



Contract Number

22-832

SAP Number

## Sheriff/Coroner/Public Administrator

<b>Department Contract Representative</b>	Kelly Welty, Chief Deputy Director
<b>Telephone Number</b>	(909) 387-0640
<b>Contractor</b>	Life Technologies Corporation
<b>Contractor Representative</b>	Dan Rosenfeld
<b>Telephone Number</b>	1-800-955-6288
<b>Contract Term</b>	11/1/2022 – 10/31/2025
<b>Original Contract Amount</b>	\$948,328
<b>Amendment Amount</b>	-----
<b>Total Contract Amount</b>	\$948,328
<b>Cost Center</b>	4430001000

### Briefly describe the general nature of the contract:

Agreement with Life Technologies Corporation, including non-standard terms, for the provision of laboratory equipment consumables for the period of November 1, 2022 through October 31, 2025.

#### FOR COUNTY USE ONLY

Approved as to Legal Form

Richard D. Luczak, Deputy County Counsel

Date 8/31/2022

Reviewed for Contract Compliance

Date

Reviewed/Approved by Department

Kelly Welty, Chief Deputy Director of Sheriff's Administration

Date 8/31/22



# SERVICE AGREEMENT QUOTATION

Life Technologies Corporation  
North American Sales and Service  
Attn: Service Contract Administration  
Mailstop: PLE C-1  
5781 Van Allen Way  
Carlsbad, CA 92008  
Tel: 1-800-955-6288, option 3,2  
Fax: 1-925-426-2051  
Email: Service.Sales@LifeTech.com

TO Lorraine Heath  
San Bernardino County Sheriffs Dept  
200 S Lena Rd  
SAN BERNARDINO CA 92415

QUOTE NO. 40626109  
ORIGINAL QUOTATION DATE 04/12/2022  
REVISION DATE 04/12/2022  
EFFECTIVE 11/01/2022 TO 10/31/2025  
PAGE 1 OF 6  
QUOTE VALID TO 10/31/2022

TELEPHONE: 909-387-9913  
FAX:  
YOUR REFERENCE:

Customer PO No.

This agreement is entered into between Life Technologies and the undersigned Customer in consideration of the payments provided for in this Agreement. Subject to the terms and conditions of this Agreement, Life Technologies agrees to perform the services set forth on the attachment to this Agreement on the equipment listed below for the period described.

ITEM NO.	QTY.	EQUIPMENT DESCRIPTION/ EFFECTIVE DATES/ NOTES	SERIAL NUMBER	COVERAGE	EXTENDED PRICE USD
0060	1	3500 Genetic Analyzer Begin Date: 11/01/2022 End Date: 10/31/2023	(25183-020)	AB Assurance 1PM	\$ 10,972.50
0070	1	3500 Genetic Analyzer Begin Date: 11/01/2022 End Date: 10/31/2023	(25177-040)	AB Assurance 1PM	\$ 10,972.50
0080	1	7500 Real Time PCR System Begin Date: 11/01/2022 End Date: 10/31/2023	(275002779)	AB Assurance 1PM	\$ 6,982.50
0090	1	7500 Real Time PCR System Begin Date: 11/01/2022 End Date: 10/31/2023	(275006400)	AB Assurance 1PM	\$ 6,982.50
100	1	7500 Real Time PCR System Begin Date: 11/01/2022 End Date: 10/31/2023	(275006877)	AB Assurance 1PM	\$ 6,982.50

Terms of payment are net 30 days from invoice date. This quotation is subject to the terms and conditions attached. Stenographical and clerical errors on the face of this form are subject to correction.  
NOTE: Customer is responsible for applicable taxes, including sales, use and/or excise tax.

PLEASE SIGN THIS SERVICE AGREEMENT QUOTATION AND RETURN A COPY ALONG WITH YOUR PURCHASE ORDER.

ACCEPTED BY CUSTOMER

Signature of authorized person

Curt Hagman, Chairman, Board of Supervisors

Please print name and title

Date

SEP 13 2022

Dan Rosenfeld

Service Sales Representative

Bencze

04/12/2022

Prepared by

Date

NOTICE OF CONFIDENTIALITY~ The contents of this quotation including but not limited to pricing and services information are confidential to Life Technologies and/or its affiliate(s). This quote and its contents are intended only for the customer named in this quote not for distribution to any third party.

