



Post-Warranty Service Terms and Conditions

These Post-Warranty Service Terms and Conditions, together with the accompanying quote for post-warranty service (the “Quote”) delivered by Leica Biosystems Division of Leica Microsystems Inc. (“Leica”) to the customer named on the Quote (“Customer”), form an agreement (the “Agreement”) between Leica and Customer, as follows:

1. Scope of Services.

1.1. Coverage. Leica will provide the post-warranty services described in the Quote (the “Services”) for the equipment, consumables, software, and other items identified therein (the “Products”).

1.2. Hours. Leica will perform the Services Monday to Friday, 8:00 a.m. to 5:00 p.m. Customer local time, excluding Leica-observed holidays. For an additional charge, Leica will make after-hours support available upon request.

1.3. Standards. Leica will perform the Services in a professional manner consistent with industry standards. All Services, including replacement parts, will be warranted for ninety (90) days from completion or through the end of the Agreement term specified in the Quote, whichever is longer.

1.4. Recalls. In the event of a Product recall, Leica will implement a commercially reasonable response consistent with industry practice to ensure Customer is placed in the same or better position.

1.5. Exclusions. Leica’s Service obligations will not apply to defects or damage arising from (a) misuse, neglect, improper handling or storage, or unauthorized servicing, maintenance, or modifications, (b) failure to maintain appropriate site conditions, power supply, or environmental controls, (c) extraordinary events beyond Leica’s reasonable control, (d) use of a Product with non-approved or unsupported hardware, software, or consumables, or (e) failure to follow Leica’s operating instructions or recommended maintenance procedures. If Leica reasonably determines that a Product cannot be restored to manufacturer specifications despite Leica’s commercially reasonable efforts, Leica and Customer will work in good faith to identify alternative solutions, which may include removing the Product from the Agreement, providing a prorated refund of fees paid for such Product, and/or exploring replacement or upgrade options.

1.6. Excellence. To help ensure that Customer receives timely and excellent Service, prior to Service visits, Customer will (a) inform Leica of any known hazardous conditions at Customer’s facility and mitigate the conditions prior to the applicable Service appointment, and (b) ensure an authorized representative of Customer will be available at the time of the applicable Service appointment to provide Leica with access to Customer’s facility and the Products scheduled to be serviced and confirm Service completion at the end of the appointment.

2. Use. Customer will (a) use the Products in accordance with the applicable user manuals and/or instructions for use, (b) perform routine user maintenance, (c) schedule annual preventive maintenance, (d) promptly report malfunctions, (e) maintain data backups and current antivirus protection, (f) if applicable, grant Leica access to provide remote support, and (g) notify Leica prior to Product relocations.

3. Fees and Payments. The fees set forth in the Quote will be firm for the Agreement term specified in the Quote. Customer payments will be due within thirty (30) days of invoice.

4. Confidentiality. The Services may entail the disclosure of confidential or proprietary information.

In each such instance, the party receiving the information agrees (a) to use such information solely for the purpose of fulfilling its obligations under this Agreement, (b) to maintain the confidentiality of such information with the same level of care it uses to protect its own confidential information, but no less than reasonable care, and (c) not to disclose such information to third parties (other than affiliates) without the prior written consent of the disclosing party.

5. Indemnification and Liability.

5.1. Indemnification. Each party will defend, indemnify, and hold the other harmless from and against third-party claims arising from such party's gross negligence or willful misconduct.

5.2. No Special and/or Indirect Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR OTHER SPECIAL DAMAGES.

5.3. Limitation of Liability. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EACH PARTY'S MAXIMUM LIABILITY TO THE OTHER UNDER THIS AGREEMENT WILL NOT EXCEED THE TOTAL AMOUNT PAID OR PAYABLE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

6. Miscellaneous.

6.1. Termination. Either party may terminate this Agreement for a material breach that remains uncured for sixty (60) days after written notice by the non-breaching party.

6.2. Force Majeure. Neither party will be liable to the other for delays (other than payment delays) due to causes beyond its reasonable control.

6.3. Governing Law. This Agreement is governed by the laws of the state of Customer's address, as specified in the Quote, or Delaware if Customer's address is in Louisiana.

6.4. Notices. Notices will be sent by certified mail, overnight courier with signature required, or email (confirmation of receipt required). Notices from Leica to Customer will be sent to the Customer address specified in the Quote. Notices from Customer to Leica will be sent to Leica Biosystems Division of Leica Microsystems Inc., 21440 W. Lake Cook Road, Floor 5, Deer Park, IL 60010.

6.5. Independent Contractors. The parties are independent contractors. Neither party is a partner, agent, joint-venturer, or employee of the other. Neither party has authority to bind the other or to incur obligations on the other's behalf.

6.6. Waiver. No waiver will be effective unless in writing. Waiver of one breach will not constitute waiver of other breaches.

6.7. Assignment. Other than to affiliates, neither party may assign this Agreement without the other party's written consent.

6.8. Entire Agreement. This Agreement is the entire understanding between Customer and Leica and supersedes all prior verbal or written agreements regarding its subject matter. Leica may acknowledge an order from Customer, but any and all terms, conditions, or provisions contained in or accompanying such order will have no legal effect.