. A complete set of all test documentation and procedures for the purchased or leased Equipment will be made available to the Member prior to final acceptance. Notwithstanding the foregoing, as a condition of acceptance of the Equipment, the Equipment must have achieved uptime of at least ninety-eight percent (98%) over the thirty (30) day period immediately preceding acceptance, with uptime calculated in accordance with Section 6.E (Uptime Guarantee) below. If the Equipment fails the acceptance testing, the Member may, at its discretion, return the Equipment (together with any Supplies and/or Services related to the Equipment) to the Supplier for a complete cash refund/exchange. If the Equipment passes the acceptance testing, the warranty period (as may be further described in Exhibit E) for the Equipment will begin as of the date of installation of Equipment. Supplier's obligations in this Section shall survive the expiration or earlier termination of this Agreement.

J. Site Preparation. Supplier will provide a Member with a specific description of pre-installation planning, site preparation services and site preparation costs for the applicable Equipment at the time the Member requests a quote from Supplier.

K. Installation/Assembly. At the time the Member requests a quote from Supplier for certain Equipment, Supplier will provide as part of the quote a detailed description of

the installation and/or assembly requirements, including, without limitation, electrical, mechanical (HVAC), and structural (including seismic where applicable). Based on past installations of the Equipment and a review of the Member's site, Supplier will provide an estimate of the cost that the Member will bear for each component of the installation and/or assembly, regardless if such component is supplied by Supplier or the Member. The Member will specify whether Supplier or the Member will be responsible for the installation and/or assembly of the Equipment. If Supplier is specified as having responsibility for the installation and/or assembly of the Equipment, Supplier will include estimated dates and times for installation and/or assembly as part of the agreed delivery schedule referred to in Section 5.A (Delivery and Invoicing: Equipment (i.e., capital Products)), above. If the Member will be taking the responsibility for installation and/or assembly of the Equipment, Supplier will contact the individual or organization selected by the Member that will be responsible for the installation and/or assembly of the Equipment, and provide all necessary installation and assembly instructions.

L. Installation/Environmental Issues. Supplier will bear all costs associated with the removal of packaging, crating and other material associated with the installation of the Equipment. Supplier, at the discretion of the Member, will remove any retired equipment at a cost mutually agreed upon with the Member, including any expenses associated with the proper disposal of hazardous or other waste.

M. Member Services. Supplier will consult with each Member to identify the Member's policies relating to access to facilities and personnel. Supplier will comply with such policies and will establish a specific timetable for sales calls by sales representatives and, if applicable, service calls by service representatives, to satisfy the needs of each Member. Supplier will promptly respond to Members' reasonable requests for verification of purchase or leasing history.

N. Training. Unless otherwise agreed to by Vizient or Member, Supplier will allow a minimum of one (1) of the Member's staff members to attend Supplier's biomedical and technical service training school as described in Exhibit B. Travel, lodging or out of pocket expenses are the responsibility of Member. Supplier also will allow the Member to reproduce all of Supplier's training material for use by the Member's personnel at the Member's facility. In addition, Supplier will provide a minimum of two (2) days of in-service applications training for the Equipment for both operators and technical service staff of the Member at the Member's site at Supplier's own cost, unless otherwise agreed to by Vizient or Member, as requested by any Member prior to the completion of the sixty (60) day acceptance period referenced in Section 5.I. (Product Acceptance) above. The number of training days is subject to change as mutually agreed upon by Supplier and Member. Supplier will provide follow-up in-service training as determined by the Member for the life of the Equipment at no additional charge remotely via Web-Ex. Supplier's obligations in this Section shall survive the expiration or earlier termination of this Agreement.

O. Product Fill Rates; Confirmation and Delivery Times. Supplier agrees to provide raw Product fill rates of at least ninety-eight percent (98%) to each Member and each Member's Authorized Distributor(s) on behalf of the Member, each calculated as line-

items filled complete divided by line-items ordered, first truck (in no event later than ten (10) days from the date of order). In addition, if Supplier breaches this fill rate commitment for a sale through an Authorized Distributor, Supplier agrees not to charge the Member for direct delivery. Supplier's breach of this Section shall constitute a Material Breach of this Agreement. Notwithstanding the foregoing, fill rate requirements will be waived for a period of six (6) months from the date of FDA approval for new Products.

P. Extension of Product Lines. Supplier represents and warrants that all of Supplier's products in the product category covered by this Agreement are "Products" and are included in Exhibit A. During the Term, Supplier shall (i) disclose to Vizient product line extensions and/ or new technology developed or acquired by Supplier that provide(s) similar function(s) as the Products, and (ii) upon the earlier occurrence of (a) market introduction or (b) FDA approval, add those product line extensions and or new technology to this Agreement upon mutually agreed pricing and tier compliance terms (but otherwise upon the same terms and conditions contained in this Agreement). As used in this Section "market introduction" shall mean either a general or limited market release of products. Upon introduction of the product line extension and/or new technology by Supplier, each Member shall have the option of exchanging any Product purchased, but not yet shipped for the new Product at the price listed in Exhibit A. Member may be responsible for the difference in cost between the unshipped Product and the new Product. In the event that Supplier fails to provide such option to Members, Vizient (a) shall have the right to discontinue the offering of any or all of the Products that have been superseded by such new Product, and/or (b) may elect at its discretion to contract with one or more additional suppliers of similar products.

Q. Product Deletions. Notwithstanding any provision in this Agreement to the contrary, Vizient may delete any one or more of the Products at any time, with or without cause, upon at least sixty (60) days' prior written notice to Supplier; provided, however, that Vizient may delete any Product immediately in the event that (i) such Product ceases for any reason to maintain any requisite approval from the FDA or other applicable governmental agency, or (ii) Vizient, in its sole reasonable discretion, determines that there are material quality or safety issues associated with the Product (including, without limitation, significant or repeated Product recalls).

R. Discontinuation of Products. In the event Supplier intends to discontinue offering one or more Product(s) at the national level, Supplier shall provide at least one hundred twenty (120) days' prior written notice to Vizient. In addition, Supplier shall not have the right to discontinue any of the Products at the local or regional level or make changes in packaging that render any of the Products substantially different in function or distribution without Vizient's prior written consent, which shall not be unreasonably withheld. Any request for consent to a proposed discontinuation of any Product(s) or a proposed change in packaging for any Product(s) shall be delivered to Vizient at least one hundred eighty (180) days prior to the proposed implementation of the discontinuation or change. In such an event, Supplier shall provide Vizient with the proposed alternative product (to the extent one exists) and an updated price match file at the same or better pricing than the Product being discontinued. For purposes of clarification, Supplier

agrees that it shall not discontinue a Product and add (or attempt to add) a substantially similar Product at a higher price unless such Product contains upgrades, features, or options that differentiates it from the discontinued Product.

6. Product Quality.

A. Warranty. Supplier warrants all Products against defects in material, workmanship, design and manufacturing. Supplier further represents and warrants that the Products shall conform to the specifications, drawings and samples furnished by Supplier or contained in the Non-Price Specifications and shall be safe for their intended use. If, during the warranty period, any Products fail to conform to published specifications or are defective, and a claim is made by a Member on account of such defect or failure, Supplier shall, at the option of the Member, promptly either repair or replace the non-conforming Products with substantially similar products. In the event repair or replace do not resolve the defect, Member may also apply for a credit in accordance with Supplier's Return Policy in Exhibit C. Supplier shall bear all costs of returning, replacing, and disposing of the non-conforming Products, as well as all risk of loss or damage to the non-conforming Products from and after the time they leave the physical possession of the Member. The warranties contained in this Section shall survive any inspection, delivery, acceptance or payment by a Member. All of the rights conferred upon the Members in this Section shall apply equally to the Authorized Distributors, as applicable. This Section and the obligations contained herein shall survive the expiration or earlier termination of this Agreement. The remedies set forth in this Section are in addition to, and not a limitation on, any other rights or remedies that may be available against Supplier.

B. Warranty Service. All warranty repairs will have 8 am to 5 pm coverage at no additional charge, and the Member will determine whether the service response may be postponed until the following business day.

C. Replacement Parts. Replacement parts supplied by Supplier at any time, whether during or after the warranty period or the term of any service agreement, will be newly manufactured parts or assemblies, unless the Member agrees otherwise. In the case where new parts are not available, the service representative may install rebuilt parts in order to make the unit operational. Within thirty (30) days after the repair, the rebuilt parts must be replaced with newly manufactured parts, unless member agrees otherwise. Supplier will retain parts removed from the Equipment. In all cases where Supplier is permitted to charge the Member for parts, Supplier will only replace and charge for parts necessary to bring the Equipment to operating condition. Supplier will warrant replacement parts and labor associated with such replacement parts for the remainder of the warranty period or ninety (90) days from delivery, whichever is longer, or the period of time set forth in Supplier's replacement parts warranty (if any and as attached hereto as Exhibit E), whichever is longer.

D. Service Response Time. Supplier guarantees a response time of one (1) hour for phone calls, twenty-four (24) hours for requests for on-site emergency repairs, and as

agreed to by the Member for requests for on-site warranty, contract or time and materials service calls.

E. Uptime Guarantee. During the Term, any warranty period, and the term of any service agreement, Supplier guarantees that the Equipment will maintain a level of uptime equal to or better than ninety-eight percent (98%). Uptime Calculation will be based upon a minimum of 720 available hours (i.e. 12 weeks x 6 days x 10 hours/day) Uptime performance will be calculated quarterly; and will be based on the minimum 720 hours, or actual hours of use, whichever is greater. Equipment is considered to be “up” when it can generate reportable results or function in the way for which it is intended. Equipment is considered to be “down” when it can no longer generate reportable results or function in the way for which it is intended. “Downtime” for each piece of Equipment covered by this Agreement means the period of time during Equipment’s normally scheduled hours of operation that any of the Member’s authorized users determine in good faith that the Equipment is not performing due to any malfunction of the Equipment during the Term, any warranty period, and the term of any service agreement. Downtime shall commence upon Member’s timely notice to Supplier that the Equipment is malfunctioning and will end when the Member and Supplier in good faith mutually agree is writing that the malfunction has been corrected and that the Equipment is up.

If at any time the Equipment becomes inoperable or down, Supplier will either repair or replace the instrument at no charge to the Member within twenty-four (24) hours of notice. At the end of the 12-month warranty period, or any 12-month full service contract period, if the Product has not maintained a ninety-eight percent (98%) uptime level Supplier will extend the warranty period or service contract coverage period at no charge for an additional one (1) week for each percentage point below ninety-eight percent (98%).

F. Preventive Maintenance. Supplier will perform preventive maintenance according to the manufacturer’s recommendations and the policies developed by the Member, at no additional charge to the Member during the warranty period, including any penalty extensions, and term of any full-service agreement. Supplier will furnish to the Member a written procedure that will be followed by Supplier’s representative during the preventive maintenance process. Reasonable additional testing will be performed by Supplier at no additional charge to the Member, upon request, to meet the requirements of procedures developed by the Member. The frequency of preventive maintenance and tests performed will comply with the manufacturer’s recommendations, external codes (e.g., state, Joint Commission, etc.), and all internal policies developed by the Member.

G. Updates. A list of optional software updates available from Supplier, including, without limitation, costs for such software both during and after the expiration of the warranty period, is attached hereto as Exhibit F. Each Member will be given all updates to acquired software, including any software components of the Equipment, from the date of issuance of the purchase or lease order through the expiration of the warranty period, including penalty extensions, and thereafter during the term of any service agreement, at no additional charge to the Member. Arrangements will be made to install all software

upgrades within four (4) weeks after the release of any software upgrade or as mutually agreed upon with Member.

H. Customization Software. Pricing relating to the customization of software and additional charges that the Member will incur for annual maintenance, training, documentation, backup, etc. is attached hereto as Exhibit A.

I. Operational Software. Supplier shall include the form of software licensure agreements available to the Members as part of any quote requested by a Member. Supplier will license all software necessary to operate the Equipment, unless otherwise provided in any Exhibit hereto, to the Member upon acceptance of the Equipment pursuant to Section 5.I above. Supplier will provide to the Member all new operational software that provides no additional functionality, at no additional charge throughout the warranty period and thereafter throughout the term of a full-service agreement. Supplier must submit any new operational software that provides additional functionality to Vizient as an addition to Exhibit A. Supplier will make available new software within four (4) weeks after release or as mutually agreed upon with Member.