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0110	1	3500 Genetic Analyzer Begin Date: 11/01/2023 End Date: 10/31/2024	(25183-020)	AB Assurance 1PM	\$ 10,972.50
0120	1	3500 Genetic Analyzer Begin Date: 11/01/2023 End Date: 10/31/2024	(25177-040)	AB Assurance 1PM	\$ 10,972.50
0130	1	7500 Real Time PCR System Begin Date: 11/01/2023 End Date: 10/31/2024	(275002779)	AB Assurance 1PM	\$ 6,982.50
0140	1	7500 Real Time PCR System Begin Date: 11/01/2023 End Date: 10/31/2024	(275006400)	AB Assurance 1PM	\$ 6,982.50
0150	1	7500 Real Time PCR System Begin Date: 11/01/2023 End Date: 10/31/2024	(275006877)	AB Assurance 1PM	\$ 6,982.50
0160	1	3500 Genetic Analyzer Begin Date: 11/01/2024 End Date: 10/31/2025	(25183-020)	AB Assurance 1PM	\$ 10,972.50
0170	1	3500 Genetic Analyzer Begin Date: 11/01/2024 End Date: 10/31/2025	(25177-040)	AB Assurance 1PM	\$ 10,972.50
0180	1	7500 Real Time PCR System Begin Date: 11/01/2024 End Date: 10/31/2025	(275002779)	AB Assurance 1PM	\$ 6,982.50
0190	1	7500 Real Time PCR System Begin Date: 11/01/2024 End Date: 10/31/2025	(275006400)	AB Assurance 1PM	\$ 6,982.50
0200	1	7500 Real Time PCR System Begin Date: 11/01/2024 End Date: 10/31/2025		AB Assurance 1PM	\$ 6,982.50

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

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Price includes a discount of 5.00%.

Total net price: \$ 128,677.50

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<p>Contract Notes:</p> <p>Your current agreement will expire on 10/31/2022.</p> <p>Previous purchase order no. .</p> <p>*****</p> <p>Quoted price is valid only if the purchase order is received on or before the quotation valid-to date.</p> <p>*****</p> <p>Lock in today's service contract price for 2 or more years, if applicable.</p> <p>*****</p> <p>To expedite your order, the signed service agreement and purchase order may be emailed to service.sales@lifetech.com.</p> <p>Please issue the purchase order to Life Technologies and include the following:</p> <p>-Quotation number -Billing address -Instrument(s) location</p> <p>-Payment is due 30 days from invoice date. -Applicable taxes are extra. -Billing Frequency for multiyear agreements is upfront in full, or annual in advance</p> <p>NOTE: If you submit PO's through a B2B system, please include this Quote # in the comments section to ensure proper processing.</p> <p>*****</p> <p>Please contact your Sales Representative for more information:</p> <p>Daniel Rosenfeld direct tel: 760-271-0363 direct email: Daniel.Rosenfeld@Thermofisher.com Team tel: 1-800-955-6288, option 3 then option 3</p> <p>*****</p>					

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### Terms of Life Technologies Service Plans North America

The Life Service Agreement Terms and Conditions set forth below after the Plan description(s) are incorporated into and are an integral part of each Service Plan, and are agreed to by you as part of any Service Plan ordered.

#### AB Assurance Plan

- Parts, labor and travel for remedial repair.
- No charge for planned maintenance visits. The number of planned maintenance visits is indicated in LT's quotation (A).  
The annual planned maintenance (PM) visit is automatically opened and will be performed within the contract period.  
Should you have an immediate need to request and/or schedule your PM, please contact our Instrument Care Center at 800-955-6288 option 3,1 or email them at InstrumentServices@Lifetech.com to schedule. This PM visit ensures optimal performance of your instrument, often preventing major breakdowns before they happen.
- Guaranteed priority response time of 2 business days after receipt of a service call for instruments located in LT's Service Zones 1 and Zone 2. If LT fails to arrive at the instrument location within Zone 1 or Zone 2 within 2 business days for reasons other than customer's failure to provide access to LT or causes beyond the reasonable control of LT, LT will provide customer a service plan renewal credit in an amount equivalent to one day's pro-rated charge for each day LT's response is late. (See footnote (B) for call time cut off, other details, and terms and conditions).
- Target response time of 3 business days for remedial repairs outside of Zones 1 and 2. LT will use reasonable efforts to respond within 3 business days from receipt of a service call.
- Priority telephone and email access to instrument technical support.
- Telephone and email access to application technical support.
- Remote Monitoring and Dx Service, which provides for notification to customer of instrument failures or errors that are reported by AB's Remote Monitoring software.

#### Important Notes and Footnotes

It is customer's responsibility to provide access to LT so LT may complete service, planned maintenance, Installation Performance Verification, and other service calls within the plan period. Calls not completed within a plan period will be cancelled unless LT failed to make reasonable efforts to complete the call within the plan period.

