

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

70-680

SAP Number

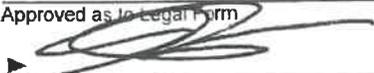
Arrowhead Regional Medical Center

| | |
|------------------------------------|---|
| Department Contract Representative | William L. Gilbert |
| Telephone Number | (909) 580-6150 |
| | |
| Contractor | Devicor Medical Products, Inc. dba Mammotome |
| Contractor Representative | |
| Telephone Number | |
| Contract Term | September 11, 2020 through September 10, 2023 |
| Original Contract Amount | \$10,560.00 |
| Amendment Amount | |
| Total Contract Amount | \$10,560.00 |
| Cost Center | |

Briefly describe the general nature of the contract:

Service agreement with Devicor Medical Products, Inc. dba Mammotome for maintenance of their biopsy medical equipment in the amount of \$10,560 for the three-year term of September 11, 2020 through September 10, 2023.

FOR COUNTY USE ONLY

Approved as to Legal Form

 Charles Phan, Deputy County Counsel
 Date 8/3/2020

Reviewed for Contract Compliance

 Date _____

Reviewed/Approved by Department

 William L. Gilbert, Director
 Date 8/4/2020

Mammotome

MAMMOTOME SERVICE PLAN AGREEMENT

| Account Information | |
|---|---|
| Customer Information: | Account Number: 1383569 |
| | Customer Name: County of San Bernardino, on behalf of Arrowhead Regional Medical Center |
| | Shipping Address: 400 N. Pepper Ave |
| | City: Colton State: CA Zip: 92324 |
| | Customer Contact : Shannon Cundieff, Radiology Manager |
| | Phone #: 909-580-1572 Email: CundieffS@amc.sbcounty.gov |
| Customer Representative: | Shannon Cundieff, Radiology Manager |
| Equipment Location Address: | Arrowhead Regional Medical Center, 400 N. Pepper Ave, Colton, CA 92324 |
| Effective Date of Service Plan: | 9/11/2020 |
| Service Plan Agreement Term: | 36 months |
| Mammotome Representative Name and Contact Information: | Biopsy Sales Specialst: Mike Gonzales / 626.513.1980 / mike.gonzales@mammotome.com |

This Mammotome Service Plan Agreement ("Agreement") by and between Devicor Medical Products, Inc. ("Mammotome") and Customer is effective as of the Effective Date written above. The products with serial numbers listed below are eligible for coverage under this Agreement. This Agreement will provide repair coverage on the products in accordance with the Mammotome Master Service Plan Terms and Conditions attached hereto and incorporated herein as Exhibit A. This Agreement provides coverage for the products during a period of time ("Coverage Period") extending from the Service Start Date until the Service End Date listed below.

| Product Description | Service Agreement Product Code | QTY | Serial Number | Annual Price | Service Start Date | Service End Date |
|---|--------------------------------|-----|---------------|--------------------|--------------------|------------------|
| 9MHUSH1_MC36 | MHUSH1 | 1 | MHUSH1001109 | \$880.00 | 9/11/2020 | 9/10/2023 |
| 9MSCM1_MC36 | MSCM1 | 1 | MSCM1000167 | \$2640.00 | 9/11/2020 | 9/10/2023 |
| | | | | \$ | | |
| | | | | \$ | | |
| | | | | \$ | | |
| | | | | \$ | | |
| | | | | \$ | | |
| | | | | \$ | | |
| Total | | | | \$10,560.00 | | |
| Pricing below includes: | | | | | | |
| <input type="checkbox"/> 12 Month Fee: | | | | | | |
| <input type="checkbox"/> 24 Month Fee: Additional savings of \$ | | | | | | |
| <input checked="" type="checkbox"/> 36 Month Fee: \$10,560 Additional savings of \$ | | | | | | |
| <input type="checkbox"/> 48 Month Fee: Additional savings of \$ | | | | | | |

Note: The replacement of either the spool or cable on the MRH1 MR Holster is not covered by this Agreement. Spool replacement costs \$1,931.44 and cable replacement costs \$5,678.33.

SERVICE PLAN HIGHLIGHTS:

- Unlimited technical support by calling 1-877-926-2666, option 3, between the hours of 8:30am and 5:30pm EST.
- Repair or replacement (at the option of Mammotome) of the equipment including any shipping costs and next day shipment of loaner equipment.