J. Diagnostic Software. Supplier will provide all software necessary to troubleshoot and maintain the Equipment to the Member, if the Member has official biomedical training provided by Supplier, at a mutually agreeable price. The diagnostic software will be similar to those used by Supplier's service representative, but may not include all Supplier service testing capabilities. The diagnostic software will be identical to that used by Supplier's service representative. Training for the use of diagnostic software will be part of the biomedical service training provided by Supplier, and Supplier's telephone support will also include assistance in diagnostic software operation. Training in the use of diagnostic software and diagnostic software upgrades will be offered by Supplier at a mutually agreeable price. Supplier will make software updates available to the Member within two (2) weeks after the update release.

K. Data Conversion/Interfaces. In the event that the Equipment requires conversion of data at the time of installation or assembly, Supplier agrees to perform this conversion either manually or electronically at no additional charge to the Member. A schedule of Supplier's pricing for performing data conversion thereafter is included in Exhibit A attached hereto. The data conversion will include all data requested by the Member in writing. Supplier will inform Member, in writing, of the length of time required to perform the conversion prior to the issuance of the purchase or lease order and will perform the conversion within such time. Supplier also will include all interfaces requested by the Member at no additional charge to connect the Equipment to other information systems owned by the Member and its affiliates.

L. Service Contract. The Member shall have the right to cancel any service agreement, without cause or penalty, upon thirty (30) days' prior written notice to Supplier. In the event of such cancellation, Supplier will reimburse the Member for a pro rata portion of any payments made pursuant to such service agreement, provided that Supplier will separate costs for preventive maintenance and repair for the purpose of allocating expenses. Supplier will be required to leave the Equipment in certifiable

condition as determined by the Member. Supplier will not cancel the service agreement without a minimum of sixty (60) days' prior written notice to the Member. Cancellation of the service agreement may result in a termination fee and will not affect Supplier's response time and quality of support if the Member elects to use Supplier for time and materials repairs, perform the work in-house or obtain service from others.

Notwithstanding, in the event Member's Service agreement entitled Member to enhanced response times or coverage hours, Member will not be entitled to such enhanced coverage without a service agreement. For purposes of clarification, (1) service agreements are not mandatory for Members purchasing under this Agreement, (2) applicable service agreement pricing is listed in Exhibit A and the form of service agreement(s) is attached in Exhibit D, and (3) Supplier will pay Administrative Fees on pre-paid service agreements executed at the point of sale (POS). Supplier's obligations in this Section shall survive the expiration or earlier termination of this Agreement.

M. Product Compliance. Supplier represents and warrants to Vizient, the Clients, the Members and the Authorized Distributors that the Products are, if required, approved and/or cleared for marketing, and will not be distributed, sold, leased or priced by Supplier in violation of any federal, state or local law. Supplier represents and warrants that, as of the date of delivery to the Members, no Product will be adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act, or violate or cause a violation of any applicable law, ordinance, rule, regulation or order. Supplier agrees it will comply with all applicable Good Manufacturing Practices and Standards contained in 21 C.F.R. Parts 210, 211, 225, 226, 600, 606, 610, 640, 660, 680 and 820. Supplier represents and warrants that the Products are not defective and that Supplier will provide adequate warnings and instructions to inform users of the Products of the risks, if any, associated with the use of the Products. Supplier's representations, warranties and agreements in this Section will survive the expiration or earlier termination of this Agreement.

N. Product Condition. Unless otherwise stated in the Exhibit B or unless agreed upon by a Member in connection with Products it may order, all Products will be new. Products that are demonstrators, used, obsolete, or seconds, or that have been discontinued are unacceptable unless otherwise specified in Exhibit B or unless the Member accepts delivery after receiving notice of the condition of the Products. A description of and pricing for demonstrators or refurbished Products is attached hereto as Exhibit A.

7. Innovative Technology. If innovative technology (as determined by a Vizient council or task force) for a Product is available from any source that provides incremental patient care or safety benefits over technology currently available under this Agreement ("Innovative Technology"), Vizient may elect to contract with a supplier of such Innovative Technology and shall provide notice (including email or other electronic means) of such information to Supplier (provided that such information shall be confidential in nature), or terminate this Agreement and re-bid the category so Members have access to such Innovative Technology at all times. Such action shall not constitute a breach of this Agreement by Vizient. Neither Member pricing nor any other term of this Agreement will be adversely affected in the event Vizient adds a supplier of Innovative Technology to its contract portfolio pursuant to this Section.

8. Sales Reports.

A. Timing and Content of Sales Reports. Within thirty (30) days after the end of each month during the Term ("Reporting Month"), Supplier shall submit to Vizient a report in the form described in the Vizient Information Requirements (as defined in Section 18.F below), together with such other information as Vizient may reasonably request ("Net Sales Report"). For each Reporting Month that Supplier fails to provide the Net Sales Report by the day set forth in this Section, Supplier shall pay to Vizient as liquidated damages, and not as a penalty (i) \$2,000 for the second failure in any 12-month period, (ii) \$3,000 for the third failure in any 12-month period, and (iii) \$4,000 for the fourth and each successive failure in any 12-month period.

B. Failure to Accurately Report Sales. The failure of Supplier to fully, accurately and timely report Net Sales (as defined below) under this Agreement shall constitute a Material Breach of this Agreement.

9. Administrative Fees.

A. Calculation. Supplier shall pay Vizient, as authorized collection agent for each of the Clients, respectively (and not collectively), a GPO administrative fee ("Administrative Fees") equal to one and a half percent (1.5%) of all Net Sales (as defined below) of the Products sold directly or indirectly by Supplier to Members that have (i) executed the GPO Designation Form under this Agreement or agreement XR0345 or (ii) for each order, signed the Supplier quote which identifies Vizient, Vizient Member, and the Vizient contract number. As used in this Agreement, "Net Sales" means (1) for Equipment, invoiced sales of Equipment (including, without limitation, Equipment that is ordered but not installed until after the expiration of the Term) less related Equipment returns, and (2) for Services and Supplies listed in Exhibit A, all Services and Supplies either ordered or invoiced during the Term or ordered or invoiced after the expiration of the Term pursuant to a binding legal commitment executed during the Term.

B. Payment. Supplier may elect to pay Administrative Fees via either hard copy check or Electronic Funds Transfer (EFT). In either case, the Administrative Fees shall be due no later than thirty (30) days after the end of each month. On or before that day, Supplier shall remit to Vizient the monthly Administrative Fees for the prior month's purchases. For the avoidance of doubt, Supplier will not be required to pay Administrative Fees to Vizient if (1) a Member is a member of a group purchasing organization that is not affiliated with the Clients ("Unaffiliated GPO"), the Unaffiliated GPO has a contract with Supplier pursuant to which the Member may purchase Products from Supplier ("Unaffiliated Contract"), and the Member purchases Products from Supplier under the Unaffiliated Contract, and (2) Supplier provides documentation to Vizient establishing that the Member is a member of the Unaffiliated GPO and that the purchase was made by the Member under the Unaffiliated Contract.

(1) Administrative Fee hard copy checks must be made payable to Vizient Supply, LLC and sent to:

If Sent By First Class Mail:

Vizient Supply, LLC
75 Remittance Drive, Suite 1420
Chicago, IL 60675-1420

If Sent Via Courier (e.g., Federal Express, United Parcel Service, Messenger):

The Northern Trust Company
5505 North Cumberland, Suite 307
Chicago, IL 60656-1471
Attn: Vizient Supply, LLC, Lockbox No. 1420

The airbill must list the bank's telephone number, as recipient at this location. Supplier's telephone number, as the sender, also must be included.

All Administrative Fee payments must be made payable to Vizient Supply, LLC, regardless of whether they are sent first-class mail or by courier. **Under no circumstances should checks be made payable to The Northern Trust Company.**

(2) Account information for Administrative Fee wire transfers is as follows:

Bank Name:	The Northern Trust Company		
Routing No:	071 000 152		
Account Name:	VIZIENT SUPPLY, LLC		
Account No.:	86665ACH format:	CTX, PPD, CCD	

(3) A remittance advice via email to ContractFees@vizientinc.com must accompany each Administrative Fee payment as set forth below:

- a) The Agreement contract number must be referenced, clearly indicating the amount of the total Administrative Fee payment allocated to the Agreement;
- b) The Reporting Month for which such Administrative Fee payment is being made; and
- c) Supplier's name.

C. Late Payment Fee. If any payment of Administrative Fees is not received on the date such Administrative Fees are due, any amounts past due shall be subject to a late charge in an amount equal to the lesser of one percent (1.0%) interest per month or the maximum rate allowed by law. In the event Vizient or Supplier discovers that certain Net Sales were not properly reported to Vizient in accordance with this Agreement, Supplier shall pay the Administrative Fees related to those Net Sales within thirty (30) days of discovering the error in reporting, together with a late charge in an amount equal to the lesser of one percent (1.0%) interest per month or the maximum rate allowed by law, calculated from the date the Net Sales should have been reported to Vizient.

10. Pricing Enhancements. In the event that Supplier contracts with any Member or Recognized Aggregation Group for Products included in this Agreement (each, a “Pricing Enhancement,” and each such Member an “Enhancing Member”), Supplier (i) shall make best commercially reasonable efforts to give prior written notice to Vizient, and (ii) shall not prohibit the disclosure to Vizient of the terms of such Pricing Enhancement. Supplier acknowledges and agrees that the terms of a Pricing Enhancement, to the extent additional to the terms of this Agreement, (a) shall apply only to the Enhancing Members, and (b) shall not amend or otherwise affect the terms of this Agreement, including, without limitation, any rights or remedies inuring to the benefit of Vizient or Clients hereunder. In connection with Products purchased through any Pricing Enhancement, Supplier shall comply with the reporting requirements and shall pay the Administrative Fees set forth in this Agreement, in consideration of Vizient’s contribution to and support for such Pricing Enhancement. Any Member desiring to avail itself of the pricing, terms, and conditions described in this Agreement may terminate (without penalty) any existing contract(s) with Supplier for the Products.

11. Minority, Women or Veteran Owned Business Enterprises (“MWVBE”).

A. In General. Vizient, in its sole discretion, may negotiate, make and/or award any agreement with a MWVBE covering any Products included under this Agreement, which such agreement shall be in addition to any sole or multi-source award. Neither pricing nor any other term of this Agreement will be adversely affected if Vizient adds a MWVBE supplier to the product category.

B. Tier II Diversity Spend Reporting. In an effort to support the MWVBE goals of Vizient and the Members, Supplier shall report through Vizient’s online Supplier Diversity Connection portal, or such other portal selected by Vizient, a report detailing the percentage of spend by Supplier with MWVBE suppliers, contractors and subcontractors, directly or indirectly engaged by Supplier in support of the transactions contemplated under this Agreement. Such reporting shall occur quarterly no later than forty-five (45) days after the end of each calendar quarter. Vizient will notify supplier if reporting has not been reported by Supplier as described in this section.

12. Information to Members and/or Authorized Distributors. Within thirty (30) days following the Effective Date, Vizient, in conjunction with the Clients, shall furnish a summary of this Agreement to each Member, and each Authorized Distributor, if any. Such information may be furnished, as appropriate, through the use of direct mail and/or electronic mail, contact by the Clients’ field representatives, and/or regional and national meetings and conferences. As

appropriate, Vizient, in conjunction with the Clients, shall involve Supplier in these activities by inviting Supplier to participate in meetings and other activities with Members. At the request of Supplier from time to time, and in Vizient's sole discretion, Vizient shall also deliver to each Member reasonable and appropriate amounts and types of materials supplied by Supplier to Vizient that relate to the purchase or lease of Products. Vizient may publish an online catalog of Products to the Members containing any product numbers, pricing or other information contained in this Agreement (including any Exhibit hereto), or any other information, data or documentation provided by Supplier.

13. Compliance with Law and Government Program Participation.

A. Compliance with Law. Each Party represents and warrants that to the best of its knowledge, after due inquiry, it is, and covenants and agrees that for the Term it shall be, in compliance with all applicable federal and state laws, ordinances and regulations that are material to the operation of its business and the performance of its obligations under this Agreement ("Legal Requirements"), including, without limitation, Legal Requirements pertaining to the safety of the Products, occupational health and safety, environmental protection, nondiscrimination, health care regulation, the Health Insurance Portability and Accountability Act ("HIPAA"), equal employment opportunity, Unique Device Identification System requirements, and all applicable antitrust laws and regulations, including, without limitation, Sections 1 and 2 of the Sherman Act (15 U.S.C. §§ 1, 2) and Section 3 of the Clayton Act (15 U.S.C. § 14).

B. Product Compliance. Supplier represents and warrants that when the average discounts offered on each Product category are aggregated and allocated to each Product, the resulting price of that Product is not below Supplier's incremental cost to produce the Product.

