

Service Terms and Conditions

1. **SCOPE:** These Service Terms and Conditions for equipment services apply to the services described on Beckman Coulter's ("BC") quotation ("Quotation") ("Services"). By accepting the Quotation for Services, unless modified by a written agreement between the parties, Customer (identified in the Quotation) agrees to these terms and conditions (which, along with the Quotation and any attachments incorporated by reference, is the "Agreement"). Any terms or conditions on a purchase order or any other documents issued by Customer relating to the Services will be null and void. The Agreement is effective on the earlier of Customer's written acceptance, or commencement of performance of the Services, whichever is earlier. In the event of a conflict between the terms of the Quotation and these Service Terms and Conditions, the terms of the Quotation will prevail to the extent of the inconsistency.
2. **SERVICES:** BC agrees to provide Services to Customer during its normal business hours (Monday through Friday, 9:00 am to 5:00 pm, excluding Saturdays, Sundays, and public holidays). BC may agree to furnish any services and parts outside of its normal business hours and/or the scope of this Agreement, subject to charges as agreed between the parties. Unless expressly provided in this Agreement, BC does not make any guarantee regarding specific response times.
3. **PAYMENT:** Payment terms are thirty (30) days from the date of invoice. Failure by the Customer to make full payment of the invoice by the due date and/or failure to start service coverage in a timely manner may lead to increase in pricing payable by the Customer. In the event that the Customer fails to pay an invoice by the due date, BC will be entitled to charge the Customer a late fee and interest on all amounts due at the rate of 1.5% per month. Despite anything to the contrary in this section, BC may require the Customer to pay all or some of the price in advance of providing Services. If the Customer fails to make advance payment when requested to do so or the Customer become delinquent in the payment of any sum due to BC (whether or not related to the Agreement), BC may cancel the Agreement or refuse to provide further Services and declare immediately due and payable all unpaid amounts for Services previously provided to the Customer. The Customer agree to pay all collection costs, including but not limited to reasonable attorneys' fees and expenses BC incurs as a result of the Customer's failure to pay as provided in this section.
4. **TERMINATION:** In relation to fixed term service agreement, this Agreement shall remain in force for the applicable Services period. Either party may terminate this Agreement upon thirty (30) days' prior written notice to the other party. Any service performed prior to the effective date of this Agreement or performed subsequent to the expiration or termination of this Agreement, will be billed at the then current time and materials rate.
5. **CANCELLATION/PRORATION SCHEDULE:** In relation to fixed term service agreement, in the event that the Agreement is terminated prior to the end of the applicable Services period, BC may retain the greater of the following:
 - (a) fifteen percent (15%) of the annual service price for each month, or part of a month that BC provides services; or
 - (b) an amount equal to the actual services rendered.

Any balance will be returned to the Customer.
6. **EQUIPMENT AVAILABILITY:** BC and Customer will set a mutually agreeable date and time for each service visit. Customer agrees to make applicable equipment and facilities available for servicing at the time of Services.
7. **EQUIPMENT ELIGIBILITY:** In the event that there has been a gap of BC Services coverage for any equipment for a period greater than thirty (30) days, such equipment may be subject to inspection, certification, and up-front preventative maintenance, at Customer's expense, to ensure that such equipment meets BC's standards for maintenance and support. BC, at its sole discretion, shall determine equipment eligibility for service.