(A) Planned maintenance visits are intended to minimize the need for service calls. LT may perform more than the number of planned maintenance visits indicated in LT's quotation, at LT's discretion. Customer will not be charged for any planned maintenance visits made during the plan period, except for visits that are in addition to the number indicated in LT's quotation that are requested by customer.

(B) A service call must be received by LT's service center before 2:00 PM local time (U.S.A. Eastern, Central, Mountain, or Pacific time) for priority response time service. Each late day's pro-rated credit is an amount equal to 1/365th of the annual fee for the service plan covering the instrument with respect to which the service call was made. If a service plan covers more than one instrument, the pro-rata credit is determined by allocating a pro-rata portion of the plan's annual fee to the instrument with respect to which the service call was made. The credit may be used by customer when renewing its current service plan covering that instrument for a consecutive period, as a credit against plan fees. To be eligible to use the credit, LT's Service Plan Administrator must receive notice in writing (e-mail notification is satisfactory) of the customer's intention to use the credit for a renewal at the time of renewal, but in any event no later than fifteen (15) days after the expiration of the service plan period in which the credit was earned. The credit described above is LT's sole obligation and customer's sole remedy for failure of LT to respond to a service call within one business day for the LT Complete Plan and LT Uptime Plan and two business days for the LT Assurance Plan. The address of LT's Service Plan Administrator is Life Technologies Service Plan Administrator, 6065 Sunol Blvd Pleasanton, CA 94566 (e-mail: Service.Sales@LifeTech.com).

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This quotation, and Life's **INSTRUMENT SERVICES TERMS and CONDITIONS** (which are incorporated by reference into this quotation and any resulting contract), set out the terms on which Life is offering to sell the service(s) listed in this quotation. By issuing a purchase order or otherwise ordering or accepting services, you expressly confirm that you intend to be bound by and agree to the terms of this quotation and Life's Instrument Services Terms and Conditions to the exclusion of all other terms not expressly agreed to in writing by an authorized representative of Life, and that the purchase and sale transaction between you and Life is subject to and will be governed by this quotation and Life's Instrument Services Terms and Conditions.

If you have any questions, please visit our website at [www.lifetechnologies.com](http://www.lifetechnologies.com).

*\*Notwithstanding anything to the contrary within this quotation, the Instrument Services Terms and Conditions which apply to this quotation are the terms and conditions negotiated and mutually agreed to dated July 12, 2022, attached hereto and incorporated by reference.*

Life Technologies Corporation

By: **KL**  
 7/12/2022



## Instrument Services Terms and Conditions

Effective Date: July 12, 2022

These terms and conditions apply to instrument services purchased from Life Technologies Corporation (“we” “us” or “our”). If you purchase instrument services from other Thermo Fisher Scientific entities, different terms and conditions may apply. If you have any questions about our quotation, our ordering process, or what terms and conditions apply to your order, please call Customer Services at 1 800 955 6288.

As used in this document, “you” and “your” refer to our Instrument Services customer that appears on the Instrument Services quotation and/or any final Service Plan documents.

### 1. Contract Terms.

1.1. General Terms. These are the contract terms and conditions under which we sell, and/or provide, our Instrument Services to you (“Service Terms”), unless (i) we specifically designate other terms to apply to a specific service; or (ii) if you and we have entered into a valid, active, written agreement that expressly provides that its terms supersede and replace these Service Terms with respect to the services covered by the other agreement. Any additional or different terms and conditions that you may provide to us, are material alterations and we reject them. These Service Terms collectively with any quotation provided by us constitute the “Agreement.” Our offer to sell and/or perform Instrument Services is expressly limited to the terms of the Agreement. By ordering or requesting Instrument Services from us, you agree to accept and be bound by these Service Terms. The Agreement is the complete and exclusive contract between us with respect to your purchase of, or request for, Instrument Services.

1.2. Terms Conflict. If any conditions within the Agreement documents conflict with each other, we will give them the following order of precedence with the document listed first being given a higher order of priority: these Service Terms, the quotation, and, if you are buying a Service Plan, the service level description of the Service Plan.

1.3. When Agreement takes Effect. The Agreement between us is created when we accept your order or request, either by sending a written confirmation or by initiating performance of the Instrument Services.

### 2. Service Offerings.

2.1. Service Offerings. We offer repair, maintenance, relocation, recertification, training, qualification, and technical and application support services for your instruments and devices (collectively, “Instrument Services”).