C. Government Program Participation. Each Party represents and warrants that it is not (i) excluded from participating in any "Federal health care program" as that phrase is defined in 42 U.S.C. § 1320a-7b(f) ("Excluded"), or (ii) debarred, suspended, declared ineligible, or voluntarily excluded by any Federal department or agency (collectively, "Debarred"). In the event that a Party, during the Term of this Agreement, is Excluded or Debarred, that Party (the "Excluded Party") shall notify the other Party (the "Non-Excluded Party") in writing within three (3) days after such event. Upon the occurrence of such event, whether or not notice is given to the Non-Excluded Party, the Non-Excluded Party may terminate this Agreement immediately upon written notice to the Excluded Party.

D. Discount Safe Harbor. Regulations implementing the federal health care program anti-kickback law, 42 U.S.C. § 1320a-7b(b), include a "safe harbor" for "discounts" (see 42 C.F.R. § 1001.952(h)). To the extent that Supplier provides a price reduction to a Member pursuant to this Agreement, then Supplier shall comply with the requirements set forth in 42 C.F.R. § 1001.952(h)(2).

14. Insurance.

A. General. Supplier shall maintain, at its sole cost and expense, insurance coverage in accordance with this Section. Supplier shall provide to Vizient's Risk Management department an ACORD insurance certificate prior to or as of the Effective Date and annually thereafter, and otherwise within ten (10) business days following Vizient's or any Member's request, evidencing all coverage required hereunder, underwritten by a U.S. licensed insurance carrier with an A.M. Best Company rating of at least "A-VII." The commercial general liability, commercial automobile liability and umbrella liability policies shall name each of Vizient, Vizient's subsidiaries and affiliates, the Clients and the Members, as their interests may appear, as an additional insured. In addition, the commercial general liability, worker's compensation/employer's liability and commercial automobile liability policies shall include a waiver of subrogation in favor of Vizient, Vizient's subsidiaries and affiliates, the Clients and the Members. The insurance required under this Section shall not be cancelled without Supplier providing thirty (30) days prior written notice to Vizient. The insurance coverage required under this Section shall not limit Supplier's liability under this Agreement, nor shall such requirements be considered the ultimate amount or types of insurance Supplier should carry.

B. Basis of Coverage. Supplier should endeavor to obtain insurance coverage on occurrence basis forms. Coverage may be provided on a claims-made basis, but Supplier must (prior to the effective date of termination of Supplier's then-current insurance coverage and at its sole expense) either: (a) procure replacement policies for the same coverage for at least two years past the expiration or earlier termination of this Agreement; or (b) purchase three years' extended reporting coverage in the amounts required in this Section for all claims arising during the Term.

C. Commercial General Liability Insurance. Supplier shall maintain commercial general liability insurance for bodily injury and property damage to third parties, including premises/operations, independent contractors, contractual liability and personal/advertising injury in the following minimum amounts:

- (1) \$1 million each occurrence;
- (2) \$2 million general aggregate; and
- (3) \$1 million personal and advertising injury.

This policy must be primary to any coverage maintained by Vizient, any Client and/or any Member, must be non-contributory, and must include Additional Insured Broad Form Vendors coverage pursuant to ISO Endorsement CG2015 or its equivalent.

D. Products Liability Insurance. Supplier shall maintain products liability coverage in the amount of \$2 million in the aggregate.

E. Workers' Compensation/Employer's Liability Insurance. Supplier shall maintain workers' compensation coverage as required by statute, which (unless otherwise agreed to in writing by Vizient) must be in the form of a workers' compensation insurance policy. Supplier must maintain employer's liability insurance in an amount at least:

(i) \$1 million per accident; (ii) \$1 million for disease policy limit; and (iii) \$1 million disease coverage per employee.

F. Commercial Automobile Liability Insurance. Supplier shall maintain primary commercial automobile liability insurance for bodily injury and property damage to third parties arising from the ownership, maintenance, or use of an owned, non-owned, or hired vehicle in an amount at least \$1 million combined single limit.

G. Umbrella Liability Insurance. Supplier shall maintain umbrella/excess coverages with excess limits of at least \$9 million per occurrence, and \$9 million in the aggregate, which such coverage is in addition to the coverages described in Sections 14.C, E and EF above.

H. Data Privacy and Security Insurance / Cyber Liability Insurance. If, in connection with Supplier's provision of Products or services under this Agreement, Supplier will be creating, receiving, maintaining, transmitting, analyzing or storing protected health information ("PHI"), employee records, personally identifiable information or confidential data, Supplier agrees to maintain privacy and security liability insurance (or its equivalent, sometimes referred to as "Cyber/Data Network Security" insurance) covering liabilities resulting from or arising from acts in connection with the Products or services provided under this Agreement, which are associated with any breach or loss of any PHI or personally identifiable information. Such insurance shall provide coverage at least \$5 million per claim and \$5 million aggregate.

I. Professional Liability Insurance. If, in connection with Supplier's provision of Products or services under this Agreement, Supplier provides or performs professional services, Supplier shall maintain professional liability insurance covering negligent acts and errors and/or omissions arising out of the rendering of or failure to render professional services under this Agreement, whether committed or alleged to have been committed by Supplier or by its employees, contractors or others for whom Supplier is legally responsible, with minimum limits of \$5 million per claim and \$5 million aggregate. The professional liability insurance required by this paragraph may be satisfied pursuant to a blended Technology Errors & Omissions policy which may include data privacy and security insurance/cyber liability insurance.

J. Subcontractor Insurance Coverage. Supplier shall require all subcontractors it uses in connection with this Agreement to secure and maintain insurance in the amounts and types, and otherwise meeting all of the requirements, set forth in this Section, as if Supplier performed the work or provided the service performed or provided by the subcontractor.

K. Self-Insurance. Supplier may provide self-insurance meeting all of the minimum requirements and limits set forth in this Section; provided, however, that if Supplier desires to provide self-insurance, Supplier shall provide to Vizient, prior to or as of the Effective Date and annually thereafter, a letter of self-insurance reasonably satisfactory to Vizient.

15. Release and Indemnity.

A. IN GENERAL. SUPPLIER SHALL RELEASE, INDEMNIFY, HOLD HARMLESS, AND, IF REQUESTED, DEFEND VIZIENT, THE CLIENTS, THE MEMBERS, AND THE AUTHORIZED DISTRIBUTORS IF APPLICABLE, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, REGENTS, AGENTS, SUBSIDIARIES, AFFILIATES AND EMPLOYEES (INDIVIDUALLY AN "INDEMNITEE," COLLECTIVELY, THE "INDEMNITEES"), FROM AND AGAINST ANY THIRD-PARTY CLAIMS, WHETHER IN LAW OR IN EQUITY ("CLAIMS"), FOR LOSS, LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY), DAMAGES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES, EXPERT FEES AND COURT COSTS) FOR BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO PROPERTY BASED ON OR RELATED TO:

- (I) ANY MATERIAL BREACH OF ANY REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT OF SUPPLIER CONTAINED IN THIS AGREEMENT;
- (II) ANY NEGLIGENCE OR WILLFUL MISCONDUCT OF SUPPLIER OR ANY OF ITS EMPLOYEES, REPRESENTATIVES OR AGENTS;
- (III) ANY MISREPRESENTATION BY SUPPLIER OR ANY OF ITS EMPLOYEES, REPRESENTATIVES OR AGENTS RELATED TO THE PRODUCT;
- (IV) ANY DEFECT OF A PRODUCT OR THE CONTENT OF ANY PRODUCT LABEL, INSERT OR INSTRUCTIONS; OR
- (V) ANY INFRINGEMENT OR MISAPPROPRIATION OF A PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD PARTY ("INFRINGEMENT CLAIM").

SUCH RELEASE, INDEMNIFICATION, HOLD HARMLESS AND RIGHT TO DEFENSE SHALL NOT BE APPLICABLE TO AN INDEMNITEE TO THE EXTENT THE CLAIM ARISES AS A RESULT OF THE NEGLIGENCE OF SUCH INDEMNITEE. SUPPLIER SHALL NOT ASSERT THAT AN INDEMNITEE WAS NEGLIGENT IN CONTRACTING WITH SUPPLIER AS AN EXCUSE TO SUPPLIER'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT. SUPPLIER SHALL HAVE THE RIGHT TO CONTROL THE LITIGATION AND SETTLEMENT OF A CLAIM, EXCEPT THAT ANY SETTLEMENT OF A CLAIM SHALL NOT OBLIGATE AN INDEMNITEE WITHOUT SUCH INDEMNITEE'S CONSENT WHICH SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED.

B. INFRINGEMENT CLAIM REMEDY. IF THE USE OF THE PRODUCTS IS ENJOINED DUE TO AN INFRINGEMENT CLAIM, SUPPLIER WILL, AT ITS OWN EXPENSE, EITHER (I) PROCURE FOR MEMBERS THE RIGHT TO CONTINUE USING THE PRODUCTS; (II) MODIFY THE PRODUCTS SO THAT THEY ARE NO LONGER INFRINGING, PROVIDED THAT SUCH MODIFICATION DOES NOT DEGRADE THE PERFORMANCE OR QUALITY OF THE PRODUCTS; OR (III) REPLACE THE INFRINGING PRODUCTS WITH NON-INFRINGING SUBSTANTIALLY SIMILAR PRODUCTS REASONABLY ACCEPTABLE TO THE MEMBERS. ANY PRODUCTS MODIFIED OR REPLACED HEREUNDER SHALL BE SUBJECT TO THE APPLICABLE REQUIREMENTS SET FORTH IN THIS

AGREEMENT. IF NONE OF THE FOREGOING IS POSSIBLE, THEN SUPPLIER SHALL REFUND TO MEMBERS THE FULL PURCHASE PRICE FOR SUCH PRODUCTS.

C. VIZIENT INDEMNITY. VIZIENT SHALL RELEASE, INDEMNIFY, HOLD HARMLESS, AND, IF REQUESTED, DEFEND SUPPLIER AND ITS RESPECTIVE OFFICERS, DIRECTORS, REGENTS, AGENTS, SUBSIDIARIES, AFFILIATES AND EMPLOYEES (INDIVIDUAL A “SUPPLIER INDEMNITEE”, COLLECTIVELY, THE “SUPPLIER INDEMNITEES”), FROM AND AGAINST ANY THIRD-PARTY CLAIMS, FOR LOSS, LIABILITY (INCLUDING, WITHOUT LIMITATION, STRICT LIABILITY), DAMAGES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY’S FEES AND EXPENSES, EXPERT FEES AND COURT COSTS) FOR BODILY INJURY (INCLUDING DEATH) OR DAMAGE TO PROPERTY BASED ON OR RELATED TO ANY MATERIAL BREACH OF ANY REPRESENTATION, WARRANTY, COVENANT OR AGREEMENT OF VIZIENT CONTAINED IN THIS AGREEMENT. SUCH RELEASE, INDEMNIFICATION, HOLD HARMLESS AND RIGHT TO DEFENSE SHALL NOT BE APPLICABLE TO A SUPPLIER INDEMNITEE TO THE EXTENT THE CLAIM ARISES AS A RESULT OF THE NEGLIGENCE OF SUCH SUPPLIER INDEMNITEE. VIZIENT SHALL HAVE THE RIGHT TO CONTROL THE LITIGATION AND SETTLEMENT OF A CLAIM, EXCEPT THAT ANY SETTLEMENT OF A CLAIM SHALL NOT OBLIGATE A SUPPLIER INDEMNITEE WITHOUT SUCH SUPPLIER INDEMNITEE’S CONSENT WHICH SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED.

D. SURVIVAL. THIS SECTION AND THE OBLIGATIONS CONTAINED HEREIN SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT. THE REMEDIES SET FORTH IN THIS SECTION ARE IN ADDITION TO, AND NOT A LIMITATION OF, ANY OTHER RIGHTS OR REMEDIES THAT MAY BE AVAILABLE AGAINST SUPPLIER.

16. Audit Rights; Books and Records.

A. Audit Rights. Supplier shall keep, maintain and preserve current and accurate books, records, and accounts (collectively, "Records") of sales to Members in the Product category, including, without limitation, Records relating to pricing, pricing tiers, discounts, rebates, Administrative Fees and membership records. All such Records for four (4) years prior to the audit date shall be provided in an unfiltered electronic format for inspection and audit by Vizient's authorized representatives within twenty (20) days of Vizient's request during the Term of this Agreement and for three (3) years thereafter. However, the period for Vizient’s request for, inspection of, or audit of Records may be extended to include any other time periods during the Term in the event the audit reveals that Supplier under-reported Net Sales and/or Administrative Fees to Vizient in excess of a five percent (5%) variance during the audit period (a “Material Variance”). Vizient may, at its own expense, conduct an audit of Supplier's Records at Supplier's place of business during normal business hours upon at least twenty (20) days' prior notice, but no more frequently than once in any consecutive twelve (12)-month period. Any such audit shall continue to remain open until all identified issues are resolved. The exercise by Vizient of the right to inspect and audit is without prejudice to any other or additional rights or remedies of either Party.

