

AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND HOLOGIC, INC.

This Agreement is entered into this _____ day of _____, 2016, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and Hologic, Inc., hereinafter called "Contractor."

* * *

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of providing medical imaging equipment maintenance and repair services, including software licensing and support.

Now, therefore, it is agreed by the parties to this Agreement as follows:

1. Exhibits and Attachments

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

Exhibit C—Field Service Labor Rates 2016: Breast Health Division

Exhibit E—Corporate Compliance SMMC Code of Conduct (Third Parties)

2. Services to be performed by Contractor

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. If the Equipment does not conform to manufacturer's specifications following services by Contractor, Contractor shall correct such non-conformity. In the event that Contractor is unable to correct such nonconformity, County reserves the right to withhold payment. In no event shall County's total fiscal obligation under this Agreement exceed THREE HUNDRED FORTY THOUSAND DOLLARS (\$340,000). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

4. Term

Subject to compliance with all terms and conditions, the term of this Agreement shall be from August 1, 2016, through July 31, 2019.

5. Termination; Availability of Funds

This Agreement may be terminated by Contractor or by the Chief of the Health System or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing prompt written notice to Contractor after County learns of said unavailability of outside funding.

6. Contract Materials

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law. Notwithstanding the foregoing, "contract materials" do not include confidential and proprietary information of Contractor.

7. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

8. Hold Harmless

a. General Hold Harmless

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

(A) negligent acts or omissions resulting in injuries to or death of any person, including Contractor or its employees/officers/agents;

(B) negligent acts or omissions resulting in damage to any property of any kind whatsoever and to whomsoever belonging;

(C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

9. Assignability and Subcontracting

Contractor uses Agfa Healthcare to provide services for the Agfa Printer (Serial # 7690). Otherwise, Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County's prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice. County shall not assign or transfer this Agreement without the prior written consent of Contractor.

10. Insurance

a. General Requirements

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. Contractor shall provide thirty (30) days' written notice to County of any material change in the limits of liability or of any cancellation or material modification of the policy.

b. Workers' Compensation and Employer's Liability Insurance

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

c. Liability Insurance

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- ☒ Comprehensive General Liability\$1,000,000
(Applies to all agreements)
- ☐ Motor Vehicle Liability Insurance\$1,000,000
(To be checked if motor vehicle used in performing services)
- ☐ Professional Liability\$1,000,000
(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement by providing written notice to Contractor of its decision to suspend all further work and payment pursuant to this Agreement.

11. Compliance With Laws

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

The parties agree that, pursuant to Section 70713 of Title 22 of the California Code of Regulations ("Title 22"), San Mateo Medical Center retains all professional and administrative responsibility for services rendered under this Agreement to the extent that such services are subject to Title 22 and are rendered by a "qualified professional person" as used in Section 70713, and the parties further agree in that instance that this Agreement is otherwise subject to any applicable requirements of Title 22.

At the written request of County, Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance under this Section as they pertain to this Agreement. .

12. Non-Discrimination and Other Requirements

a. General Non-discrimination

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

b. Equal Employment Opportunity

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations

for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

c. Section 504 of the Rehabilitation Act of 1973

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

d. Compliance with County's Equal Benefits Ordinance

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- ☒ Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- ☐ Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- ☐ Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- ☐ Contractor does not comply with Chapter 2.84, and a waiver must be sought.

e. Discrimination Against Individuals with Disabilities

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

f. History of Discrimination

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- ☒ No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.

- ☐ Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

g. Reporting; Violation of Non-discrimination Provisions

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 11, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager, to the extent required by law.

13. Compliance with County Employee Jury Service Ordinance

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed in Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

14. Retention of Records; Right to Monitor and Audit

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

15. Merger Clause; Amendments

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

16. Controlling Law; Venue

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

17. Disentanglement

Contractor shall cooperate with County and County's other contractors to ensure a smooth transition at the time of termination of this Agreement, regardless of the nature or timing of the termination. Contractor shall cooperate with County's efforts to effectuate such transition with the goal of minimizing or eliminating any interruption of work required under the Agreement and any adverse impact on the provision of services or the County's activities; provided, however, that County shall pay Contractor on a time and materials basis, at the then-applicable rates, for all additional services performed in connection with such cooperation. Contractor shall deliver to County or its designee, at County's request, all documentation and data related to County, including, but not limited to, patient files, held by Contractor, and after return of same, Contractor shall destroy all copies thereof still in Contractor's possession, at no charge to County. Such data delivery shall be in an electronic format to facilitate archiving or loading into a replacement application. County and Contractor shall mutually agree the specific electronic format.

