

## NOTICE OF AND CONSENT TO USE OF EQUIPMENT

A. Pursuant to that certain Maui Regional Hospitals Transfer Agreement, dated as of January 14, 2016 (the "Transfer Agreement"), by and among MAUI HEALTH SYSTEM, A KAISER FOUNDATION HOSPITALS LLC ("MHS" also known as "MHSKFH"), KAISER FOUNDATION HOSPITALS, HAWAII HEALTH SYSTEMS CORPORATION ("HHSC"), THE MAUI REGION OF HAWAII HEALTH SYSTEMS CORPORATION ("MRHS"), and the STATE OF HAWAII (the "State" and collectively with HHSC and MRHS, the "Transferors"), the Transferors will transfer (the "Transfer") the operations of Maui Memorial Medical Center ("Maui Memorial"), Lanai Community Hospital and Kula Hospital & Clinic to MHS effective July 1, 2017 ("Transfer Completion Date");

B. Pursuant to the Transfer Agreement, HHSC and MHS have entered into a State of Hawaii Hospital Facilities Lease dated April 22, 2016 (the "Hospital Facilities Lease"), pursuant to which HHSC has agreed to lease certain hospital facilities, including the hospital facilities at Maui Memorial (the "Maui Memorial Facilities"), to MHS for operation commencing on the Transfer Completion Date;

C. HHSC, as Lessee, and Siemens Public, Inc. ("Siemens"), as Lessor, are subject to and bound by that certain Master Lease Purchase Agreement ("Master Lease Purchase Agreement"), dated December 30, 2010 and, with respect to equipment located at and used by Maui Memorial, the following leasing schedules, which are under and incorporate the terms and conditions of the Master Lease Purchase Agreement:

(i) that certain Leasing Schedule #358-0002469-001 dated July 8, 2014 ("Lease 1"), for (a) Outlook 100 ES general infusion pumps, (b) Sterrad 100 NX Plasma Sterilizer SPD, (c) Instrument Dryer for SPD, (d) Washer/Disinfector, SPD, (e) steam sterilizer for Prevac and Flash SPD, (f) eight (8) OR Tables, (g) 51 Phillips MMS multi-measurement modules upgraded, (h) new Security Cameras, and (i) VM Ware System, all as more fully described in Lease 1 and the requisition requests and Acceptance Certificate related thereto (collectively, the "Lease 1 Equipment"); and

(ii) that certain Leasing Schedule #298-0002398-001 dated September 23, 2013 ("Lease 2"), for: (a) certain electronic medical records systems, including software and licenses (the "EMR System") and other equipment as more fully described in Lease 2 and the requisition requests and any Acceptance Certificates related thereto (collectively, the "Lease 2 Equipment").

Lease 1 and Lease 2 are referred to herein collectively as the "Leasing Schedules," and the Lease 1 Equipment and the Lease 2 Equipment are referred to herein collectively as the "Equipment."

D. In connection with the Transfer, HHSC desires to (i) permit MHS to take possession of and use the Lease 1 Equipment, and MHS desires to possess and use the Lease 1 Equipment; (ii) permit MHS to use and have access to the EMR System, and MHS desires to use and access the EMR System; and (iii) relocate the remainder of the Lease 2 Equipment (the "Relocated Equipment");

E. The Equipment (other than the Relocated Equipment) is essential to MHS's ability to operate and manage Maui Memorial and it will use such Equipment for the purposes for which it was procured;

F. Pursuant to the Leasing Schedules, HHSC is required to obtain the consent of Siemens in order to relocate Equipment and in order to permit MHS to take possession of and use Equipment as described herein, and HHSC and Siemens are executing and delivering this Notice of and Consent to Use of Equipment in connection with such consent.

NOW, THEREFORE, in consideration of the mutual advantages and benefits accruing to the parties hereto, notice is hereby given, and the parties agree as follows:

1. Capitalized terms used herein and not defined shall have the meanings set forth in the Leasing Schedules.

2. Pursuant to Section 22 of the Master Lease Purchase Agreement, HHSC hereby notifies Siemens of its intent (i) to relocate the Relocated Equipment to other HHSC facilities not involved in the Transfer within 60 days of the Transfer Completion Date, and (ii) to permit MHS to possess and/or use the remaining Equipment (other than the Relocated Equipment) commencing on the Transfer Completion Date.

3. With respect to the Equipment and the Leasing Schedules, HHSC represents and warrants to Siemens as follows:

(i) It shall not do or cause to be done, or permit to be done, any act that will cause, or by omission of any act allow, the interest portion of the Lease Payments to be or become includable in Siemens' gross income for federal income taxation purposes under the Code.

(ii) The Transfer Agreement and the Hospital Facilities Lease (and the rights of MHS thereunder) do not conflict with the terms and conditions of the Leasing Schedules, do not render performance of such terms and condition by HHSC more difficult, and are and shall remain subject and subordinate to the Leasing Schedules and to the rights of Siemens under the Leasing Schedules. Without limiting the foregoing, upon the occurrence of a Default, Siemens shall be entitled to exercise its rights and remedies under the Leasing Schedules, including, without limitation, repossession of any Equipment, without liability to MHS.

(iii) No Default or event but for the passing of time or giving of notice or both which would constitute a Default under the Leasing Schedules has occurred and is continuing. Assuming consent by Siemens as set forth in this Notice and Consent, the representation set forth in the foregoing sentence will remain true after giving effect to the provisions of the Transfer Agreement and the Hospital Facilities Lease.