B. Additional Documentation. In addition to the foregoing audit rights, Supplier shall provide such additional information as Vizient may reasonably request for ongoing

monitoring and validation of Net Sales and Administrative Fees (e.g., copies of invoices, contracts, and/or any other written or electronic information that would validate accuracy and/or completeness of specific Product sales to a Member during the Term of this Agreement). Supplier shall provide such information within twenty (20) days of Vizient's written request.

C. Quality and Regulatory Audit. Supplier will make documentation regarding its manufacturing, packaging and distribution facilities for the Products available for quality standards and regulatory history inspection and audit during the Term. Such inspection and audit shall (i) be conducted by Vizient quality and safety representatives during normal business hours upon at least twenty (20) days' prior notice, and (ii) occur no more frequently than once in any consecutive twelve (12) month period. Any such inspection audit shall continue to remain open until all identified issues are resolved.

17. Confidential Information.

A. Nondisclosure. Except as otherwise expressly provided in this Section, Vizient and Supplier hereby mutually covenant and agree (i) to keep the terms of this Agreement, including the pricing contained in Exhibit A and any information contained in the Vizient Database (collectively, the "Confidential Information"), strictly confidential, and (ii) not to disclose the Confidential Information to any third party. Notwithstanding the foregoing, Vizient may disclose the Confidential Information to the Clients and the Members in connection with the administration of this Agreement or the usual and customary operation of Vizient's and the Clients' businesses, including, without limitation, disclosure to third party auditors and attorneys. Neither Party shall prevent a Member from disclosing its own invoice data to either Party or the Clients. In addition, the foregoing confidentiality obligation shall not apply to the receiving Party for Confidential Information that is required to be disclosed by law; provided, however, that the receiving Party shall first (1) notify the disclosing Party to enable it to seek relief from such legal requirement, and (2) render reasonable assistance requested by the disclosing Party in connection with the disclosing Party seeking relief from the receiving Party's disclosure of the Confidential Information. This Section and the obligations contained herein shall survive the expiration or earlier termination of this Agreement.

B. Remedies. The Parties acknowledge that, in the event of a violation of any disclosure restrictions set forth in Section 17.A above, or in the event such a violation is likely to occur, the non-disclosing Party shall be entitled to preliminary and permanent injunctive relief without having to prove actual damages or immediate or irreparable harm or post a bond. Notwithstanding the foregoing, if the restrictions contained in this Section are judged unreasonable by any court of competent jurisdiction, the Parties agree to the reformation of such restrictions by the court to limits that may reasonably grant the non-disclosing Party the maximum protection permitted by applicable law in such circumstances, and the disclosing Party shall not assert that such restrictions should be eliminated in their entirety by such court.

C. Use of Names, etc. The Parties agree that they shall not use in any way in their promotional, informational or marketing activities or materials (1) the names, trademarks,

logos, symbols or a description of the business or activities of the other Party or any Client or Member without in each instance obtaining the prior written consent of the party owning the rights thereto; or (2) the award or the content of this Agreement without in each instance obtaining the prior written consent of the other Party. Notwithstanding the foregoing, Vizient may (i) disclose such information to the Clients and Members, and (ii) use the information above in connection with the administration of this Agreement and the usual and customary operation of Vizient's and the Clients' businesses.

18. Miscellaneous.

A. Third Party Beneficiary. All Clients, Members and/or Authorized Distributors as applicable, are intended third party beneficiaries of this Agreement.

B. Exclusive Agent. In entering into this Agreement, Vizient is acting as the exclusive agent for each of the Clients, respectively (and not collectively).

C. Limited Liability. Vizient and the Clients shall not be responsible or liable for the actions or inactions of any Member, including, without limitation, the breach of any purchasing commitment or the failure to pay for any Products. In addition, no Client shall be responsible or liable for the obligations of another Client or for the obligations of Vizient or Supplier under this Agreement.

D. Purchasing Commitments. Vizient's award of this Agreement to Supplier shall not constitute a commitment by any Member (or other person) to purchase or lease any of the Products from or through Supplier. Supplier shall not require any Member and/or Authorized Distributor as applicable, to purchase or lease any specific quantity (other than the smallest available unit) or combination of Products, or impose any other purchasing commitment on a Member or Authorized Distributor as applicable, as a condition to the Member's or Authorized Distributor's purchase or lease of any Products pursuant to this Agreement.

E. Vendor Credentialing. Supplier agrees to comply with Members' policies and procedures regarding access to facilities and personnel, including, without limitation, policies relating to vendor registration and credentialing.

F. Vizient Information Requirements. Supplier agrees to comply with the administrative requirements set forth in the Vizient Information Requirements (the "VIR"), as updated by Vizient from time to time and accessible through <https://www.vizientinc.com/Supplier-Dashboard/Supplier-standards>, a current copy of which Supplier hereby acknowledges having received. Supplier will have thirty (30) days from the date of any material change(s) to the VIR to implement such change(s). Supplier and Vizient agree to meet and discuss in good faith any changes made to the VIR that Supplier cannot comply with.

G. Choice of Law. This Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of Delaware and the Federal and State Courts for the state of Delaware shall have jurisdiction over all matters relating to this Agreement. . Notwithstanding the above, Members are not subject to Delaware

state law or the jurisdiction of Delaware courts by virtue of this Agreement and any disputes between Members and Supplier will be governed by and construed in accordance with the choice of law and venue provisions set forth in any agreement between Member and Supplier or the laws of the state of Member's principal place of business if Member and Supplier have no separate agreement or if choice of law and venue are not addressed in such agreement.

H. No Assignment. Neither this Agreement, nor any rights, obligations or claims hereunder may be assigned, transferred or subcontracted in whole or in part by either Party without the prior written consent of the other Party; provided, however, that Vizient may assign this Agreement, or its rights and obligations hereunder, to any affiliate of Vizient. Any assignment of all or any part of this Agreement by either Party shall not relieve that Party of the responsibility for performing its obligations hereunder to the extent that such obligations are not satisfied in full by the assignee. As used in this Section, "assign" shall mean a transfer by virtue of operation of law, under an order of any court, or pursuant to any plan of merger, consolidation or sale of stock or assets.

I. Binding Effect. This Agreement shall be binding upon the Parties, inure to the benefit of, and be enforceable by the Parties, Clients, Members, and/or Authorized Distributors as applicable, as well as their respective successors and assigns.

J. Notices. Except as otherwise expressly provided in this Agreement, all notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed sufficient when mailed by United States mail, delivered by Federal Express or similar overnight delivery service, or delivered in person to the Party to which it is to be given, at the address of such Party set forth below, or to such other address as the Party shall have furnished in writing in accordance with the provisions of this Section:

If to Supplier:
Hologic, Inc.
Attn: Legal Department
250 Campus Drive
Marlborough, MA 01752

If to Vizient:
Vizient Supply, LLC
Attn: General Counsel
290 East John Carpenter Freeway
Irving, TX 75062

K. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, in the event that any provision of this Agreement becomes prohibited or invalid under applicable law, or is otherwise held unenforceable, then such provision, upon the mutual agreement of the Parties, shall be modified to reflect the Parties' intent, consistent with applicable law. The Parties shall work together in good faith in an effort to agree on an

appropriate modification within a reasonable period of time. Absent such agreement, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

L. No Waiver. No provision of this Agreement may be waived except by a writing signed by the Party against whom the waiver is sought to be enforced. Failure to enforce any provision of this Agreement does not constitute a waiver of future enforcement of that provision or of any other provision of this Agreement.

M. Relationship of the Parties. It is expressly understood and agreed by the Parties that nothing contained in this Agreement shall be construed to create a joint venture, partnership, association, agency, or like relationship between the Parties other than that of parties contracting at arm's-length with respect to the subject matter hereof. In no event shall either Party be liable for the debts or obligations of the other Party.

N. Group Buy Participation. During the Term, Vizient may, in its sole discretion, implement one or more targeted marketing programs for the purchase of Products by Members pursuant to this Agreement ("National Group Buy Initiatives"). A National Group Buy Initiative is intended to establish market leading pricing for the Products for a specific period of time ("Group Buy Period"). If Vizient and Supplier mutually agree, Supplier will participate in at least one (1) National Group Buy Initiative per calendar year. During the National Group Buy Initiative, Supplier will provide Product pricing that is below the pricing described on Exhibit A. Vizient will provide additional marketing support during the Group Buy Period including, without limitation, targeted e-mail distributions, telemarketing support, and live communication to the field sales team. All sales of Products to Members pursuant to a National Group Buy Initiative shall be subject to the terms and conditions described in this Agreement.

O. GPO Designation Form. Vizient acknowledges that Supplier may require Members to execute a mutually agreeable (as between Supplier and Member) GPO Designation Form (herein so-called). The form of GPO Designation Form is attached as Exhibit G to this Agreement. The inclusion of the GPO Designation Form as an Exhibit to this Agreement shall not be considered an endorsement of or agreement to by Vizient (for itself or on behalf of Member) to the terms and conditions described therein. In the event of an inconsistency between the GPO Designation Form and the Agreement, including, without limitation: (i) any waiver or change to Supplier's Administrative Fee or reporting obligations or (ii) any limitation to any warranty, indemnity or liability described herein, the terms and conditions of this Agreement shall control. Supplier acknowledges that Members that previously signed a GPO Designation Form for products in this category do not have to sign a new or additional Letter of Commitment form under this Agreement.

P. End User Agreement. Vizient acknowledges that Supplier may require Members to execute one or more mutually agreeable (as between Supplier and Member) End User Agreements (herein so-called). The form of Supplier's standard End User Agreements is attached as Exhibit D to this Agreement. The inclusion of any End User Agreements as

an exhibit to this Agreement shall not be considered an endorsement of or agreement to by Vizient (for itself or on behalf of any Member) to the terms and conditions described therein. Supplier acknowledges and agrees that nothing contained in any End User Agreement shall constitute a limitation on or reduction of any of Supplier's obligations, or be deemed a waiver of any representations, warranties, indemnities or other rights, protections or remedies, contained in this Agreement, including, without limitation; Supplier's obligations to report Net Sales and pay Administrative Fees.

Q. Contract Price Activation and GPO Designation Form Acceptance. Within 30 days of receiving a Member's electronic tier request through the Vizient Contract Price Activation (CPA) Application, Supplier must notify Member electronically through the CPA Application that Supplier has: (a) accepted the CPA request and will load it pursuant to the VIR; (b) rejected the CPA request on its merits, in which case Supplier must state the basis for rejection, the Member's pricing tier, and the pricing effective date; or (c) rejected the CPA request as incomplete, in which case Supplier must specify the information necessary to approve the CPA request.

R. Entire Agreement; Amendments. This Agreement, together with the VIR and the Exhibits listed below, shall constitute the entire agreement between Vizient and Supplier. In the event of any inconsistency between this Agreement and the VIR, or any one or more of the Exhibits hereto, the terms of this Agreement shall control. Terms contained in any Exhibit hereto and not set forth in this Agreement shall be voidable at the election of the Member. No other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in a signed writing. All modifications to this Agreement, including without limitation the Exhibits, shall require an amendment, and no amendment to this Agreement shall be effective unless it is in writing and executed by both Vizient and Supplier. Vizient and Supplier hereby agree that email communications will not constitute a "writing" for the purposes of any amendment or other modification to this Agreement. In the event of any inconsistency between the Agreement and an Authorized Distributor's purchase and/or lease order and/or other applicable form, the terms most favorable to the Member shall control. The following Exhibits are incorporated by reference in this Agreement:

Exhibit A	Product and Service Description and Pricing
Exhibit B	Non-Price Specifications
Exhibit C	Supplier's Return Policy
Exhibit D	End User Agreement Form(s)
Exhibit E	Warranty
Exhibit F	List of Optional Software
Exhibit G	GPO Designation Form

IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed by their duly authorized representatives to be effective as of the Effective Date.

VIZIENT SUPPLY, LLC

By: Rebecca Gayden
7F243EB5E4F14B3

HOLOGIC, INC.