Upon any termination of the Agreement, regardless of the nature or timing of the termination, County shall have the right, for up to twelve (12) months (the "Transition Period"), at County's option and written request to Contractor, to continue to receive from Contractor all maintenance and support services, at the then-applicable rates provided, however, that the annual support and maintenance fee shall be prorated and paid in advance on a monthly basis during such time, and the amount of such support and maintenance fee shall remain subject to the limitations set forth in the Agreement regarding any increase in such fee.

18. Waiver

The failure of either party at any time to require performance by the other party of any of its obligations thereunder shall in no way affect the full right to require such performance at any time thereafter. The waiver by either party of any remedy with respect to a breach of any provision shall not be taken as a waiver of a remedy with respect to any succeeding breach of that or any other provision.

19. Severability

The parties agree that each provision contained in this Agreement shall be treated as a separate and independent clause, and the unenforceability of any one clause shall not impair the enforceability of any other clause. Moreover, if one or more provisions contained in this Agreement shall for any reason be held to be overly broad so as to be unenforceable, such provisions shall be constructed by the appropriate judicial body by limiting and reducing them, so as to be enforceable to the extent compatible with the applicable law.

20. Notices

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: San Mateo Medical Center
Attn: Accounts Payable
Address: 222 W 39th Ave
San Mateo, CA 94403
Email: SMMC-Accounts-Payable@smcgov.org

In the case of Contractor, to:

Name/Title: Hologic Inc.
Attn: Office of the General Counsel
Address: 250 Campus Drive
Marlborough, MA 01752

21. Electronic Signature

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County: ☐ If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor: ☒ If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By: _____

President, Board of Supervisors, San Mateo County

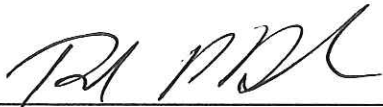
Date: _____

ATTEST:

By: _____

Clerk of Said Board

HOLOGIC, INC.

By: 

Vice President, Domestic Imaging Field Service

Date: 7/21/2014

Exhibit A

In consideration of the payments set forth in Exhibit B, Contractor (herein "HOLOGIC") shall provide the following services to County (herein "Customer"):

1. PRICES & PAYMENT.

Customer agrees to pay HOLOGIC the charges set forth on Exhibit B hereof, the cost for such services shall not exceed the amount listed in Section 3 of the Agreement. All payments are due forty-five (45) days from the date of invoice. Invoices shall reference the applicable Customer Purchase Order Number and specify the coverage period.

2. TAXES.

Customer agrees to pay taxes and government charges; however, designated (excluding taxes on HOLOGIC's net income) imposed or based upon the provision of or payment for Services hereunder.

3. DESCRIPTION OF SERVICE.

During the term hereof, HOLOGIC will provide the maintenance services set forth in Exhibit B hereof, subject to the exclusions set forth in Section 4.

- A. Eligibility: Prior to acceptance of the Agreement, HOLOGIC reserves the right to perform, at its expense, a Pre-Contract inspection of the Equipment listed on Exhibit B to this Agreement (describing the "Equipment"). HOLOGIC shall not be obligated to maintain any Equipment, which, in its sole opinion, fails to conform to customary standards of configuration, performance, manner of use, or installation.
- B. Coverage: Subject to the terms and conditions set forth herein, HOLOGIC will provide hardware and software maintenance services for the Equipment based on the appropriate Service Plan Description below for the Equipment listed on Exhibit B and located at San Mateo Medical Center, 222 W. 39th Avenue, San Mateo, CA 94403, hereof. Standard Hours are Monday through Friday, 8:00 a.m. to 5:00 p.m. local time, exclusive of HOLOGIC holidays.