TOTAL SERVICE PLAN COST DURING COVERAGE PERIOD: \$ 10,560.00

This Agreement may be executed in two (2) or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each party has signed a counterpart. Each party agrees that the delivery of this Agreement by facsimile or electronically shall have the same force and effect as the delivery of original signatures. Signature below confirms Customer agrees with all provisions of this Agreement, including the attached Mammotome Service Plan Terms and Conditions.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representative as of the Effective Date set forth above.

COUNTY OF SAN BERNARDINO ON
BEHALF OF ARROWHEAD
REGIONAL MEDICAL CENTER

DEVICOR MEDICAL PRODUCTS, INC.

Curt Hagman

Joshua Saltzgaver

Print Name

Print Name

Signature

Signature

Chairman, Board of Supervisors

Director of Service

Title

Title

AUG 25 2020

8/2/20

Date

Date

**SIGNED AND CERTIFIED THAT A COPY OF
THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD
LYNNA MONELL
Clerk of the Board of Supervisors
of the County of San Bernardino**

By



Deputy

John C. Clark

Print Name

Signature

VP Sales

Title

8/3/2020

Date



Mammotome Master Service Plan Terms and Conditions (US Customers)

These Mammotome Master Service Plan Terms and Conditions ("Terms") apply to the Service Plan of the Mammotome Equipment between Devicor Medical Products, Inc. ("Mammotome") and Customer during the Coverage Period provided in the Agreement. Mammotome and Customer may hereinafter be referred to individually as a "Party" and collectively as the "Parties." The Parties agree as follows:

1. **Acceptance.** The Service Plan shall not become effective unless it is accepted in writing by Mammotome. The Service Plan may not be modified or amended except as approved in writing by Mammotome and may only be renewed after the expiration of the initial Coverage Period by written agreement of Mammotome. Mammotome shall have no obligation to renew the Service Plan.

2. **Pricing/Payment.** Customer agrees to pay Mammotome at the cost set forth in the Agreement. Payment terms are net thirty(30) days. If Customer believes that an invoice contains any errors, it must notify Mammotome's customer service department no later than 30 days after the date of the invoice if it wishes to have those errors rectified. Mammotome shall not be obligated to perform any Service during any period when Customer payment is past due.

3. **Service and Coverage.** During the Coverage Period described in the Agreement, as well as during any renewal Coverage Period, Mammotome will, at no additional charge, provide all parts and labor for repairing malfunction of a product listed in Table 1, provide use of a replacement product ("Loaner") while product is repaired, and pay freight charges to and from Customer associated with shipping the Loaner and the product repaired. Loaners must be returned to Mammotome within one (1) week of receiving the repaired product to avoid additional charges. Replacement parts may be new or rebuilt to perform as new. For Product Support and shipping instructions, please call 1-877-926-2666, Option 3 between the hours of 8:30 AM – 5:30 PM EST.

4. **Limitations.** The Service Plan does not cover: (a) preventative maintenance; (b) circumstances beyond Mammotome's reasonable control (such as but not limited to overriding, bypassing or defeating interlock switches); (c) rebuilding or reconditioning of equipment; (d) misuse or abuse; (e) failure to follow Mammotome's operating instructions; (f) damage from fire, water, electrical surge, or other peril originating outside the Product; (g) repairs by anyone other than an authorized Mammotome representative; or (h) supply items.

THE SERVICE DESCRIBED IN THESE TERMS AND CONDITIONS ARE MAMMOTOME'S ONLY OBLIGATION UNDER THIS SERVICE PLAN AS IT RELATES TO MAMMOTOME'S PRODUCT REPAIR AND REPLACEMENT OBLIGATIONS. MAMMOTOME SHALL NOT BE RESPONSIBLE FOR ANY DELAY IN SHIPPING, OR ANY IMPROPER USE OF THE PRODUCT OR LOANER (OR IT'S SOFTWARE) BY CUSTOMER. MAMMOTOME SHALL NOT BE RESPONSIBLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM THIS SERVICE PLAN, INCLUDING PURCHASER'S USE OF THE PRODUCT OR ANY LOANER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, DOWNTIME COSTS, LOSS OF USE OF THE PRODUCT, OR COSTS OF SUBSTITUTE EQUIPMENT, FACILITIES, OR SERVICES.

5. **Assignment.** The Service Plan is not transferable or assignable from the Customer without Mammotome's prior written consent. Mammotome may assign the Service Plan without Customer's consent, to the extent such assignment is due to operation of law, corporate reorganization, consolidation, merger or sale of all of its assets, provided that Mammotome provides Customer at least 60 days' notice prior to the assignment.

