BECKMAN COULTER LIFE SCIENCES
US TERMS AND CONDITIONS FOR TIME AND MATERIALS SERVICES

These **TERMS AND CONDITIONS FOR TIME AND MATERIALS SERVICES** ("**Terms and Conditions**") apply to the purchase of Services (defined below) in the attached Beckman Coulter Life Sciences Quotation, incorporated by reference, entered into by and between the customer identified in the Quote ("**Customer,**" **"you,"** or **"your**") and Beckman Coulter, Inc. ("**Beckman Coulter**"), each a "**Party**" and together, the "**Parties**." By accepting the Quote or otherwise engaging Beckman Coulter to provide the Services, Customer agrees to these Terms and Conditions, which together with the Quote, and any attachments or documents incorporated by reference, constitute the entire agreement between the Parties (collectively, the "**Agreement**").

1. DEFINITIONS. As used in this Agreement, the following terms have the following meanings:

"**Equipment"** or "**Instrument(s)**" means collectively the instrument(s), hardware, system(s), accessor(ies), or other equipment, which are covered by the Services under this Agreement.

"**Quotation"** or **"Quote**" means the proposal for Services issued by Beckman Coulter, and accepted by Customer, which sets forth the Services to be provided by under this Agreement.

"**Service(s)**" means collectively the technical assistance, remote support and diagnostics, on-site service and repair, preventative maintenance, remedial maintenance, parts replacement, relocation, installation, qualification, calibration, certification, emergency services, training, and such other services as may be provided by Beckman Coulter as specified in the Quote to Customer under this Agreement.

2. SERVICES. Your Quote identifies the Services purchased, covered Equipment (as identified by its serial number), and pricing. Beckman Coulter will perform the Services identified in your Quote in accordance with the Quote and these Terms and Conditions. Customer acknowledges and agrees that Customer is responsible for ensuring that the person requesting Services is authorized to contract for Services on behalf of Customer.

3. TECHNICAL AND REMOTE DIAGNOSTIC SUPPORT. (a) If Beckman Coulter provides remote management software, diagnostics or other remote services for your Equipment, including PROService or BeckmanConnect™, you must maintain and provide network or other Internet access to the Equipment so Beckman Coulter can remotely access the Equipment. (b) You further acknowledge and agree that: (i) you are responsible for maintaining Internet service and security; (ii) service probes remain the property of Beckman Coulter; (iii) Beckman Coulter retains ownership of any other equipment, diagnostics, or technology that Beckman Coulter provides or uses for remote diagnostics and services capability; and (iv) Beckman Coulter may, at its sole discretion, change the features and services of remote diagnostic and repair services, software and/or equipment, including PROService and BeckmanConnect™, at any time.

4. EQUIPMENT AVAILABILITY. (a) A Beckman Coulter Service Representative will contact Customer to set a mutually agreed date and time to perform the Services under this Agreement. (b) Customer acknowledges and agrees: (i) to make the Equipment available to Beckman Coulter at such scheduled time to perform the Services; (ii) the Equipment may not be available for use during such scheduled service call(s); and (iii) Beckman Coulter shall not be liable for such Equipment downtime.

5. WARRANTY. Beckman Coulter warrants that the Services performed hereunder shall be performed in a workmanlike manner and conform to Beckman Coulter's standards and that the parts supplied hereunder shall conform to Beckman Coulter's specifications. Beckman Coulter warrants that the Services provided hereunder will be free from defects in workmanship for a period of thirty (30) days from the original date of Service and that any parts it provides will be free from defects in material and workmanship for a period of ninety (90) days from the original date of installation and/or Service. Customer acknowledges and agrees that the foregoing warranty periods do not renew upon reperformance of Services or the replacement or repair of parts. 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 BECKMAN COULTER. CUSTOMER AGREES THAT THERE ARE NO UNDERTAKINGS, AGREEMENTS, OR REPRESENTATIONS EXPRESSED OR IMPLIED, NOT SPECIFIED IN THIS AGREEMENT AND THAT THIS INSTRUMENT CONTAINS THE ENTIRE AGREEMENT BETWEEN THE PARTIES. BECKMAN COULTER'S SOLE LIABILITY AND RESPONSIBILITY UNDER THE FOREGOING WARRANTY IS TO RESERVICE THE EQUIPMENT OR INSTRUMENT(S) AND/OR REPAIR OR REPLACE THE DEFECTIVE PART OR, AT BECKMAN COULTER'S OPTION, RETURN TO CUSTOMER THE SUM PAID FOR SUCH DEFECTIVE PART OR SERVICES.

6. PRICING. The prices for Services under this Agreement are set forth in the Quote. Unless otherwise provided in the Quote, Beckman Coulter will perform the Services under this Agreement at Beckman Coulter's then-current time-and-materials rates and pricing (including without limitation, for labor, travel, parts and materials).