Digital Mammography PLATINUM Service Plan Description:

- Telephone and remote diagnostic and repair support 24/7, 365 days/year (1-877-371-4372 or other such telephone number as HOLOGIC may specify).
- All replacement parts including glassware (x-ray tube and digital array detector).
- All Labor & Travel Time coverage during Standard Hours.
- Emergency coverage from 5:00 p.m. to 9:00 p.m., local time, when the call is received by 2:00 p.m., local time.
- Calls received after Standard Hours will be dispatched during the next business day, exclusive of HOLOGIC holidays.
- Two Preventive Maintenance inspections per year done during Standard Hours.
- Includes all Software Updates and enhancements commercially released during term of the Agreement for the products/options purchased, in addition to all Safety and Quality Updates. Installation during Standard Hours,
- Compliance with the American College of Radiology Mammography.
- Plan/Agreement Exclusions:
 - Excludes new hardware or additional hardware that is required to run software updates or upgrades.
 - Excludes Plastics.

- Customer is required to provide a network connection for Hologic Connect SSL remote access solution. If Customer cannot provide the connection, Agreement pricing will be increased by an additional \$3,000 per year over the rate reflected in Exhibit B of the Agreement to cover additional costs of providing onsite labor support service.
- Plastics Coverage available for an additional cost. Provides replacement for all paddle plastics and face shields broken during the Agreement coverage term. Includes five spare paddles to be shipped at the start of Agreement coverage term.
- Emergency on-site Saturday Coverage Option for an additional cost. COVERAGE IS FOR DOWN SYSTEMS ONLY.
- Renew CPU Hardware Obsolescence Option for an additional cost. One computer hardware upgrade per covered system will be provided during the term of the Agreement if option is purchased.

DigitalNow GOLD Service Plan Description:

- Telephone and remote diagnostic and repair support, Monday through Friday, 8:30 a.m. to 8:00 p.m. Eastern Standard Time, exclusive of HOLOGIC holidays (1-866-243-2533 or other such telephone number as HOLOGIC may specify).
- All replacement parts included.
- All Labor and Travel Time coverage during Standard Hours.
- Calls received after Standard Hours will be dispatched during the next business day, exclusive of HOLOGIC holidays.
- Remote servicing through Hologic Connect SSL remote access solution. If Customer cannot provide the connection, Agreement pricing will be increased by an additional \$3,000 per year over the rate reflected in Exhibit B of the Agreement to cover additional costs of providing onsite labor support service.
- Preventive Maintenance visits as specified for individual system components in the CAD Service Manual.
- Includes all Software Updates and enhancements commercially released during the term of the Agreement for the products/options purchased, in addition to all Safety and Quality Updates. Installation during Standard Hours.
- Systems out of Warranty and not covered by a current Service Agreement must be brought up to the latest released version of software and hardware, and must be fully operational with no broken parts or components, before HOLOGIC will accept a new Service Agreement. Customer will be responsible for any costs to bring system, components or software to fully operational current level.
- Plan/Agreement Exclusions:
 - Excludes Film Carrier Belt and bulbs for display units.
 - Excludes consumables (bar code stickers, separator sheets, suction cups, cleaning supplies, test films, etc.)
 - Excludes new hardware or additional hardware that is required to run software updates or upgrades.

Digital Mammography Printer GOLD Service Plan Description:

- Telephone and remote diagnostic and repair support 24/7, 365 days/year (1-877-371-4372 or other such telephone number as HOLOGIC may specify).
- All replacement parts are included.
- All Labor and Travel Time coverage during Standard Hours.
- Preventive Maintenance provided per manufacturer's recommended schedule during Standard Hours.

- Software updates commercially available during the Agreement coverage term, with installation during Standard Hours.

RENEW Program Description (Computer Hardware Obsolescence Service Option):

- One computer upgrade allowed during the duration of the Agreement for option purchased (Equipment Serial Numbers are attached to each plan purchased), which can be upgraded at any time during the term of the Agreement. If Customer terminates the Agreement prior to the effective end date, the unpaid balance of the hardware provided will be invoiced and due payable to HOLOGIC.
- Coverage includes computer, keyboard, mouse and graphics card, but excludes the LCD display.
- The replaced computer is returned to HOLOGIC. The replaced computer must be returned to HOLOGIC within fifteen (15) days, failure to return computer in the allotted time will result in additional fees.

C. Service Requests: All service requests shall be made by telephone to:

- 1-800-321-4659 for DEXA and Fluoroscanner equipment
- 1-888-505-7910 for Analog Mammography equipment
- 1-800-537-3860 for MRI equipment
- 1-877-371-4372 for DR, Digital Mammography and SSI Ultrasound equipment
- 1-877-887- 8767 for Suros
- 1-866-735-3744 for Sentinelle or 1 -866-243-2533 for R2 Analog CAD equipment (or other such telephone number as HOLOGIC may specify).
- For all lines, HOLOGIC will use reasonable efforts to meet response times as listed in the applicable Service Plan Description.