6. **Cancellation by Mammotome.** The Service Plan may be cancelled by Mammotome with thirty (30) days prior written notice for any reason, at any time. Mammotome will provide written notice of such cancellation, which notification shall be effective when transmitted by mail, email, or fax. Should Mammotome wish to cancel, Mammotome will refund Customer a pro-rated amount refund of the price paid for the Service Plan.

7. **Cancellation by Customer** – This agreement can be cancelled by Customer at any time, for any reason, by mailing or delivering to Mammotome's Customer Service Center a written notice of cancellation. If Customer cancels within the first ninety (90) days of the initial Coverage Period Service Start Date, Customer will be charged a handling fee of \$50 and will receive a prorated amount refund of the price paid for the Service Plan, provided there has been no service performed on the equipment covered by this Service Agreement. No refunds are provided for cancellations more than ninety (90) days after the initial Coverage Period Service Start Date.

8. **Product Modifications.** Mammotome reserves the right to make changes to Products built and/or sold by us at any time. Mammotome shall have no obligation to make the same or similar changes on Products previously built and/or sold, including without limitation products repaired under this Service Plan.

9. **Representations and Warranties.** Mammotome represents and warrants that the services performed by Mammotome shall be performed in a professional manner, with due care, consistent with industry practices and in a diligent, workmanlike, and reasonably expeditious manner and in accordance with all applicable laws.

10. **Force Majeure.** Mammotome will not be liable for its failure to perform, or any delay in performance, due to strikes, fire, explosion, flood, riot, lock out, injunction, interruption of transportation, unavoidable accidents, acts of government or a public enemy, terrorism, or any other causes beyond its control.

11. **Insurance.** Mammotome will secure and maintain throughout the term of the Service Plan the following types of insurance with limits as shown:

- a. **Workers' Compensation/Employer's Liability** – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of Mammotome and all risks to such persons.
- b. **Commercial/General Liability Insurance** – Mammotome shall carry General Liability Insurance covering all operations performed providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
 1. Premises operations and mobile equipment.
 2. Products and completed operations.
 3. Broad form property damage (including completed operations).
 4. Personal injury.
 5. Contractual liability.
 6. \$2,000,000 general aggregate limit.

c. **Automobile Liability Insurance** – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

All policies, except for Worker's Compensation policies shall contain additional endorsements naming Customer and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the Customer to vicarious liability but shall allow coverage for the Customer to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85. Mammotome shall require the carriers of required coverages to waive all rights of subrogation against the Customer, its officers, employees, agents, volunteers, contractors and subcontractors. All general

or auto liability insurance coverage provided shall not prohibit Mammotome and its employees or agents from waiving the right of subrogation prior to a loss or claim. Mammotome waives all rights of subrogation against the Customer.

12. **Indemnification.** Mammotome agrees to indemnify, defend (with counsel reasonably approved by Customer) and hold harmless Customer and its authorized officers, employees, agents and volunteers from any and all third-party claims, actions, losses, damages and/or liability arising out of breach of this Agreement, including the acts, errors or omissions on behalf of Mammotome and for any costs or expenses incurred by the Customer on account of any claim except where such indemnification is prohibited by law. Mammotome's indemnification obligation applies to the Customer's "active" as well as "passive" negligence but does not apply to the Customer's "sole negligence" or "willful misconduct" within the meaning of California Civil Code section 2782.

13. **Notices.** Any notice or communication required or permitted hereunder, will be in writing and sent by first class mail, postage prepaid, to the Parties at the following addresses. Either Party may modify its notice address by providing written notice to the other Party.

To Mammotome:

Devicor Medical Products, Inc.
Attn: Service Department
300 E-Business Way, Fifth Floor
Cincinnati, Ohio 45241

To Customer:

Arrowhead Regional Medical Center
400 N. Pepper Avenue
Colton, CA 92324
Attention: Hospital Director

With a Copy to:

Devicor Medical Products, Inc.
Attn: Legal Department
300 E-Business Way, Fifth Floor
Cincinnati, Ohio 45241

14. **Debarment and Suspension.** Mammotome certifies that neither it nor its principals or subcontractors is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Mammotome further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

15. **Licenses, Permits and/or Certifications.** Mammotome shall ensure that it has all necessary licenses, permits and/or certifications required by Federal, State, County, and municipal laws, ordinances, rules and regulations. Mammotome shall maintain these licenses, permits and/or certifications in effect for the duration of the Agreement. Mammotome will notify Customer immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of the Agreement.