7. PAYMENT TERMS; COLLECTION COSTS. Payment for Services shall be made by Customer to Beckman Coulter within thirty (30) days of the date of invoice unless otherwise specified on the invoice. If Customer fails to pay an invoice by the due date, Beckman Coulter will be entitled to charge Customer, and Customer agrees to pay, a late fee and interest on all amounts past due at the rate of the lesser of 1½% per month or the maximum legal interest rate. Customer agrees to pay all collection costs, including without limitation, reasonable attorneys' fees and expenses Beckman Coulter incurs as a result of Customer's delay or failure to pay as provided in this section.

8. INDEMNITY AND WAIVER. (a) Beckman Coulter agrees to indemnify and save harmless 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 ("Claims") to the extent (except as excluded hereafter) solely and directly attributable to the negligent acts or negligent omissions of Beckman Coulter, its agents or employees while on the premises of Customer and arising out of the Services provided herein. (b) Customer agrees to indemnify and save harmless Beckman Coulter from any and all Claims, for Customer's misuse of Equipment contrary to documentation, specifications or instructions, or Customer's breach of this Agreement, to the

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extent (except as excluded hereunder) solely and directly attributable to the negligent acts or negligent omissions of Customer or its employees or agents. To the extent permitted by applicable law, and each Party's insurance policies, each Party expressly waives any and all claims against the other Party (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 whatsoever.

9. LIMITATION OF LIABILITY.

A. EXCEPT FOR BREACH OF CONFIDENTIALITY, NEITHER PARTY WILL HAVE ANY LIABILTY TO THE OTHER PARTY, OR ANY THIRD PARTY, FOR ANY SPECIAL, INDIRECT, INCIDENTIAL, CONSEQUENTIAL, EXEMPLARY OR PENALTY LOSSES OR DAMAGES OF ANY NATURE WHATSOEVER (INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF GOODWIL OR INTERRUPTION AND/OR LOSS OF BUSINESS, LOSS OF RESEARCH, OR LOSS OF USE), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES WERE FORESEEABLE.

B. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EXCEPT FOR BREACH OF CONFIDENTIALITY AND BECKMAN COULTER'S INDEMNITY OBLIGATIONS UNDER SECTION 8, BECKMAN COULTER'S TOTAL LIABILITY TO CUSTOMER UNDER THIS AGREEMENT IS LIMITED TO DIRECT MONEY DAMAGES NOT TO EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER UNDER THE APPLICABLE QUOTE.

10. CONFIDENTIALITY AND NON-DISCLOSURE. (a) In consideration for Customer granting Beckman Coulter access to Customer's premises to carry out the Service obligations set forth in this Agreement, Beckman Coulter agrees to: (1) hold in confidence any Confidential Information (defined below) that may be incidentally disclosed to Beckman Coulter's employees or observed by Beckman Coulter's employees in the course of accessing Customer's premises; (2) use the Confidential Information only in connection with carrying out the intent of this Agreement; and (3) use the same level of care to prohibit disclosure of the Confidential Information and prohibit the unauthorized use of the Confidential Information as Beckman Coulter uses to protect its own confidential information, but in no event less than reasonable care. Beckman Coulter's confidentiality and non-disclosure obligations do not apply to Confidential Information that: (A) at the time of disclosure by Customer to Beckman Coulter is generally available to the public or in the public domain; (B) after disclosure by Customer to Beckman Coulter, becomes generally available to the public or part of the public domain by publication or otherwise, except by breach of this Agreement by Beckman Coulter; (C) Beckman Coulter can establish by reasonable proof was in its possession at the time of disclosure by Customer or is independently derived by Beckman Coulter or its affiliates without use of or access to the Confidential Information; (D) Beckman Coulter or its affiliated companies receives from a third party having the right to disclose such Confidential Information to Beckman Coulter or such affiliated company and who does not require same to be maintained confidential; (E) is transmitted to Beckman Coulter after Customer has received written notice from Beckman Coulter that Beckman Coulter does not desire to receive further Confidential Information; or (F) is required to be disclosed in compliance with applicable law or regulations or by order of a court or other body of competent jurisdiction, provided that Beckman Coulter gives Customer prompt notice prior to such disclosure. (b) Beckman Coulter's confidentiality and non-disclosure obligations under this Agreement will survive for five (5) years from the effective date of the Quote under this Agreement. (c) "**Confidential Information**" means all information, regardless of the format to which it has been reduced and including oral communications, passing from Customer to Beckman Coulter relating to Customer's business, including but not limited to, drawings, know how, techniques, source and object codes, business and marketing plans, projections, arrangements and agreements with third parties, customer information, customer information proprietary to customers, formulae, customer lists, concepts not reduced to material forms, designs, plans, models, software packages and equipment.