By: Wendell Raddatz
C2B2BDBC449E4FC

Name: Rebecca Gayden

Name: wendell Raddatz

Title: Vice President, Sourcing Operations

Title: VP - National Accounts

Date: 5/15/2020 | 4:38:07 PM CDT

Date: 5/18/2020 | 11:20:36 AM CDT

CONFIDENTIAL

EXHIBIT B
NON-PRICE SPECIFICATIONS

BioMedical Training

Participating Members may enroll in biomedical engineer training for Dimensions and Affirm Prone Biopsy systems by registering on Supplier's training website at <https://www.hologic.com/support/usa>.

The tuition price for Dimensions biomedical engineer training on Effective Date is \$15,995 per engineer. The course trains on calibration, training, and troubleshooting for Selenia Dimensions and 3Dimensions Digital Mammography Systems.

The tuition price for Affirm Prone biomedical engineer training on Effective Date is \$12,495 per engineer. The course trains on calibration, training, and troubleshooting for the Affirm Prone Biopsy System.

EXHIBIT C SUPPLIER'S RETURN POLICY

Supplier endeavors to achieve optimum customer satisfaction by providing customers with the highest level of quality in service. In the event receipt of Product does not meet customer expectations, the following Return Policy will apply:

In the event an error is made by Supplier that results in an order being shipped incorrectly, i.e. the wrong material is received by the customer, or the part shipped is not functioning upon receipt according to its specifications, Supplier will replace the non-conforming material and issue an RMA number for return of the rejected material to Supplier. In situations where an order is cancelled after shipment from Supplier has occurred, Supplier reserves the right to reject return of a cancelled order. Supplier reserves the right to refuse return parts for reasons other than those previously mentioned. No returns will be accepted without prior approval from Supplier, at which time a RMA number will be issued if approved for return.

For any questions regarding the above Return Policy or to request a RMA number please contact Supplier's Parts Supply Group at:

781-999-7003 or 800-343-9729, ext. 17003

Customer may also e-mail us at: parts@hologic.com

Supplier does not accept non-quality returns for Equipment.

Quality returns of Products are covered in Supplier's standard warranty in Exhibit E.

EXHIBIT D END USER AGREEMENT FORM(S)

SUBJECT TO THE VIZIENT BASE AGREEMENT, XR0653, SEPTEMBER 1, 2020, (“VIZIENT AGREEMENT”)

NOTICE TO MEMBERS: MEMBERS MAY HAVE ADDITIONAL OBLIGATIONS TO SUPPLIER UNDER THESE SEPARATE, INDIVIDUAL MEMBER AGREEMENTS WITH SUPPLIER (COLLECTIVELY, THIS “MEMBER AGREEMENT”), THAT ARE NOT SPECIFICALLY COVERED OR CONTEMPLATED BY THE MAMMOGRAPHY EQUIPMENT AGREEMENT BETWEEN SUPPLIER AND VIZIENT SUPPLY, LLC (THE “VIZIENT AGREEMENT”). PLEASE NOTE THAT (I) VIZIENT HAS NOT NEGOTIATED OR APPROVED THE TERMS OF THIS MEMBER AGREEMENT AND (II) MEMBERS HAVE THE ABILITY TO NEGOTIATE THE TERMS OF SUCH MEMBER AGREEMENTS LOCALLY TO SUIT THEIR SPECIFIC NEEDS.

SIGNIFICANTLY, MEMBERS SHOULD BE AWARE THERE MAY BE SOME INCONSISTENCIES BETWEEN THE TERMS WITHIN THE VIZIENT AGREEMENT AND THIS MEMBER AGREEMENT. AS SUCH, EACH MEMBER MAY WANT TO CONSIDER RETAINING ITS OWN LEGAL COUNSEL WHEN NEGOTIATING AND/OR ENTERING INTO THIS MEMBER AGREEMENT.

Hologic Sales Terms and Conditions ***(US Customers)***

These Hologic Sales Terms and Conditions (“Terms”) apply to the sale or use of Hologic equipment (“Medical Equipment”), Hologic aesthetic equipment (“Aesthetic Equipment”) (Medical Equipment and Aesthetic Equipment collectively, “Equipment”) and Hologic supplies (“Supplies”) (Equipment, Supplies, and any included Software, as defined in Section 14, collectively referred to as “Product” or “Products”) between Hologic, Inc. (together with its subsidiaries and affiliates, “Hologic”), and Customer. Hologic and Customer may hereinafter be referred to individually as a “Party” and collectively as the “Parties.” The Parties, intending to be legally bound, agree as follows:

- 1. Agreement.** These Terms, together with the applicable Hologic quote(s) or other attachments or other purchasing program documents executed by the Parties, constitute the entire agreement between the Parties (the “Agreement”) with respect to the Products. This Agreement supersedes all other quotations, agreements, understandings, warranties and representations (whether written or oral) between the Parties with respect to the subject matter set forth in this Agreement. Any Customer documentation (including Customer’s purchase order terms and conditions) that conflicts with or attempts to modify this Agreement in any way is hereby rejected and of no effect unless specifically agreed to in writing and signed by the Parties. Customer acknowledges that there are no warranties or representations which have been made by Hologic or any of its agents other than those expressly contained herein. If any action in law or equity is necessary to enforce or interpret the terms of this Agreement, the prevailing Party is entitled to reasonable attorneys’ fees, costs and necessary disbursements, in addition to any other relief to which the Party may be entitled. No provision of this Agreement shall be waived, amended, modified, superseded, canceled, terminated, renewed, or extended except in a written document signed by both Parties or signed by the Party against whom the modification is sought to be enforced. Headings and captions in this Agreement are for convenience only, and in no way affect its interpretation.
- 2. Prices.** Prices, fees and charges for Products and services (including maintenance during the Warranty Period, installation, and applications training, as applicable, “Service(s)”) are payable in United States (U.S.) Dollars only, and do not include any applicable taxes or shipping charges. If Customer claims any tax exemption, it must furnish a valid tax exemption certificate to Hologic before shipment of Products. Unless price protection is explicitly agreed to by Hologic in writing, Hologic reserves the right to increase prices on thirty (30) days written notice to Customer.
- 3. Payment.** Customer shall pay invoices net forty-five (45) days from the invoice date. Aesthetic Equipment shall require a 15% non- refundable deposit. Hologic may charge monthly interest at the maximum rate permitted by law on

all amounts not paid by the invoice due date until all such amounts are paid in full. Hologic retains a purchase money security interest in all Equipment sold to Customer to secure payment of the total purchase price thereof; Customer hereby grants Hologic the right to file a copy of this Agreement, with any appropriate authorities, to evidence its security interest; and Customer shall execute and deliver documents as Hologic requests. Hologic is not obligated to deliver any Product or perform any Service when Customer's payment is past due.

4. Product Shipment and Risk of Loss. All Products shall be shipped F.O.B. Origin, regardless of any provisions for payment of freight, insurance, the form of shipping documents, or selection of carrier by Hologic. F.O.B. Origin means title and risk of loss to the Products passes to the Customer at the shipping dock of Hologic or Hologic's supplier or authorized agent. Customer is responsible for shipping charges. Hologic is responsible for the cost of insurance paid to cover any losses from Hologic's shipment point to Customer's receipt. Hologic shall assist Customer in processing any loss claims and Customer shall be paid directly by Hologic's insurer.

5. Delivery. Hologic shall use good faith efforts to ship Products on the dates and in the quantities listed in Customer's purchase orders but all delivery dates are estimates and not binding on Hologic. Hologic may make shipments of Product(s) as available and each shipment shall be separately invoiced. All Products shall be adequately packed for shipment in Hologic-standard containers, marked for shipment to the address listed in this Agreement. Orders received from Customer are not binding on Hologic until accepted by Hologic.

6. Installation and Acceptance. Product orders are subject to written acceptance by Hologic, receipt of specified deposits, as applicable, and continuing credit approval. Orders may be canceled by written notice to Hologic prior to shipment. If applicable, Hologic shall install all Equipment that requires installation at the agreed upon location. Installation of Medical Equipment is complete, and acceptance occurs upon Hologic's demonstration that the Medical Equipment meets Hologic's then-current specifications ("Installation"). Installation is subject to Customer cooperating in preparing and maintaining the site in compliance with Hologic specifications, including, but not limited to, applicable regulations including all electrical and other connections and all environmental conditions. If Customer fails to accept shipment of Products ordered by Customer or contemplated by the Agreement, Customer shall be responsible for Hologic's reasonable insurance, handling and storage charges. If Hologic decides not to store Customer ordered Products refused by Customer, it is hereby authorized to arrange shipment and storage in a bonded warehouse at Customer's sole risk and expense. All sales of Aesthetic Equipment are final upon delivery with no right of return and Customer shall be responsible for storage if installation is refused.

7. Delay of Performance. The Parties' obligations herein are subject to force majeure, including, but not limited to, civil insurrection, terrorism, fire, flood, labor disputes, shortages, delays of suppliers or contractors, or government priority systems, actions taken or threatened by any governmental agencies, acts of God or other contingencies or acts not within the sole control of Hologic. Subject to and excluding Supplier's/Hologic's obligations in the Vizient Agreement, Hologic reserves the right during any shortage period to (a) make Products available to Customer as it sees fit without any Hologic liability to Customer; and (b) make substitutions and modifications in the specification of any Products, provided such substitutions or modifications do not materially affect the performance of Products.

8. Warranties. Subject to the Vizient Agreement, Warranty terms for Aesthetic Equipment shall be as provided in the applicable paperwork accompanying the Product. Except as otherwise expressly stated in this Agreement: (i) Equipment manufactured by Hologic is warranted to the original Customer to perform substantially in accordance with published product specifications for one (1) year starting from the date of shipment, or if Installation is required, from the date of Installation ("Warranty Period"); (ii) replacement parts and remanufactured items are warranted for the remainder of the Warranty Period or ninety (90) days from shipment, whichever is longer; (iii) consumable Supplies are warranted to conform to published specifications for a period ending on the expiration date shown on their respective packages; (iv) licensed Software is warranted to operate in accordance with published specifications; (v) Services are warranted to be supplied in a workman-like manner; (vi) non-Hologic manufactured Equipment is warranted through its manufacturer and such manufacturer's warranties shall extend to Hologic's customers; (vii) digital imaging mammography x-ray tubes are warranted for 12 months, to the extent permitted by the manufacturer of such non-Supplier manufactured Equipment. Hologic does not warrant that use of Products shall be uninterrupted or error-free, or that Products shall operate with third-party products not authorized or validated by Hologic.

9. Warranty Claims and Remedies. Subject to the Vizient Agreement, warranty terms for Aesthetic Equipment shall be as provided in the applicable paperwork accompanying the Product. In the event of any warranty claim, Hologic shall

replace with new or remanufactured items any Medical Equipment, part, component, or consumable supply that is in breach of warranty, and shall promptly fix or provide a workaround for any Software defect or bug which prevents operation in substantial conformity with functional specifications. Alternatively, Hologic may elect to repay or credit to Customer an amount equal to the purchase price of the defective Medical Equipment, component, Software, consumable supply, or Service. Items replaced shall become Hologic property. All claims shall be initiated by contacting Hologic within the applicable Warranty Period and thirty (30) days after discovery of the breach or non-conformity. Hologic must be given reasonable access and an opportunity to inspect all associated materials. If Customer has not notified Hologic within one (1) year after the claim arises, Customer shall be barred from instituting any legal action against Hologic thereafter. Subject to and excluding Supplier's/Hologic's obligations in the Vizient Agreement, these remedies shall comprise Hologic's entire liability and Customer's exclusive remedy for breach of warranty and are in lieu of any other remedies at law or equity. **SUBJECT TO AND EXCLUDING SUPPLIER'S/HOLOGIC'S OBLIGATIONS IN THE VIZIENT AGREEMENT, HOLOGIC'S ENTIRE WARRANTY RESPONSIBILITY IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT (AT HOLOGIC'S OPTION AND IN THE FORM ORIGINALLY SHIPPED) OF PRODUCT OR CORRECTION OF SERVICE SUBJECT TO ANY CLAIM, OR, AT HOLOGIC'S ELECTION, REPAYMENT OF, OR CREDITING CUSTOMER WITH, AN AMOUNT EQUAL TO THE HOLOGIC PRICE, FEE OR CHARGE THEREFOR. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN OR IN THE VIZIENT AGREEMENT, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUCH LIMITED WARRANTY IS GIVEN SOLELY TO THE ORIGINAL CUSTOMER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, CUSTOMERS OF CUSTOMER. THIS WARRANTY IS VOID UPON TRANSFER OF PRODUCT BY CUSTOMER TO ANY ENTITY WHO IS NOT AN AFFILIATE OF CUSTOMER. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER. CUSTOMER MAY ALSO HAVE OTHER RIGHTS, WHICH VARY, FROM STATE TO STATE.** These warranties do not apply to any item that is: (a) repaired, moved, or altered other than by Hologic authorized service personnel; (b) subjected to physical (including thermal or electrical) abuse, stress, or misuse; (c) stored, maintained, or operated in any manner inconsistent with applicable Hologic specifications or instructions, including Customer's refusal to allow Hologic recommended Software upgrades; or (d) designated as supplied subject to a non-Hologic warranty or on a pre-release or "as-is" basis.