D. Telephone Support: HOLOGIC will provide Customer with access to telephone support as stated in the applicable Service Plan Description in Exhibit A, Section 3.(B), for Equipment operation, application usage, and applicable technical or scientific information. The telephone number described in Exhibit A Section 3.(C) and the hours described in Exhibit A Section 3.(B) shall apply. HOLOGIC will provide response time within 12 hours of service request(s).

E. Parts: Parts and components used to maintain or repair Equipment may be new or remanufactured and will meet HOLOGIC's performance specifications. Title to defective parts requiring replacement shall remain with HOLOGIC.

F. Records: HOLOGIC will maintain a complete Maintenance Service Log that will include the following information for all Equipment: model and serial number; date and time service call received; nature of service call; date and time service performed; description of repair, including parts or components replaced; dates of preventative maintenance.

4. EXCLUSIONS.

The following services are not covered by this Agreement and if performed by HOLOGIC or its representatives, and shall be invoiced separately at the applicable time and material rates.

- A. Services performed at Customer's request outside the Standard Hours established by Exhibit A Section 3.(B), above shall incur Travel Time and Labor charges for such services and will be billed at the rates as listed in Exhibit C. For services performed outside of Standard Hours on weekdays, weekends, and

HOLOGIC holidays as listed in Section 13 of this Exhibit A, Customer shall be notified by HOLOGIC prior to performance of a requested service that the work order qualifies for increased rates. Prior to its performance of work, HOLOGIC shall identify the specific rate that Customer will be charged which shall not exceed the amount listed in Exhibit C to this Agreement.

- B. Services required due to catastrophe, disaster, acts of God, and environmental problems, including without limitation failures to provide (or failures of) adequate electrical power, air conditioning, or humidity control which do not result from the acts or omissions of HOLOGIC or its representatives.
- C. Services required due to Customer's use of Equipment in any manner or for any purpose that is inconsistent with instructions documented in HOLOGIC's Operations Manual or published supplements thereto.
- D. Services required due to unauthorized attempts by persons other than HOLOGIC or its designated representatives to maintain, modify, move or repair the Equipment.
- E. Services required due to the installation of accessories, attachments, or third party software not specifically covered under this Agreement.
- F. De-installation and reinstallation services, and any other services required in connection with relocation or movement of the Equipment.
- G. Services required due to electrical work or cabling external to the Equipment and not resulting from the acts or omissions of HOLOGIC or its representatives.
- H. Services provided as a result of changes in laws, regulations, or guidelines.

5. ADDITIONAL DUTIES OF HOLOGIC.

- A. Personnel: HOLOGIC will use its best efforts to maintain a staff of employees qualified to perform the services required hereunder. In addition or in lieu of this, HOLOGIC may elect, at its discretion, to use appropriately qualified subcontractors to provide services.
- B. Customer's Rules: HOLOGIC employees and representatives will observe and comply with Customer's reasonable rules and regulations while on Customer's premises.

6. DUTIES OF CUSTOMER.

- A. Supervision: Customer alone is responsible for the supervision, management, and control of Equipment use, including, without limitation; providing all controls and review of techniques and other measures for promptly detecting and minimizing the effects of any errors, failures, or interruptions that may occur during use.
- B. Access: Customer shall provide reasonable access to the Equipment, and reasonable working space and conditions for HOLOGIC's employees and representatives providing services hereunder.
- C. Missed Visits: If Customer is not at the location to provide HOLOGIC's representatives access for a scheduled visit (remedial or preventative), Customer will be charged for Travel Time and Labor charges at then current rates.

- D. Confidentiality: Customer agrees that all HOLOGIC-furnished information, Software, manuals, devices, and all other materials which are identified as "Confidential" information or the like, contain valuable proprietary information, and Customer shall hold such information in confidence and not use, reproduce or distribute it except to Customer's employees (and agents who agree to this provision) who may use it as part of their duties.

7. WARRANTY.

- A. Warranty: Services are warranted for thirty (30) days to be supplied in a workmanlike manner. Replacement parts for Equipment and Software will be supplied on an exchange basis, may be new or remanufactured, and are warranted to perform in accord with published product specifications for ninety (90) days from delivery. HOLOGIC warrants that the Customer will receive good title for all parts furnished in providing covered services hereunder, free from all liens, charges, and encumbrances.