8. REPLACEMENT PARTS: BC, at its sole discretion, will determine if replacement parts are required at the Customer's costs and reserves the right to use refurbished material or parts for repairs of equipment under this Agreement. Consumables and reagents are not eligible for replacement under this Agreement. All replacement parts will be furnished on an exchange basis and the parts so removed on replacement becomes the property of BC (exchange refers to one-for-one replacement).
9. PRODUCT IMPROVEMENTS: BC, at its sole discretion, may issue, routinely without schedule or commitment, software updates, software upgrades and hardware upgrades necessary to maintain the function of the equipment. Certain software upgrades and hardware upgrades may be at additional cost and/or may require Customer to purchase additional equipment or hardware.
10. EXCLUSIONS: The following services, including but not limited to, are excluded:
 - (a) Pre-installation work such as electrical or environmental work external to the instrument;
 - (b) Installation, moving, decontamination, de-installation or re-installation of covered equipment;
 - (c) Consumable or expendable supplies required for the operation of the equipment such as printer paper, ink cartridges, magnetic stirrers, gel, cleaning kits, o-rings, peri-pump tubing's, program diskettes, filter, tubing's, fittings, connectors, electrodes, membranes, reagents, calibrators and controls, etc.;
 - (d) Replacement of expendable operating supplies. Installation of supply items will be performed without charges if the service representative is present for regular service reasons. A regular service charge will be applied if a specific call is requested for the purpose of installing supply items;
 - (e) Uninterruptible power systems, line conditioners, water or air systems and consumable items;
 - (f) Additional application services post go-live;
 - (g) Laboratory Information Systems consultation or troubleshooting;
 - (h) Services for third-party manufactured products such as computers, workstations, and servers that are no longer supported by their original manufacturers;
 - (i) Support due to lack of proper IT environment to run the current version of software or lack of IT environment which meets the minimum requirements specified by BC to Customer and/or set out in the operator's manual for the equipment ;
 - (j) Labour, parts and expenses necessary to repair damage due to or destruction of equipment resulting from:
 - (i) fire, explosion of any origin, flood, riot, civil commotion, war or any act of God including but not limited to lightning, windstorm, flood, earthquake, etc.;
 - (ii) the use of contaminated fluids or chemicals not intended for use in the covered equipment;
 - (iii) misuse, abuse, negligence, negligent operation or care, failure to complete operator required maintenance, or improper storage of such equipment;
 - (iv) moving or re-installation;
 - (v) installation of unauthorized field modifications;
 - (vi) changes in power lines specifications;
 - (vii) the use of parts, supply items, accessories, reagents, or unauthorized modifications not manufactured or sold by BC;
 - (viii) repair by persons other than personnel authorized by BC, unless such repair by others is made with the written consent of BC; and
 - (ix) environmental conditions outside the equipment's operating range, such as temperature, humidity, space, and electrical supply;
 - (k) Operator's routine maintenance as specified in the equipment operation manual;
 - (l) Interpretation of data and performance problems related to the use of non-BC or user-defined supplies;
 - (m) Certification of instruments and pipetting heads;
 - (n) Service on Holidays, unless a 24/7 coverage is provided in this Agreement; and
 - (o) Services which are not expressly mentioned in this Agreement.

11. **SERVICES WARRANTY:** BC warrants that the Services will be performed in a workmanlike manner and that the parts supplied hereunder shall conform to BC's specifications. Services, including repair parts, shall be warranted for a period of ninety (90) days from the original service date or the original installation date for the relevant repair part, as applicable. For the avoidance of doubt, warranty period does not renew upon provision of a replacement of repair parts and/or re-performance of services. THE WARRANTIES IN THIS SECTION ARE PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. BC DISCLAIMS ALL OTHER WARRANTIES INCLUDING BUT NOT LIMITED TO, ANY WARRANTY ABOUT THE MERCHANTABILITY OF THE PRODUCTS, INFRINGEMENT OR THEIR FITNESS FOR A PARTICULAR PURPOSE, AND NONE SHALL BE CREATED, WHETHER PURSUANT TO THE COMMERCIAL OR CIVIL CODE, CUSTOM, PRACTICE, THE COURSE OF DEALING BETWEEN THE PARTIES, OR OTHERWISE. THIS WARRANTY SHALL NOT BE ALTERED BY THE WARRANTY OF ANY OTHER PRODUCTS OR SYSTEMS TO WHICH THE SYSTEM OR PRODUCT MAY BE CONNECTED OR WHICH MAY BE SUPPLIED BY BC UNDER THIS OR ANY OTHER AGREEMENT. BC's sole liability under the foregoing warranty is to reservice the equipment and/or repair or replace the defective part or, at BC's discretion, return the sum paid for such services.
12. **DE-IDENTIFICATION OF PERSONAL DATA:** The parties acknowledge that BC would not require access to any Personal Data, including patients' Personal Data, at any time in performance of its obligations herein. Where applicable, in the event any data is required to remedy technical issues and/or performance of the products sold hereunder ("Permitted Purposes"), the Customer agrees that prior to providing or granting access to such data to BC, the Customer shall be responsible to ensure all Personal Data in such data, if any, are De-Identified and Coded to ensure that the identity of the individual to whom the data pertains is not identifiable to and is not traceable by the BC and/or BC's Personnel. The Customer further represents that it has established policies and procedures in place to prevent the release of individuals' Personal Data and is responsible for informing and ensuring its employees to comply with the Customer's obligations in this section. The Customer shall indemnify BC and its affiliates against any and all claims, losses or damages arising from or related to non-compliance of this section.