10. LIMIT OF LIABILITY. THE FOLLOWING IS SUBJECT TO AND EXCLUDES SUPPLIER'S/HOLOGIC'S INDEMNIFICATION OBLIGATIONS IN THE VIZIENT AGREEMENT, EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC'S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES, DAMAGES, OR EXPENSES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, OR USE), DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING, SERVICE OR USE OF PRODUCT ORDERED OR FURNISHED PURSUANT TO THIS AGREEMENT, OR FROM ANY CAUSE RELATING THERETO UNLESS EXPRESSLY AGREED TO BY THE PARTIES IN WRITING. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC'S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE UNDER ANY LEGAL THEORY OR FOR ANY CAUSE WHATSOEVER, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE, OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, FOR ANY AMOUNT IN EXCESS OF THE PRICE, FEE OR CHARGE THEREFOR RECEIVED BY HOLOGIC.

11. Insurance. During the term of this Agreement, Hologic shall maintain in effect the following insurance with respect to Customer's location (i) worker's compensation insurance covering any and all of its employees, agents or representatives who provide services to Customer, in amounts and coverage complying with the requirements of the applicable state; (ii) general liability insurance covering the acts or omissions of Hologic and its employees, agents or representatives, and any and all Equipment and other personal property of Hologic; and (iii) product liability insurance. At Customer's request, Hologic shall provide a certificate of insurance to Customer.

12. Governmental Authorizations. Customer is responsible for compliance and costs associated with all required licenses, permits, or other governmental authorizations, including, but not limited to, any license or certification needed for Customer to use the Product, and any export or import license, exchange permit, or the like (“Licenses”), even if applied for by Hologic on Customer’s behalf. If any authorization is delayed, denied, revoked, restricted or not renewed, Hologic is not liable, and Customer is not relieved of its obligations. Customer represents and agrees that it shall handle all Product and technical data related to the Licenses so that it conforms to all applicable U.S. laws and regulations, including U.S. export licensing laws and the U.S. Foreign Corrupt Practices Act. Customer shall not trans-ship, divert, re-export or otherwise dispose of any U.S. origin goods or technology obtained from Hologic except as U.S. laws and regulations expressly permit.

13. Intellectual Property Indemnity. The following is subject to and excludes Supplier’s/Hologic’s indemnification obligations in the Vizient Agreement: Hologic shall defend, indemnify, and hold harmless Customer against any third-party claim that Customer’s use of Products infringes a valid U.S. patent, copyright, or trademark, provided that: (a) Products are used as approved by Hologic and have not been altered other than by Hologic or its authorized service personnel; (b) Customer promptly notifies Hologic of such claim; (c) Hologic has sole control of the defense, settlement, or compromise thereof and Customer is solely responsible for attorneys’ fees and costs it incurs independently of Hologic’s representation; and (d) Customer cooperates with Hologic and furnishes all aid, information, and assistance necessary or useful to defend such claim. If a final injunction is obtained against the Customer’s use of any Product, or if in the opinion of Hologic the Product is likely to become the subject of a successful claim, Hologic may, at its option and in its sole discretion: (i) obtain for Customer the right to continue using the Product; (ii) replace or modify the Product so that it becomes non-infringing; or (iii) if neither (i) or (ii) are reasonably available, accept return of such Products held by Customer, grant a credit therefor as depreciated on a five (5) year straight-line basis, and terminate this Agreement without any further obligation or liability. The remedy selected by Hologic is Customer’s exclusive remedy for any damage, cost, or expense resulting from any court order or settlement enjoining Customer’s use of the Product.

14. Software License. The term “Software” includes all Hologic (and third-party) computer software, firmware and associated documentation, whether in printed or machine-readable form, supplied by reason of this Agreement or for use in connection with Equipment or Services. To the extent the Product includes Software, Customer is granted a non-exclusive, non-transferable, royalty-free license to use Software solely on the Equipment on which it is first installed or as designated in this Agreement, in connection with the Equipment in the normal course of Customer’s business, and for no other purpose or business. No license is provided under this Agreement to use Software for multi-site quality control or data review purposes or for source code of any type. Software, at all times, remains the sole property of Hologic. Software is agreed to contain, and shall be treated as, confidential information. Customer shall maintain all copyright, proprietary, and other notices on the Software, and shall not de-compile, disassemble, or reverse engineer the Software. The Parties agree that all information needed for interoperability is available from Hologic in accordance with applicable government directives. From time to time, Hologic may develop new versions or updates for this software. Customer shall allow Hologic access to the Equipment to implement any new versions or updates to the software. If Customer transfers Equipment to a third-party, Customer may assign the right to use Software on the Equipment; provided that, the third-party agrees in writing with Hologic to be bound by and to permit Hologic to enforce the provisions of this section. Customer has no other right to use, sell, assign, transfer, copy, or sublicense Software. As identified in the applicable software product specifications, some third-party software vendors (including Microsoft Corporation) provide different warranties and require different or additional terms applicable to software which they supply; such warranties and terms supersede this Agreement and Customer agrees to abide by such terms with respect to such third-party software. The Microsoft End User License is located on the applicable installation CD-ROM (file name is EULA.txt). In addition to all other rights and remedies Hologic may have at law or in equity, Hologic may immediately terminate any Software license agreement if Customer defaults on any portion of this section.

15. Confidential Information. Both Parties agree to hold in strict confidence the terms of this Agreement and all information provided to the other in connection with the performance of their respective obligations under this Agreement, including, without limitation, financial and pricing information, except to the extent that disclosure is required by applicable law. Notwithstanding the above, the terms and conditions of this Agreement must not be disclosed to any third-party, excluding Vizient Supply, LLC and the Client (as defined in the Vizient Agreement), without the prior written consent of the other Party, except either Party may disclose the terms and conditions of this Agreement to

its employees, professional advisors, agents or independent contractors who require knowledge of the terms and conditions of this Agreement, so long as such individuals are subject to applicable non-disclosure agreements.

16. Product Performance Data. Operational and performance data that is stored, recorded, made available, processed, created, derived, generated and collected from the Hologic manufactured or licensed Products (“Performance Data”) is exclusively owned by Hologic and Hologic has all right, title and interest in and to any and all Performance Data. Performance Data does not include PHI (defined in Section 19).

17. Use Restrictions. Products are only intended for the uses listed in the applicable operator’s manual or instructions for use and are subject to the specifications and requirements set forth therein. Customer assumes all risks associated with non-listed uses of Products and/or use of Products which is inconsistent with the specifications and requirements applicable to such Products, and Customer hereby indemnifies and holds Hologic harmless from any claim associated with any such uses. Customer is not licensed to, and agrees not to: (a) resell any Product, unless otherwise authorized by Hologic in writing; (b) transfer, or distribute any Product, directly or indirectly, to any third party for any purpose or use, except as otherwise approved by Hologic in writing; (c) use or allow anyone to dilute any Product; or (d) reverse engineer, disassemble, or conduct unauthorized analysis of any Product and/or its method of use.

18. Compliance with Laws. Hologic and Customer shall comply with all federal and state laws that govern the enforceability and performance of this Agreement.

19. HIPAA Compliance. To the extent HIPAA (as defined below) applies, both Parties shall comply with the applicable provisions of the privacy regulations within the Health Insurance Portability and Accountability Act of 1996, as enacted in 45 C.F.R. parts 160, 162, and 164 and as codified at 42 U.S.C. § 1320d, as amended from time to time (“HIPAA”). Hologic agrees that if it directly or indirectly gains access to Protected Health Information (“PHI”) during any interaction with Customer it shall keep the PHI confidential pursuant to the terms of this Agreement.

20. Federal and State Reporting/Disclosure Laws. Customer acknowledges and agrees that federal and state reporting laws, including, but not limited to, the Federal Physician Payments Sunshine Act, may require Hologic to disclose certain aspects of this arrangement. Unless otherwise noted in this Agreement, the cost of any Product training provided by Hologic is included in the purchase price of the Product where applicable.

21. Fraud and Abuse. Hologic hereby certifies that it is not currently a listed vendor in the: (a) Federal General Services Administration’s “List of Parties Excluded from Federal Procurement or Nonprocurement Programs” in accordance with Presidential Executive Orders 12549 and 12689 “Debarment and Suspension;” and (b) Office of the Inspector General of the Department of Health and Human Services’ “List of Excluded Individuals/Entities.” Any discounted pricing terms offered under this Agreement may be a “discount or other reduction in price” under the Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). Customer shall take all actions necessary to comply with the Anti-Kickback Statute discount safe harbor regulations, 42 C.F.R. § 1001.952(h), including but not limited to, (i) maintaining accurate records reflecting the pricing terms of items and Services purchased under the Agreement; (ii) fully and accurately reporting any discount received under the Agreement if applicable; and (iii) making available information provided to Customer by Hologic concerning cost reports and other filings with the government, including but not limited to, the Secretary of the U.S. Department of Health and Human Services or other state agencies.

22. Access to Books and Records. Until the expiration of four (4) years after the furnishing of Services under this Agreement, Hologic shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and such books, documents and records of Hologic as are necessary to certify the nature and extent of the costs hereunder. If Hologic carries out any of its duties under this Agreement through a subcontract, for the value or cost of \$10,000 or more over a 12-month period, with a related organization, such contract must contain a clause placing the same duty on the subcontractor as the agreement places on Hologic. This section survives the termination of this Agreement according to its terms. If the law or regulations are effectively amended to increase or decrease the annual amount necessary to require this clause, the amount set forth herein shall be amended accordingly. Notwithstanding the presence of this clause in this Agreement, this clause only applies if the actual dollar amount paid during any 12-month period equals or exceeds the government threshold amount.

23. Default. In addition to any default events specified elsewhere in this Agreement, the occurrence of any of the following events constitutes a default (“Default”) by either applicable Party: (a) non-payment when due of any amount payable by Customer in accordance with this Agreement; or (b) failure to materially perform any covenant or condition of this Agreement. In the event of Default by Customer hereunder, all indebtedness of Customer may, at the option of Hologic and without demand or notice of any kind, immediately become due and payable, and in addition to all other

remedies, Hologic may (i) require Customer to return any Hologic-owned Equipment and/or (ii) immediately terminate this Agreement. The non-Defaulting Party is entitled to recover from the Defaulting Party any and all expenses and damages that the non-Defaulting Party sustains by reason of Default including, but not limited to, reasonable attorneys' fees, and in the case of Hologic, all expenses of repossession, removal, storage and disposition of the Equipment. The remedies and rights specified herein are cumulative and not exclusive. The exercise or the non-exercise of any right or remedy does not limit or prejudice the non-defaulting Party as to that right or remedy or as to any other rights or remedies provided by applicable law.

24. Bankruptcy. Except as may be prohibited by applicable bankruptcy laws, a Party to this Agreement may elect to cancel any unfulfilled obligations if any of the following situations arise: (a) the other Party becomes insolvent or is unable to pay debts as they become due; (b) a voluntary or involuntary bankruptcy proceeding is instituted by or against a Party hereto; or (c) an appointment of a receiver or assignee for the benefit of creditors occurs on behalf of a Party hereto. After delivery Aesthetic Product purchases may not be cancelled for any reason.

25. Waiver and Severability. If either Party fails to perform obligations under this Agreement, such nonperformance does not affect the other Party's right to enforce performance at any time. Waiver of any remedy or material breach of any subject matter contained in this Agreement is not a waiver unless agreed to by the Parties in writing. Each provision of this Agreement is separate and independent of one another, and the unenforceability of any provision shall not affect the enforceability of any other provision. If any provision is held to be excessively broad or unenforceable, such provision shall be modified accordingly so that it is enforceable to the fullest extent possible by law.

26. Assignment. Subject to the limitations provided in Section 14, Customer shall not assign this Agreement without the prior written consent of Hologic, which consent shall not be unreasonably withheld or delayed. Subject to the foregoing, the rights and obligations herein shall be binding upon the successors and assigns of Customer.