8. LIMITATION OF WARRANTY AND LIABILITY.

- A. Limitation of Warranty: THE FOREGOING WARRANTIES ARE IN LIEU OF AND HOLOGIC EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE.
- B. Limitation of Liability: IN NO EVENT SHALL HOLOGIC BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF GOOD WILL, LOSS OF PROFIT, LOSS OF USE, OR INTERRUPTION OF BUSINESS, OR FOR ANY CLAIMS MADE MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION OCCURRED. IN NO EVENT SHALL THE DAMAGES ASSESSED AGAINST HOLOGIC FOR ANY CLAIM OR CLAIMS HEREUNDER EXCEED THE TOTAL MAINTENANCE CHARGE HOLOGIC RECEIVED FROM THE CUSTOMER FOR THE MOST RECENT ANNUAL PERIOD.
- C. Contingencies: After utilizing reasonable efforts to avoid the event, HOLOGIC shall be excused for performance, and shall not be liable for any delay or non-performance caused by the occurrence of contingencies beyond its control, including without limitation, war, sabotage, insurrection, riot, civil disobedience, failure or delay in public transportation, acts of any government or subdivision thereof that interfere with performance, judicial action, delay or nonperformance of suppliers, unavailability of spare parts, labor disputes, accident, fire, flood, storm, volcanic eruption, or other acts of God.

9. SOFTWARE LICENSE.

"Software" includes all HOLOGIC and third-party computer software, firmware, and associated documentation, in printed or machine-readable form, supplied by reason of this Agreement or for use in connection with the Equipment or Services. Customer is granted a non-exclusive, non-transferable, royalty-free license to use Software solely on Equipment on which it is first installed or as designated in the Agreement in connection with such Equipment, in the normal course of Customer's business, and for no other purpose. No right of use is provided for source code or to use Software for multi-site quality control or data review. Software is and shall remain the sole property of HOLOGIC. Customer shall maintain all copyright, proprietary and other notices on Software, and not decompile, disassemble or reverse engineer Software. (All information needed for interoperability is available in accord with applicable government directives.) Customer has no other right to use, sell, assign, transfer, copy or sublicense Software.

10. HOLIDAYS.

- New Year's Day
- Presidents Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Day after Thanksgiving
- The Friday before Christmas Eve (if Christmas Eve falls on a weekend)
- Christmas Eve
- Christmas Day
- The Monday after Christmas (if Christmas Day falls on a weekend)
- The Friday before New Year's Day (if New Year's Day falls on a weekend)

Exhibit B

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following Equipment, fee schedule and payment terms:

| Model | S/N | Service Type | Annual List | Net Price | Coverage Dates | Term | Line Total |
|---------------------------------|--------------|--------------|-------------|-------------|---------------------|------|--------------|
| Dimensions 2D 5000 | 81002143158 | Platinum | \$44,000.00 | \$30,800.00 | 08/01/16 - 07/31/19 | 3 | \$92,400.00 |
| RENEW for Dimensions | | Platinum | \$8,000.00 | \$5,600.00 | 08/01/16 - 07/31/19 | 3 | \$5,600.00 |
| Plastics Coverage | | Plastics | \$500.00 | \$350.00 | 08/01/16 - 07/31/19 | 3 | \$1,050.00 |
| Dimensions 2D 5000 | 81001143002 | Platinum | \$44,000.00 | \$30,800.00 | 08/01/16 - 07/31/19 | 3 | \$92,400.00 |
| RENEW for Dimensions | | Platinum | \$8,000.00 | \$5,600.00 | 08/01/16 - 07/31/19 | 3 | \$5,600.00 |
| Plastics Coverage | | Plastics | \$500.00 | \$350.00 | 08/01/16 - 07/31/19 | 3 | \$1,050.00 |
| Digital CAD with 1st License | C4744 | Platinum | \$10,000.00 | \$7,000.00 | 08/01/16 - 07/31/19 | 3 | \$21,000.00 |
| Digital CAD License | C4744 | Platinum | \$2,000.00 | \$1,400.00 | 08/01/16 - 07/31/19 | 3 | \$4,200.00 |
| RENEW for CAD | | Platinum | \$8,000.00 | \$5,600.00 | 08/01/16 - 07/31/19 | 3 | \$5,600.00 |
| Advanced Workflow Manager | 78101140121 | Platinum | \$3,550.00 | \$2,485.00 | 08/01/16 - 07/31/19 | 3 | \$7,455.00 |
| RENEW for Managers | | Platinum | \$16,000.00 | \$11,200.00 | 08/01/16 - 07/31/19 | 3 | \$11,200.00 |
| SecurView DX-400 | 2980114B5213 | Platinum | \$10,000.00 | \$7,000.00 | 08/01/16 - 07/31/19 | 3 | \$21,000.00 |
| RENEW for SecurView | | Platinum | \$8,000.00 | \$5,600.00 | 08/01/16 - 07/31/19 | 3 | \$5,600.00 |
| Multimodality Software (Legacy) | 9-3B030607 | Platinum | \$4,000.00 | \$2,800.00 | 08/01/16 - 07/31/19 | 3 | \$8,400.00 |
| DigitalNow DMax | CL3410 | Gold | \$17,000.00 | \$11,900.00 | 08/01/16 - 07/31/19 | 3 | \$35,700.00 |
| Agfa AXYS Printer | 7690 | Gold | \$9,500.00 | \$6,650.00 | 08/01/16 - 07/31/19 | 3 | \$19,950.00 |
| List Total | | | | | | | \$483,150.00 |
| Total Discounts Applied | | | | | | | \$144,945.00 |
| Discounted Total: | | | | | | | \$338,205.00 |