For the purpose of this section,

- (a) "Personal Data" means any information relating to an identified or identifiable natural person;
 - (b) "De-Identified" means the identity of the individuals is not known to and ensure data is not traceable by BC and/or BC's Personnel;
 - (c) "Coded" means that a number, letter, symbol, or combination thereof (i.e. the code) has replaced identifying individual information (such as name or national registered identification number); and
 - (d) "BC's Personnel" means employees, agent and/or contractor of BC associated with the performance of its obligations herein.
13. **INDEMNITY:** The Customer agrees to indemnify and save BC harmless from and against any claims, demands, suits and expenses by reason of injury or death of any person(s) or damage to any property, except as excluded hereafter; attributable to the gross negligent acts or gross negligent omissions of BC, its agents or employees while on the premises of the Customer and arising out of Services provided. In no case shall BC be liable for damages to third parties, resulting directly or indirectly from the BC's performance of the Services under the Agreement.
14. **LIMITATION OF WARRANTY:** The Customer will be responsible for, and BC's service and warranty obligations under the Agreement will not apply to, including but not limited to, repairs, replacements or claims resulting from:
- (a) the Customer's failure to properly perform the service and maintenance required in the operator's manual for the equipment;
 - (b) repairs or relocation of the equipment by persons other than those authorized by BC;
 - (c) replacements with parts, components and materials not supplied by BC;
 - (d) misuse, abuse, negligence, negligent operation of or improper storage of any product;

- (e) alterations, modifications, disassembly, repair or tampering by any person other than BC's authorized service personnel unless repair by others is made with the written consent of BC;
- (f) using unauthorized non-BC brand accessories, reagents, calibrators, consumable or supplies with the equipment;
- (g) environmental conditions outside the recommended range of the product, such as electrical supply, temperature, or humidity; or
- (h) other factors beyond BC's control, such as fire, explosion or flood.

Representations and warranties made by any representatives, salespersons, or agents of BC, which are inconsistent or in conflict with or in addition to the terms of the Agreement, will not be binding upon BC unless reduced to writing and approved by an expressly authorized officer of BC.