27. Notices. Any notification required under this Agreement is deemed to have been given either one (1) day after being given to an express overnight carrier with a reliable system for tracking delivery; or when sent by a confirmed facsimile with another copy sent by any other means specified in this paragraph; or three (3) business days after having been mailed postage prepaid by United States registered or certified mail. Any required notices to Customer shall be delivered to the address set forth in the applicable Hologic quote or other purchasing program document, and to Hologic at the addresses listed below. Either Party may change its mailing address by notice as provided by this section.

Hologic, Inc.
250 Campus Drive
Marlborough, MA
01752 Attn: Contracts
Department Fax: 866-
523-8691

With a copy to: Hologic, Inc.
250 Campus Drive
Marlborough, MA
01752 Attn: Legal
Department Fax:
508-263-2959

28. Governing Law. Upon execution, this Agreement is considered to be a Massachusetts contract, entered into in Massachusetts, and shall be governed and viewed under the laws of the Commonwealth of Massachusetts without reference to its conflict of laws provisions. The Parties specifically agree that any action relating to the relationship between the Parties, this Agreement, Products, or Services provided, purchased or licensed hereunder, shall be brought and tried in the Courts of Massachusetts. Customer hereby waives all objections to and consents to the jurisdiction of the Massachusetts Courts.

29. Equal Employment Opportunity Policy. Hologic is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

30. Counterparts and Electronic Signatures. This Agreement may be executed in two (2) or more counterparts, each of which is deemed an original but all of which together constitutes one and the same agreement. The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement shall be considered signed when the signature of a Party is delivered by facsimile transmission or delivered by scanned image (e.g. .pdf or .tiff file extension name) as an attachment to electronic mail (email). Such facsimile or scanned signature must be treated in all respects as having the same effect as an original signature.

31. Miscellaneous. See applicable Hologic quote, attachment or purchasing program for additional terms and conditions, which supplement and/or supersede this Agreement, as applicable and may include, but are not limited to: **Term, Termination, and Right of Returns or Cancellation.**

Supplier Breast & Skeletal Health Maintenance & Repair Service Terms

These Breast & Skeletal Health Maintenance & Repair Service Terms (“Terms”) between Hologic, Inc. (“Hologic”) and Customer (individually a “Party”, together, the “Parties”) govern the repair and maintenance services of equipment listed on the Service Quote (“Equipment”) and the use of Software (Equipment and Software collectively, “Products”). These Terms, together with the applicable service quote (“Service Quote”), Exhibit A, and Exhibit B are collectively defined as the “Agreement”.

1. Termination

a. Termination Without Cause. Either Party may terminate this Agreement, with or without cause, after providing the other with sixty (60) days’ prior written notice. In case of such termination by Customer, (unless Customer sells its business, or Customer’s business merges with or is acquired by another entity who will have a controlling interest of 50% or greater), Customer will be assessed a cancellation fee of 25% of the residual Agreement price, based on the effective termination date. If cancellation occurs in the final year of coverage, the fee will be reduced to 15%. Hologic may set-off, credit, or refund any unused amounts prepaid by Customer.

b. Termination for Cause. Customer shall be in default under the Agreement upon: (a) failure by Customer to make any payment due to Hologic within ten (10) days of Hologic providing written notice to Customer of its late payment status; and (b) failure to provide access to the Product as set forth in Section 6(b). Either Party shall be in default under this Agreement if a Party fails to perform any of its other obligations under the Agreement and such breach is not cured within thirty (30) days of the non-breaching Party providing written notice thereof. Failure to remedy a breach under this Section 1(b) shall result in termination of the Agreement. Upon the occurrence of any default by Customer, Hologic, at its sole option, may immediately cease providing Services under the Agreement until the default is cured or corrected. In the event of the commencement of any insolvency, bankruptcy or similar proceedings by or against a Party, including any assignment for the benefit of creditors this Agreement shall be terminated immediately.

2. Pricing and Payment

Service pricing and payment schedule are listed on the Service Quote. Payments are due net forty-five (45) days from the invoice date. Hologic may suspend Services if Customer’s account is past due. If Customer is tax-exempt, Customer will provide a valid tax-exemption certificate to Hologic prior to the invoice date, otherwise Customer shall be invoiced for applicable taxes.

3. Services Included

a. Services. Hologic or authorized distributor will provide the services listed on the Service Quote (“Services”). Any Services performed outside of the Coverage Period indicated on the applicable Service Quote are performed at Hologic’s prevailing rates. Each Service Type selected by Customer is detailed in Exhibit A, titled “Service Type Coverage”, which contains coverage details and hours of service. Customer may request Services, telephone support, or remote support by contacting the applicable support team from Exhibit B, titled “Product Support Information”.

b. Preventive Maintenance. Any Preventive Maintenance (“PM”) will be performed according to manufacturer’s recommended schedule. PM generally includes checking mechanical and electrical safety, lubrication, functional testing, and adjusting Equipment to Specifications.

c. Software Updates. At no charge during the Coverage Period stated on the Quote, Hologic will provide commercially available updates that revise or correct safety issues or update the productivity of the Software. Customer will be responsible for uploading and installing third-party security patches validated by Hologic. Upgrades that provide new features or require hardware changes will be offered to Customer at prevailing rates when commercially available.

Software. “Software” includes all computer software, firmware and associated documentation supplied through this Agreement in connection with the Equipment or Services. If the Equipment includes Software, Customer is granted a non-exclusive, non-transferable license to use the Software on the Equipment on which it is first

installed and only in the normal course of business. Customer may not use Software for multi-site quality control or data review or attempt to access its source code. Software remains the sole property of Hologic. Customer must treat Software as confidential, and must maintain all copyright, proprietary, and other notices on the Software. Customer must not copy, sublicense, de-compile, disassemble, or reverse engineer the Software. All information needed for interoperability is available from Hologic. Hologic may develop updates to the Software, and Customer must allow Hologic access to the to install any updates. Software updates and upgrades for non-Hologic manufactured equipment are subject to the policies of its manufacturer.

d. Replacement Parts. If covered on Exhibit A or warranty, Hologic will provide available replacement parts at no charge. Replacement parts may be new or remanufactured, will be exchanged for the replaced parts, and are warranted to perform in accordance with Specifications for the greater of ninety (90) days or the remainder of the Coverage Period. Replaced parts become the property of Hologic once replacement parts are installed. Parts not covered on Exhibit A or warranty are provided at Hologic rates current at time of replacement.

e. End of Support Announcement. Should Hologic determine that it will no longer support a Product, component, or provide a particular option or feature, Hologic shall provide Customer twelve (12) months written notice prior to ending such support. After such notice, Hologic may remove such affected Product, component, option or feature from coverage, with an appropriate adjustment of charges, with no further action by the Parties.

f. Service Reports. Hologic will provide service reports for all Services performed onsite.

g. Response Times. Subject to the conditions specified in Exhibit A, product support teams are available during Support Hours listed in Exhibit B. If Customer leaves a message, Hologic's phone support group will return calls received during Support Hours within thirty (30) minutes. Should a support team determine that onsite service is necessary, a Hologic Field Engineer will be dispatched. Unless otherwise stated on Exhibit A, Hologic uses best efforts to provide an onsite response within two (2) business days of Customer's call.

h. Remote Access. For some Products, Hologic requires remote access to meet service response times and perform support services. Remote access is provided through Hologic Connect™, or other Hologic technology available at the time service is performed. Customer understands that if Customer is unable provide remote access, Hologic may not be able to meet the response times specified under this Agreement.

4. Exclusions

The following services are not covered by the Agreement and will be billed at prevailing rates:

- a. services performed at Customer's request outside the hours in Exhibit A;
- b. services required due to disaster, acts of God, or external failures (including without limitation: abuse, loss of air-conditioning, power failure, or power surges beyond specified equipment tolerances);
- c. services required due to improper use or actual or attempted unauthorized third party repair, modifications, software installations, or moves;
- d. services required due to electrical work or cabling external to the Product;
- e. services performed related to information technology, workflow design and analysis, or Customer's network infrastructure, such as internet protocol address configurations;
- f. services performed as a result of changes in laws, regulations or guidelines; and
- g. de-installation, reinstallation, or relocation services.

5. Changes in Coverage

a. Inspection. If Customer would like to cover Equipment that has been without warranty or service contract coverage for more than thirty (30) days, serviced by anyone other than Hologic or its authorized representatives, or Customer is in Default for more than thirty (30) days, then, at Customer's expense, Hologic may inspect the

Equipment to determine if it conforms to Hologic's published specifications ("Specifications"). If Equipment does not conform to Specifications, Customer must pay prevailing rates to bring the Equipment into Specifications prior to resumption or start of coverage by Hologic.

b. Adding and Removing Equipment Coverage. The Parties may add Equipment by mutually executed written amendment to this Agreement. If Customer would like to remove Equipment, then after providing Hologic with thirty (30) days' notice, the Parties will amend the Agreement to reflect such removal. Advance notice for removal is not required if Equipment is traded-in as part of a new purchase of Hologic equipment from Hologic. In the event of any coverage adjustment, the cost on the Service Quote will be prospectively adjusted to reflect such change.

6. Customer Responsibilities

a. Routine Maintenance and Supervision. Customer must perform all Hologic-recommended routine maintenance in accordance with user manual. Customer alone is responsible for the supervision, risk mitigation, management and control of Equipment while placed onsite.

b. Access. If Customer does not provide access to Equipment for a scheduled visit, Customer will pay travel time and labor expenses at prevailing rates.

c. Data Backup. Customer must backup all data, such as patient data, prior to and during the provision of Services. Hologic is not responsible for loss, corruption, recovery, storage or backup of data.

d. Location. The Equipment shall be located at the address set forth in the Service Quote and shall not be moved during the Coverage Period stated on the Quote without Hologic's prior written consent.

e. Use Restrictions. Products are only intended for the uses listed in the applicable operator's manual or instruction for use and are subject to the Specifications and requirements set forth therein. Customer assumes all risks associated with non-listed uses of Products and/or use of Products which is inconsistent with the specifications and requirements applicable to such Products, and Customer hereby indemnifies and holds Hologic harmless from any claim associated with any such uses. Customer is not licensed to, and agrees not to: (i) resell any Product, unless otherwise authorized by Hologic in writing; (ii) transfer, or distribute any Product, directly or indirectly, to any third party for any purpose or use, except as otherwise approved by Hologic in writing; (iii) use or allow anyone to dilute any Product; or (iv) reverse engineer, disassemble, or conduct unauthorized analysis of any Product and/or its method of use.

7. Limited Warranties and Exceptions

Hologic warrants that Services will be performed by trained individuals in a workmanlike manner. The remedy for any warranty claim is limited to Hologic re-performing any non-conforming Services at no charge, as long as Customer provides prompt written notice to Hologic. THIS WARRANTY AND THE WARRANTY IN THE VIZIENT AGREEMENT ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. HOLOGIC DISCLAIMS IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. Limitation of Liability

The following is subject to Hologic's/Supplier's indemnification obligations in the Vizient Agreement: Except for bodily injury or damage to real or tangible personal property caused solely and directly by the gross negligence or willful misconduct of Hologic or its authorized representatives, Hologic's liability for any damages is limited to the annual Service Quote price in effect when the cause of action arose. SUBJECT TO HOLOGIC'S/SUPPLIER'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL HOLOGIC BE LIABLE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. ADDITIONALLY, SUBJECT TO HOLOGIC'S/SUPPLIER'S INDEMNIFICATION OBLIGATIONS, HOLOGIC SHALL NOT BE LIABLE FOR ANY CLAIMS BROUGHT MORE THAN ONE YEAR AFTER THE CLAIMANT HAS KNOWLEDGE OF THE CLAIM.

9. Force Majeure

Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrections, fires, floods storm, explosions, act of God, war, governmental action, labor or material shortages or any other cause which is beyond the

reasonable control of such Party. The foregoing provisions regarding force majeure shall not be operative to delay or excuse payment of any amount.

10. Assignment

Customer may not assign or subcontract any portion of its rights or obligations under the Agreement without prior written consent from Hologic. Hologic may assign or subcontract its rights, responsibilities, and/or obligations, provided that any assignee assumes applicable obligations in writing.

11. Confidentiality

Except to the extent disclosure is required by applicable law, both Parties agree to hold in strict confidence the Agreement terms and all information in connection with performance of the Agreement, including without limitation, pricing, protected health information, and information relating to the Customer. Notwithstanding the foregoing, Member/Customer may share such information with Vizient Supply, LLC and the Client, as defined in the Vizient Agreement.