| Payment Start Date | Payment Frequency | # of Payments | Payment |
|--------------------|-------------------|---------------|--------------|
| 08/01/2016 | Annual | 1 | \$112,735.00 |
| 08/01/2017 | Annual | 1 | \$112,735.00 |
| 08/01/2018 | Annual | 1 | \$112,735.00 |
| Contingency funds | | | \$1,795.00 |
| Total: | | | \$340,000.00 |

All invoices will be approved by the Director of Radiology services or their designee and paid within 45 days of receipt of the invoice.

Invoices

All invoices must be emailed to the following email address:

SMMC-Accounts-Payable@smcgov.org

Processing time may be delayed if invoices are not submitted electronically.

Contractor is not entitled to payment for work not performed as specified in this Agreement.

Exhibit C

Field Service Labor Rates 2016: Breast Health Division

| Product Lines Covered | Product Name |
|---|--|
| Digital Mammography | Selenia® Dimensions® 2D/3D, and Selenia mammography systems, SecurView® workstations, Cenova® server (ImageChecker® CAD, Quantra™ software), Acquisition Workstation Manager , Trident™ specimen radiography system, MIMS™ image management solutions, SecurXchange® router & archives, LS Wide-feeder and DMax Scanners |
| Screen Film & Interventional Mammography | M-IV mammography system, Affinity, Multicare® Platinum, DSM™, Affirm™ and StereoLoc® biopsy systems |
| Ultrasound | Aixplorer® ultrasound system |
| MRI | Sentinel™ Breast MRI, Aegis® Software, Opera, C-Scan |
| Digital Radiography | Epex, Radex, Symphony, DR1000C |

Labor & Travel Time Rates 2016

Priced per hour. Minimum charge of 2 hours
(1 hour Labor + 1 hour Travel Time)

| Visits | Hours | Rates |
|---|-----------------|------------------|
| Labor Weekdays | 8:00am – 5:00pm | \$ 280.00 |
| Labor Evenings, and all day Saturday | | \$ 380.00 |
| Labor Sundays & Holidays | | \$ 480.00 |
| Travel Time Weekdays | 8:00am – 5:00pm | \$ 280.00 |
| Travel Time Evenings, and all day Saturday | | \$ 380.00 |
| Travel Time Sundays & Holidays | | \$ 480.00 |

| After Hour Rates for Customers with Silver, Gold or Platinum Service Agreement | Hours | Rates |
|---|--------------|------------------|
| Labor Evenings, and all day Saturday | | \$ 195.00 |
| Labor Sundays & Holidays | | \$ 250.00 |
| Travel Time Evenings, and all day Saturday | | \$ 195.00 |
| Travel Time Sundays & Holidays | | \$ 250.00 |

Standard Move / Preventive Maintenance Pricing 2016

All services below are completed during regular Hologic business hours. Additional charges will apply for after hour or weekend requests.