11. DATA PROTECTION. (a) Customer and Beckman Coulter shall comply with data protection laws applicable to their respective processing of personal data under this Agreement. "**Personal Data**" is any information that can be (i) used to identify directly or indirectly an individual or (ii) reasonably expected to link to an individual. (b) Where Beckman Coulter may process Personal Data stored in Equipment when performing Services, the following provisions shall apply: (i) Customer has the sole and exclusive authority to determine the purposes and means of the processing of Personal Data by Beckman Coulter. Beckman Coulter shall process such Personal Data only for the purposes of providing Services in accordance with Customer's instructions; (ii) Customer shall endeavor to limit the disclosure of Personal Data to Beckman Coulter to that which is reasonably necessary for Beckman Coulter to perform Services; and (iii) Beckman Coulter shall keep Personal Data confidential and shall implement technical and organizational measures to protect it against accidental unlawful or unauthorized destruction, loss, alteration, disclosure or access.

(c) Prior to returning any Equipment to Beckman Coulter, Customer shall decontaminate it and ensure that all Personal Data that is stored in such Equipment is deleted. Customer acknowledges that, in any case, all data and settings stored in the returned Equipment may be deleted by Beckman Coulter. In the execution of this Agreement, the Parties acknowledge that each of them shall process Personal Data of respective personnel and/or their representatives involved in the performance or administration of the Agreement or in response to any applicable regulatory authority request. Personal Data shared between the Parties shall be kept secure by the recipient in compliance with this Agreement and applicable data protection laws, including reference to Personal Data transferred outside of the jurisdiction in which it was collected. Both Parties act independently with respect to Personal Data of their personnel and/or their representatives and should inform these individuals that their Personal Data will be shared with the other Party for the purposes of exercising this Agreement. This Agreement shall not constitute data processing by one Party on behalf of the other Party.

(d) If a Party proposes the transfer, sharing or other processing of Personal Data that is not contemplated by this Agreement, the Parties shall, prior to such transfer, sharing or other processing, determine and document the Parties' respective roles with regard to that Personal Data in order to identify and facilitate compliance of their respective obligations under applicable data protection laws. The Parties may enter into further agreements with respect to this activity, if applicable.

12. OWNERSHIP OF PARTS. All parts, replaced or exchanged by Beckman Coulter in connection with a Service, shall, automatically upon removal, become the sole property of Beckman Coulter.

13. CAUSES BEYOND CONTROL. Beckman Coulter is not responsible for delay or failure to fulfill its obligations under this Agreement from causes beyond its control.

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14. WORKER'S COMPENSATION. Beckman Coulter agrees to maintain worker's compensation insurance as may be required by law covering its employees who perform the Services.

15. 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, Customer may not assign any part of this Agreement without the express written consent of Beckman Coulter.

16. ENTIRE AGREEMENT. These Terms and Conditions, together with the Quote and any attachments or documents referred to and incorporated by reference, constitute the entire understanding and agreement between Customer and Beckman Coulter concerning the subject matter hereof and supersede all prior or contemporaneous negotiations, whether written or oral. Any terms or conditions on a purchase order, order acknowledgment, or any Customer document relating to the Services is null and void.

17. NOTICES. All notices under this Agreement shall be directed to the receiving Party: (a) if to Customer, to Customer's address set forth in the applicable Quotation and (b) if to Beckman Coulter, to the addresses set forth below. Notices shall be deemed duly given when delivered in writing by: (i) personal delivery; (ii) a nationally recognized overnight courier service; (iii) registered or certified mail, postage prepaid, return receipt requested; or (iv) electronic mail (with evidence of receipt).

If to Beckman Coulter:
Beckman Coulter, Inc.
5350 Lakeview Parkway South Drive
Indianapolis, IN 46268
Attention: Service Operations

With a Copy to:
Beckman Coulter, Inc.
5350 Lakeview Parkway South Drive
Indianapolis, IN 46268
Attention: Legal Department

18. MODIFICATIONS; SURVIVAL. No modifications, alterations or changes to the terms of this Agreement are valid or enforceable unless set forth in writing and signed by both Parties. All provisions of this Agreement, including without limitation, disclaimers of warranties, indemnification, limitations of liability, payment obligations, confidentiality, and any other terms that either expressly or by their nature are intended to survive, shall survive any termination of this Agreement and continue in full force and effect.

19. GOVERNING LAW. This Agreement is entered into and shall be governed and construed by the laws of the state in which Customer is principally located.

20. ORDER OF PRECEDENCE. In the event of a conflict between any provision in these Terms and Conditions and any term or condition in the Quote, including any attachments or documents forming part of the Agreement, then the following order of precedence shall control to the extent of such inconsistency: these Terms and Conditions, the Quote and its attachment(s), and other document(s) incorporated by reference.

21. COUNTERPARTS. Execution of the applicable Quote by a Party shall be deemed execution of such Party to this Agreement in its entirety, including these Terms and Conditions and any documents incorporated by reference. No separate signature to these Terms and Conditions shall be required for the Agreement to be binding. Execution of the Quote, whether manually or electronically, shall be deemed execution of this Agreement by the executing party, and may be executed by the Parties hereto counterparts, each of which shall be an original and all of which shall constitute together but one and the same Agreement.

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