

# STANDARD SERVICE TERMS AND CONDITIONS

**PAYMENT:** Payment shall be made by "Customer" (meaning the person or entity identified on the face of this Agreement) to Beckman Coulter, Inc. ("BCI") within thirty (30) days of the date of invoice unless otherwise specified on the invoice. Charges for services not covered by this Agreement will be invoiced separately at the time of occurrence and at the prevailing rates for travel, expenses, parts, and labor.

**TERMS AND TERMINATIONS:** Once accepted by BCI ("Acceptance Date"), this Agreement shall remain in force for the period recorded on the face hereof. Either party may terminate this Agreement upon thirty (30) days' written notice to the other party. Any service performed prior to the Acceptance 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.

**PRORATION SCHEDULE:** Fifteen percent (15%) of the annual agreement price for each month or part of a month the Agreement is in force or the actual services rendered, whichever is higher, will be retained by BCI in case this Agreement is cancelled prior to its expiration date; any balance will be returned to the customer. On an IBA, pro-ration is based on actual services rendered at list price. If PM is completed a minimum of 50% will be retained.

**EQUIPMENT AVAILABILITY:** Customer agrees to make the instruments covered under the Agreement available for servicing at the time of each scheduled preventive maintenance or emergency service call. The BCI Service Representative will contact Customer to set a mutually agreeable date and time, for each service visit.

**COSTS INCLUDED:** The prices in this Agreement include the cost of labor, travel, and parts, provided that the service is performed during the hours covered in the service plan purchased, e.g., Business Hours Service plan. All on-site service, regardless of the service plan purchased, is provided during regular business hours, unless otherwise agreed by BCI and subject to availability of BCI service personnel. In order to obtain on-site service on the same day as requested, subject to availability of BCI service personnel, customer must submit its request for service before 3 p.m. local time. All on-site service requests submitted after 3 p.m. local time will require a purchase order from customer unless Total 24x7 Service plan is purchased.

**EXCLUDED SERVICES:** BCI shall not be obligated to provide services under this Agreement for:

- A. Damage to instruments resulting from (i) fire, explosion, flood, or the use of contaminated fluids or chemicals not intended for use in the covered instrument, (ii) Customer's misuse or abuse of such instrument(s), or (iii) the use of parts, supply items, accessories, reagents, or unauthorized modifications not manufactured or sold by BCI, or (iv) repair by persons other than personnel authorized by BCI, unless such repair by others is made with the written consent of BCI, or (v) environmental conditions outside the instrument's operating range, such as temperature, humidity, space, and electrical supply.
- B. The moving, decontamination, de-install or re-install of covered instrument(s).
- C. Uninterruptible power systems or line conditioners.
- D. Laboratory Information Systems ("LIS") consultation or troubleshooting. Such LIS service may be provided for a flat fee; or

E. National Holidays, unless a Total 24x7 Service plan is purchased.

**WARRANTY:** BCI warrants that the services to be performed hereunder shall conform to BCI's standards and that the parts supplied hereunder shall conform to BCI's specifications. THIS WARRANTY IS GIVEN EXPRESSLY AND IN PLACE OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, STATUTORY OR OTHERWISE AND IS THE ONLY WARRANTY GIVEN BY BCI. Customer agrees that there are no undertakings, agreements, or representations expressed or implied, not specified in this Agreement and this instrument contains the entire agreement between the parties. BCI's sole liability under the foregoing warranty is to reservice the instrument(s) and/or repair or replace the defective part or, at BCI's option, return of the sum paid for such services.

**INDEMNITY AND WAIVER:** BCI agrees to indemnify and save harmless the Customer from and against any and all claims, demands, suits and expenses by reason of injury or death of any person(s) or damage to any property (except as excluded hereafter) solely and directly attributable to the negligent acts or negligent omissions of BCI, its agents or employees while on the premises of the Customer and arising out of services provided herein. Customer expressly waives any and all claims against BCI (regardless of cause) for all loss or damage resulting from any peril customarily insured under primary and extended coverage insurance policies and for all consequential damages due to loss of profit, loss of goodwill or interruption and/or loss of business or any other cause whatever.

**CAUSES BEYOND CONTROL:** BCI is not responsible for failure to fulfill its obligations under this Agreement from causes beyond its control.

**WORKER'S COMPENSATIONS:** BCI agrees to maintain Worker's Compensation insurance as may be required by law covering its employees who perform the services.

**GOVERNING LAW:** This Agreement is entered into and shall be governed and construed by the laws of the State of California, without reference to the conflicts of law provisions.

**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 written consent of BCI.

**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.

**OWNERSHIP OF PARTS:** All parts, for which BCI has supplied a replacement, shall become the property of BCI.

**PRO SERVICE:** Service probes remain the property of BCI. BCI may, at its sole discretion, change the features and services of Pro Service at any time. Customer is responsible for providing network connection to access the Internet and maintaining responsibility for Internet service and security.