15. **LIMITATION OF LIABILITY:** BC's total liability to the Customer under the Agreement will be limited to direct money damages not to exceed the amount paid by the Customer under the Agreement. This liability limit is cumulative and all damages paid to the Customer under the Agreement will be aggregated in calculating the satisfaction of BC's liability limit. BC will have no liability to the Customer or any third parties for any special, indirect, incidental, consequential, exemplary or penal loss or damage of any nature whatsoever (including but not limited to loss of profit, loss of use, loss of data, loss of business opportunity, revenue or goodwill), even if BC was advised of the possibility of such damages and whether or not such damages were foreseeable including but not limited any liability of the Customer to any other person, or injury or harm whether on a contractual, tortious (including but not limited to negligence) or statutory basis or otherwise. BC will have no legal or other liability or responsibility arising from any third parties' injury or damage, to persons or property, occurring during use of equipment or following repair or service of the relevant equipment. No action arising out of the Agreement may be brought by the Customer more than one year after the date the cause of action accrued.
16. **FORCE MAJEURE:** BC is not responsible for the following:
 - (a) failure to fulfill its obligations under this Agreement from causes beyond its control including but not limited to the act of God, lockouts, strikes, fire, riots, tempest, pandemic;
 - (b) replacement of any equipment (identified under this Agreement) which BC reasonably deems to be unrepairable including but not limited to any accidents to machinery, ware, non-availability of materials or default by any manufacturer for or sub-contractor to BC; and
 - (c) inability to obtain material required upon reasonable prices or term.
17. **WORKER'S COMPENSATIONS:** BC agrees to maintain Worker's Compensation insurance as may be required by law covering its employees who perform the Services.
18. **CONFIDENTIALITY:** This Agreement and any material transmitted herewith may contain information confidential or proprietary to either party, its subsidiaries or affiliates ("Confidential Information") and such information is not to be used by the receiving party other than the purpose for which it was transmitted by the disclosing party. Each party shall:
 - (a) hold such information in strictest confidence and not disclose such information to third parties without prior, written consent of the disclosing party; and
 - (b) not collect, access, retain use or share the Confidential Information other than for performance of the Services under the Agreement.
19. **GOVERNING LAW:** This Agreement is entered into and shall be governed and construed by the laws of the country and local geographic designation in which BC's main place of business is located, without reference to the conflicts of law provisions. Each party expressly waives its rights to trial by jury.
20. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; however, the Customer may not assign any part of this Agreement without the express prior written consent of BC.

21. COUNTERPARTS: This Agreement may be executed by the parties hereto in several counterparts, each of which shall be an original, and all of which shall constitute together but one and the same agreement.
22. SEVERABILITY: The invalidity or unenforceability of any part of the present Terms and Conditions and of any agreement between the parties which refers thereto shall not affect the validity of the remaining terms and conditions thereof.
23. COMPLETE AGREEMENT: This Agreement constitutes the entire understanding and agreement between BC and Customer concerning the subject matter hereof and supersedes all prior or contemporaneous negotiations.
24. ALTERATIONS: No alterations, additions or deletion to these Service Terms and Conditions shall be valid or enforceable at law unless set forth in writing and agreed by both parties.
25. NOTICES: Any notice or communication required or permitted hereunder shall be in writing and shall be deemed received 3 days after being sent via registered mail with return receipt requested, by overnight mail, by courier, by first-class mail, postage prepaid, or via email (with evidence of receipt required) at the addresses specified herein for the respective parties or at such other address as either party may from time to time designate to the other in writing.
26. RETURNED GOOD POLICY: BC's Returned Material Authorization policy shall apply to any approved returned equipment or parts.
27. INTERNET ACCESS AND REMOTE SUPPORT: Where applicable, Customer shall maintain and provide network or other Internet access to the applicable Equipment for the proper functioning of the Equipment. Where a remote service management software or system, including diagnostics and other services for the Equipment, including PROService and BeckmanConnect, is included as part of equipment Services, Customer must provide and maintain network or other Internet access to the Equipment so BC can remotely access the Equipment. BC retains ownership of any equipment BC provides for remote diagnostics and services capability. BC may, at its sole discretion, change the features and services of PROService, BeckmanConnect and other remote services at any time without prior notice to Customer. Customer shall be responsible for providing network connection to access the Internet and maintaining responsibility for Internet service and security wherein BC shall have no liability whatsoever for and/or arising from, any outages, internet speed reduction, capacity constraints or other deficiencies affecting the same.