| Relocation | |
|--|-------------|
| Internal facility system move (Mammography Systems) | \$ 3,900.00 |
| System facility move with truck transportation (Mammography Systems) | \$ 5,650.00 |
| All other equipment moves priced on a move-by-move basis | Call |
| Inter-state system relocation in the continental US | Call |
| Expedited move additional cost | \$ 500.00 |

Note: Prices assume no special mounting requirements are needed and equipment can be moved easily through and out of the facility. Special accommodations may require additional charges.

| Preventive Maintenance ("PM") | |
|--|-------------|
| Mammography System | \$ 2,600.00 |
| Additional charge for STL II or Affirm | \$ 500.00 |
| MRI Breast Imaging | \$ 1,00.00 |
| Aixplorer Ultrasound | \$ 1,00.00 |
| Digital Rad PM | \$ 3,380.00 |
| Esaote Opera/ C-Scan MRI | \$ 2,600.00 |
| Scanning Platform DMax, DM, LS/LX/DX | \$ 1,00.00 |
| SecurView Workstation, Manager | \$ 600.00 |

Note: Parts and labor to install replacement parts are at an additional charge to the PM.

| Other Services | |
|--|-------------|
| On-site inspection/PM of trade-in or used system to be sold by end user. Parts additional. | \$ 3,120.00 |
| Return of leased system with on-site inspection/PM | \$ 3,120.00 |

Note: Moving expenses and crating materials not included in cost.

EXHIBIT E

CORPORATE COMPLIANCE SMMC CODE OF CONDUCT (THIRD PARTIES)

The person/entity listed below (the "Undersigned") recognizes and is fully dedicated to advancing SMMC's commitment to full compliance with all Federal, State, and other governmental health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements.

The Undersigned will comply with all Federal, State or other governmental health care program requirements and with applicable SMMC's policies and procedures relating to SMMC's Corporate Compliance Program, including the requirements set forth in the Corporate Integrity Agreement (CIA) to which SMMC is a party (available online at http://oig.hhs.gov/fraud/cia/agreements/the_county_of_san_mateo_03062009.pdf).

The Undersigned, to the extent its contractual duties require it to submit the reports covered in this paragraph, will promptly submit accurate information for Federal health care cost reports including, but not limited to, the requirement to submit accurate information regarding acute available bed count for Disproportionate Share Hospital (DSH) payment.

The Undersigned will report to the SMMC Compliance Officer any suspected violation of any Federal health care program requirements or of SMMC's Compliance Program policies and procedures.

The Undersigned has the right to use the SMMC Disclosure Program by calling the Compliance Hotline or reporting incidents to the Compliance Officer. SMMC is committed to non-retaliation and will maintain, as appropriate, confidentiality and anonymity with respect to such disclosures.

The Undersigned understands that non-compliance with Federal health care program requirements and SMMC's Compliance Program policies and procedures, and failing to report such violations, could result in termination of the Agreement and/or any other penalties permitted by law.

The Undersigned is responsible for acquiring sufficient knowledge to recognize potential compliance issues applicable to the duties outlined in the Agreement and for appropriately seeking advice regarding such issues.

The Undersigned will not offer, give or accept any bribe, payment, gift, or thing of value to any person or entity with whom SMMC has or is seeking any business or regulatory relationship in relation to said business or regulatory relationship (other than payments authorized by law under such relationships). The Undersigned will promptly report the offering or receipt of such gifts to the SMMC Compliance Officer.

The Undersigned will not engage in any financial, business, or other activity which competes with SMMC/County business which may interfere or appear to interfere with the performance of the duties under the Agreement or that involve the use of SMMC/County property, facilities, or resources, except to the extent consistent with the SMMC/County Incompatible Activities and Outside Employment policy and the Agreement.

The Undersigned will cooperate fully and honestly with internal audits per the Agreement between San Mateo County Health System and Hologic, Inc. as well as County's reasonable requests for confirmation of compliance by Contractor with applicable state and federal regulations as they pertain to the Agreement.

***TO REPORT VIOLATIONS, CALL THE
COMPLIANCE HOT LINE: (800) 965-9775***

The Undersigned hereby certifies by signing below that an authorized representative has received this Code of Conduct, understands it, has authority to commit the Undersigned to this Code of Conduct, and hereby commits the Undersigned to comply with this Code of Conduct.

Hologic, Inc.
Name of Person/Entity (the "Undersigned")

Robert P. Desnoyers
Signature and Printed Name

7/21/2016
Date