(iv) The Transfer Agreement and/or the Hospital Facilities Lease will not be amended or modified in any way that could adversely affect the tax-exempt status of the interest portion of the Lease Payments under Lease 1, or cause the Lease 1 Equipment to be used for a function other than permitted under Lease 1, and/or Siemens' rights and interests therein, without Siemens' prior written consent, which shall not be unreasonably withheld.

4. Based upon and in reliance on the representations, warranties and agreements of HHSC in this Notice and Consent, pursuant to Sections 13 of the Master Lease Purchase Agreement with respect to the Relocated Equipment and pursuant to Sections 18 of the Master Lease Purchase Agreement with respect to the possession and/or use by MHS of the remaining Equipment, and notwithstanding Sections 9(ix) and 11 of the Master Lease Purchase Agreement, Siemens hereby consents to the relocation of the Relocated Equipment and to MHS taking possession of and/or using the remaining Equipment as described above, subject to and upon the following terms and conditions:

(i) This consent shall not be deemed or construed to waive, modify, amend or rescind any of the terms, covenants and conditions of the Leasing Schedules or the obligations of HHSC thereunder.

(ii) This consent shall not be deemed or construed to authorize (1) use of the Equipment in a manner different than that contained in the Leasing Schedules or (2) any transfer of the Equipment or the Leasing Schedules to MHS.

(iii) The Relocated Equipment will be relocated to other HHSC facilities not involved in the Transfer within 60 days of the Transfer Completion Date.

(iv) HHSC will provide Siemens with the following information with respect to the Relocated Equipment within 60 days of the Transfer Completion Date (by August 30, 2017): (a) the cost and description of the Relocated Equipment; (b) the facility from which the Relocated Equipment will be removed; (c) the facility to which the Relocated Equipment will be moved; and (d) the date by which HHSC expects the relocation of the Relocated Equipment to occur.

5. In connection with this consent, HHSC shall deliver to Siemens:

(i) With respect to Lease 1, concurrently with this Notice and Consent (i) an opinion of nationally recognized bond counsel, in form and substance acceptable to Siemens, that the possession and use of the Lease 1 Equipment by MHS will not cause the interest portion of the Lease Payments under Lease 1 to be includible in Siemens' gross income for federal income tax purposes; and (ii) federal tax certificates of HHSC and Kaiser Foundation Hospitals ("KFH") utilized to render the tax opinion with respect to Lease 1 and MHS's possession and use of the Lease 1 Equipment. Additionally, HHSC shall deliver to Siemens a copy of the executed IRS Form 8038 by or before August 15, 2017.

(ii) With respect to Lease 2, within 60 days of the Transfer Completion Date (by August 30, 2017) (i) an opinion of nationally recognized bond counsel, in form and substance acceptable to Siemens, that the use of the EMR System by MHS will not cause the interest portion of the Lease Payments under Lease 2 to be includible in Siemens' gross income for federal income tax purposes (the "Tax Opinion"); (ii) federal tax certificates of HHSC and KFH required to render the Tax Opinion, if applicable, with respect to Lease 2; and (iii) an executed copy of IRS Form 8038 (if applicable).

6. In the event HHSC does not provide the Tax Opinion and related documentation within 60 days of the Transfer Completion Date, the Lease Payments with respect to Lease 2 shall be recalculated for the remaining term of Lease 2 to protect Siemens' originally anticipated after tax yield from the Lease Commencement Date to the end of the Maximum Lease Term as permitted in Section 5 of the Master Lease Purchase Agreement. Such recalculations shall be on the basis that the interest portion of the Lease Payments with respect to Lease 2 is subject to (a) federal income tax at the highest marginal corporate tax rate, and (b) state and local income tax at the highest marginal corporate tax rate or other similar tax rate as may be applicable.

7. HHSC shall be and remain liable for the payments of all rents and for the full and prompt performance of all obligations under the Leasing Schedules and HHSC hereby reaffirms its continued liability under the Leasing Schedules from and after the Transfer Completion Date.

8. Based upon and in reliance on the representations, warranties and agreements of HHSC and subject to the conditions set forth in this Notice and Consent, Siemens hereby acknowledges and agrees that all of the conditions required by the Leasing Schedules with regard to the relocation of the Relocated Equipment and the possession and/or use of the remaining Equipment by MHS have been or will be satisfied or waived, and that the relocation of the Relocated Equipment and the Hospital Facilities Lease and the possession and/or use of the remaining Equipment by MHS as described above will not in and of itself cause a "Default" under the Leasing Schedules.

*[signatures pages to follow.]*

The parties to this Notice of and Consent to Use of Equipment have caused these presents to be executed as of this 30<sup>th</sup> day of June, 2017.

**HAWAII HEALTH SYSTEMS CORPORATION**

By: 

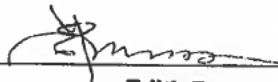
Name: Edward M. Chu

Title: Chief Financial Officer

*[signatures continued on next page]*

Siemens, in accordance with Sections 13, 18 and 22 of the Master Lease Purchase Agreement, hereby acknowledges receipt of this Notice of and Consent to Use of Equipment, and Siemens consents as described above.

**SIEMENS PUBLIC, INC.**

By:   
Name: **Edith Fraser**  
Title: **Vice President**

By: *Michele Greene-Mitchell*  
Name: **Michele Greene-Mitchell**  
Title: **Vice President**