12. Product Performance Data

Operational and performance data that is stored, recorded, made available, processed, created, derived, generated and collected from the Hologic manufactured or licensed Products ("Performance Data") is exclusively owned by Hologic and Hologic has all right, title and interest in and to any and all Performance Data. Performance Data does not include patient health information.

13. Waiver and Severability

If either Party fails to perform obligations under this Agreement, such nonperformance does not affect the other Party's right to enforce performance at any time. Waiver of any remedy or material breach of any subject matter contained in this Agreement is not a waiver unless agreed to by the Parties in writing. Each provision of this Agreement is separate and independent of one another, and the unenforceability of any provision shall not affect the enforceability of any other provision. If any provision is held to be excessively broad or unenforceable, such provision shall be modified accordingly so that it is enforceable to the fullest extent possible by law.

14. Notices

All notices provided for in this Agreement shall be in writing, addressed to the appropriate Party at the respective address set forth in the Service Quote or any then-current address of which it has received notice. Any notification required shall be deemed to have been provided either one (1) day after being given to an express overnight carrier with reliable delivery tracking; or when sent by a confirmed facsimile with another copy sent by any other means specified in this paragraph; or three (3) business days after having been mailed postage prepaid by United States registered or certified mail.

Hologic, Inc.
250 Campus Drive
Marlborough, MA 01752
Attn: Contracts Department
Fax: 866-523-8691

With a copy to: Hologic,
Inc.
250 Campus Drive
Marlborough, MA 01752
Attn: Legal Department
Fax: 508-263-2959

15. Applicable Law

The Parties agree to comply with applicable law, including but not limited to, applicable provisions of Health Insurance Portability and Accountability Act of 1996, the Federal Anti-Kickback Statute, and the requirement for access clause set forth in 42 C.F.R. 420.302.

16. Equal Employment Opportunity Policy

Hologic is an equal opportunity employer and federal contractor or subcontractor. Consequently, the Parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The Parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

17. Independent Contractors

Hologic is an independent contractor. No joint venture, partnership, principal-agent, or employment relationship exists or is implied between the Parties.

18. Insurance

During the Coverage Period stated on the Quote, Hologic will maintain the following insurance coverages in amounts complying with applicable law: (a) worker's compensation insurance covering its employees, agents, or representatives; (b) general liability insurance covering the acts or omissions of Hologic and its employees, agents, or representatives; and (c) products liability insurance. Hologic will provide a certificate of insurance to Customer upon request.

EXHIBIT E WARRANTY

WARRANTIES. Except as otherwise expressly stated in this Agreement: (i) Equipment manufactured by Supplier is warranted to the original Member to perform substantially in accordance with published product specifications for 1 year starting from the date of shipment, or if Installation is required, from the date of Installation (“Warranty Period”); (ii) digital imaging mammography x-ray tubes are warranted for 12 months; (iii) replacement parts and remanufactured items are warranted for the remainder of the Warranty Period or 90 days from shipment, whichever is longer; (iv) consumable Supplies are warranted to conform to published specifications for a period ending on the expiration date shown on their respective packages; (v) licensed Software is warranted to operate in accordance with published specifications; (vi) Services are warranted to be supplied in a workman-like manner; (vii) non-Supplier Manufactured Equipment is warranted through its manufacturer and such manufacturer’s warranties shall extend to Supplier’s Members, to the extent permitted by the manufacturer of such non-Supplier Manufactured Equipment. Supplier does not warrant that use of Products shall be uninterrupted or error-free, or that Products shall operate with non-Supplier authorized third-party products. EXCEPT FOR SUPPLIER’S THIRD PARTY INDEMNIFICATION OBLIGATIONS SET FORTH IN THE AGREEMENT, SUPPLIER’S ENTIRE WARRANTY RESPONSIBILITY IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT (AT SUPPLIER’S OPTION AND IN THE FORM ORIGINALLY SHIPPED) OF PRODUCT OR CORRECTION OF SERVICE SUBJECT TO ANY CLAIM, OR, AT SUPPLIER’S ELECTION, REPAYMENT OF, OR CREDITING MEMBER WITH, AN AMOUNT EQUAL TO THE SUPPLIER PRICE, FEE OR CHARGE THEREFOR. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUCH LIMITED WARRANTY IS GIVEN SOLELY TO THE ORIGINAL MEMBER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, MEMBERS OF MEMBER. THIS WARRANTY IS VOID UPON TRANSFER OF PRODUCT BY MEMBER TO ANY ENTITY WHO IS NOT AN AFFILIATE OF MEMBER. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO MEMBER. MEMBER MAY ALSO HAVE OTHER

RIGHTS, WHICH VARY, FROM STATE TO STATE. These warranties do not apply to any item that is: (a) repaired, moved, or altered other than by Supplier authorized service personnel, unless authorized by Supplier;

(b) subjected to physical (including thermal or electrical) abuse, stress, or misuse to the extent such abuse, stress, or misuse causes the warranty claim; (c) stored, maintained, or operated in any manner inconsistent with applicable Supplier specifications or instructions, including Member’s refusal to allow Supplier recommended Software upgrades to the extent such

storage, maintenance, or operation causes the warranty claim; or (d) designated as supplied subject to a non-Supplier warranty or on a pre-release or “as-is” basis.

WARRANTY CLAIMS AND REMEDIES. In the event of any warranty claim, Supplier shall replace with new or remanufactured items any Equipment, part, component, or consumable supply that is in breach of warranty, and shall promptly fix or provide a workaround for any Software defect or bug which prevents operation in substantial conformity with functional specifications. Alternatively, Supplier may elect to repay or credit to Member an amount equal to the purchase price of the defective Equipment, component, Software, consumable supply, or Service. Items replaced shall become Supplier property. All claims shall be initiated by contacting Supplier within the applicable Warranty Period and 30 days after discovery of the breach or non-conformity. Supplier must be given reasonable access and an opportunity to inspect all associated materials.

Except for Supplier’s indemnification obligations in the Vizient Agreement, these remedies shall comprise Supplier’s entire liability and Member’s exclusive remedy for breach of warranty and are in lieu of any other remedies at law or equity.

LIMIT OF LIABILITY. THE FOLLOWING IS SUBJECT TO SUPPLIERS OBLIGATIONS IN THE VIZIENT BASE AGREEMENT: EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM SUPPLIER’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, SUPPLIER IS NOT LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES, DAMAGES, OR EXPENSES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, OR USE), DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING, SERVICE OR USE OF PRODUCT ORDERED OR FURNISHED PURSUANT TO THIS AGREEMENT, OR FROM ANY CAUSE RELATING THERETO UNLESS EXPRESSLY AGREED TO BY THE PARTIES IN WRITING. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM SUPPLIER’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, SUPPLIER IS NOT LIABLE UNDER ANY LEGAL THEORY OR FOR ANY CAUSE WHATSOEVER, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE, OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, FOR ANY AMOUNT IN EXCESS OF THE PRICE, FEE OR CHARGE THEREFOR RECEIVED BY SUPPLIER.

SOFTWARE LICENSE. The term “Software” includes all Supplier (and third-party) computer software, firmware and associated documentation, whether in printed or machine-readable form supplied by reason of this Agreement or for use in connection with Equipment or Services. To the extent the Product includes Software, Member is granted a non-exclusive, non-transferable, royalty-free license to use Software solely on the Equipment on which it is first installed or as designated in this Agreement, in connection with the Equipment in the normal course of Member’s business, and for no other purpose or business. No license is provided under this Agreement to use Software for multi-site quality control or data review purposes or for source code of any type. Software, at all times, remains the sole property of Supplier. Software is confidential information. Member will be required to maintain all copyright, proprietary, and other notices on the Software, and is not authorized de-compile, disassemble, or reverse engineer the Software. The all information needed for interoperability is available from Supplier in accordance with applicable government directives. From time to time, Supplier may develop new

versions or updates for this software. Member may be required to allow Supplier access to the Equipment to implement any new versions or updates to the software. If Member transfers Equipment to a third-party, Member may assign the right to use Software on the Equipment; provided that, the third-party agrees in writing with Supplier to be bound by and to permit Supplier to enforce the provisions of this section. Member has no other right to use, sell, assign, transfer, copy, or sublicense Software. As identified in the applicable software product specifications, some third-party software vendors (including Microsoft Corporation) provide different warranties and require different or additional terms applicable to software which they supply; such warranties and terms supersede the warranty provided by Supplier. The Microsoft End User License is located on the applicable installation CD-ROM (file name is EULA.txt). In addition to all other rights and remedies Supplier may have at law or in equity, Supplier may immediately terminate any Software license agreement if Member defaults on any portion of this section.

INTENDED USES. Products are only intended for the uses listed in the applicable operator's manual or instructions for use. Customer will be required to assume all risks associated with non-listed uses of Products and to indemnify and hold Supplier harmless from any claim associated with such non-listed uses.

EXHIBIT F
LIST OF OPTIONAL SOFTWARE

Intentionally Left Blank

CONFIDENTIAL

EXHIBIT G GPO DESIGNATION FORM

MEMBERS MAY HAVE ADDITIONAL OBLIGATIONS TO SUPPLIER IN THE FOLLOWING GPO DESIGNATION FORM THAT ARE NOT SPECIFICALLY COVERED OR CONTEMPLATED BY THE APPLICABLE VIZIENT AGREEMENT. ACCORDINGLY, (I) VIZIENT HAS NOT NEGOTIATED OR APPROVED THE TERMS OF SUCH GPO DESIGNATION FORM AND (II) MEMBERS HAVE THE ABILITY TO NEGOTIATE THE TERMS OF SUCH GPO DESIGNATION FORM LOCALLY TO SUIT THEIR SPECIFIC NEEDS. AS SUCH, EACH MEMBER MAY RETAIN ITS OWN LEGAL COUNSEL WHEN NEGOTIATING AND/OR ENTERING INTO THE APPLICABLE GPO DESIGNATION FORM. THOSE MEMBERS THAT HAVE PREVIOUSLY SIGNED A DESIGNATION FORM DO NOT HAVE TO SIGN A NEW DESIGNATION FORM UNDER THIS AGREEMENT.

GPO Designation Form

for the Product Supplier Agreement for Mammography Products between Vizient Supply, LLC (“Vizient”) and Hologic, Inc. (“Supplier”) effective as of September 1, 2020 (the “Agreement”)

Product Category: XR0653 Mammography (“Products”)

GPO Designation Effective Date: _____

Member Information: _____ (“Member” or “IDN”)

Street Address: _____

City/State/Zip: _____

Phone: _____

Fax: _____

Email: _____

HIN: _____

GLN #: _____

1. MEMBERSHIP: Member hereby affirms that it is a valid Member of Vizient, Inc., and/or the group purchasing organizations (GPOs) associated with Vizient, Inc., and its decision to purchase the Products as set forth in the Agreement between Supplier and Vizient Supply, LLC (“Vizient”). Member is defined as an individual entity or of group entities designated by Vizient to purchase under its contracts.

2. DESIGNATION: For purposes of this Agreement, Member hereby designates Vizient, Inc., and/or the GPOs associated with Vizient, Inc., as its respective GPO agent for all Products.

3. PURCHASES: Member agrees that all purchases of Supplier Products covered under this Agreement shall be governed exclusively by the terms and conditions of Vizient Contract No. XR0653. Member’s additional or different terms and conditions, whether stated in a purchase order or other document issued by Member, shall not apply to the transactions between Member and Supplier for systems and Products, unless agreed to in writing by Supplier and Member.

4. CANCELLATION: Any inconsistent designation form between Supplier and Member shall be canceled on the date of Supplier’s acceptance of this Designation Form.

IMPORTANT!!

- Orders referencing a Vizient purchase agreement cannot be placed until Supplier receives and accepts this signed designation form.
- All orders must reference Supplier’s quotation, if applicable.
- Upon Supplier’s acceptance of this form, signed by the Member and returned to Supplier, Supplier will countersign and return a copy to the Member.

MEMBER

By: _____
Name: _____
Title: _____
Date: _____

SUPPLIER

By: _____
Name: _____
Title: _____
Date: _____

Send to Supplier by Email at: NationalContracts@hologic.com

<i>Submitted By:</i> _____	<i>Phone No.:</i> _____
<i>Member ID No.:</i> _____	<i>Date:</i> _____
Problems? Contact us at vizientsupport@vizientinc.com or call Member Support at (800) 842-5146	

This document is applicable to all Members purchasing under the Agreement, including, without limitation, Members of Vizient, Inc., Provista, Inc., and the GPO’s associated with Vizient.