2.2. Manufacturer Warranty Services. Some of our Instrument Services are provided as part of the limited instrument manufacturer warranty we offer you when you purchase our instrument.

2.3. Service Plans. We also provide post-manufacturer warranty maintenance and repair Instrument Services called “Service Plans”. Descriptions of our Service Plans are available at <http://www.thermofisher.com/instrumentservices>.

2.4. Where we Perform Services. We perform most Instrument Services in your lab, but we may perform some Instrument Services for smaller instruments at one of our facilities.

### 3. Price.

3.1. Determining Price. For Instrument Services you purchase, the price is shown in our quotation to you. If we do not provide you with a quotation, the price will be the list price that applies to your country on the date we receive your order.

3.2. Taxes and Fees. Our prices do not include any taxes (including VAT), duties, levies or other government fees that may apply to your order. If they apply, it will be your responsibility to pay them. If we pay them, we will add them to your invoice. If you claim any exemption, upon request you must provide a valid, signed certificate or letter of exemption for each respective jurisdiction.

### 4. Payment Terms.

4.1. Payment Terms. Unless we indicate another period on our quotation, you must pay invoices within 60 days from the invoice date in the currency specified in our invoice. Each order is a separate transaction, and you may not setoff payments from one order against another.

4.2. Late Payment. If you are late in making payment, without affecting our other rights, we may suspend performance or cancel your contract, reject your future orders, and charge you a late-payment charge, from the due date until paid, at the rate of 1% per month (12% per year) or, if less, the maximum amount allowed by law. You agree to pay this late charge upon request.

4.3. Intentionally Omitted.

5. Scheduling.

5.1. Available Times. We provide Instrument Services Monday through Friday, 8:00 a.m. to 5:00 p.m. (local time), excluding holidays.

5.2. Scheduling. We will work with you to schedule Instrument Services at a time that is mutually convenient.

6. Decontamination and Safe Working Environment.

6.1. Decontamination Obligations. Before we perform Instrument Services on your instrument, you will fully decontaminate your instrument or its component of radioactive, biological, toxic or other dangerous materials or substances or any material and, if we request, you will submit to us an accurate and completed certificate of decontamination.

6.2. Moving Instrument. If we reasonably request, you agree to move your instrument to another location that we reasonably deem is safe for our employees to perform Instrument Services.

6.3. Biosafety Level-3 and 4 Laboratories. We do not service instruments in biosafety level-3 laboratories, unless we agree otherwise in writing in advance. There may be an additional charge and additional terms for Instrument Services in such facilities. We do not service instruments in biosafety level-4 laboratories.

7. Spare Parts.

7.1. Repair or Replace. We may repair or replace any parts of the instrument based on our reasonable professional judgment.

7.2. New, Used or Reconditioned Parts. We may use new, used, or reconditioned parts. All parts will have the same warranties as new parts. We may retain any replaced part as our property.

8. Service Plans.

8.1. Service Level Descriptions. For service level descriptions of our Service Plans, please go to <http://www.thermofisher.com/instrumentsservices>. The terms of Service Plans that apply to you are incorporated into these Service Terms.

8.2. Instrument Recertification. If your instrument has not been under our warranty or our Service Plan immediately prior to the time of your requested coverage, before we cover your instrument under a Service Plan, we may require instrument recertification. We will provide instrument recertification services on a time-and-materials basis. If applicable, the fees for any such recertification services will be estimated by us and approved by you in writing, in advance of our performance of recertification services.

8.3. No Coverage for Ancillary Equipment. Unless we stated otherwise in our quotation, our Service Plans cover only our instruments and do not include ancillary equipment even if we supplied it.

8.4. No Replacement of Consumables. Our Service Plans do not cover replacement of consumable products used on the instruments.

8.5. Exclusions. In addition to the above exclusions, our Service Plans do not cover replacement of parts or repairs needed for defects or damage resulting from (i) your neglect, carelessness, or misuse, for example, connecting the instrument to electrical services or other utilities not in accordance with the installation requirements for the instrument, using incompatible solvents or samples with the instrument, operating the instrument not in conformance with our instructions or specifications, or your improper or inadequate maintenance of the instrument; (ii) installation of software or use in combination with software or products that we did not supply or authorize; (iii) modification, repair, service transfer to another location of the instrument that you or your employees, agents or an unauthorized contractor made; (iv) intrusive activity, including without limitation computer viruses, hackers or other unauthorized interactions with instrument or software that detrimentally affects normal operations; from acts of nature or accident; or (v) any defects or damage that we did not cause.

8.6. Terminating your Service Plan. Service Plans may be terminated in the following ways:

(A) Terminating for Any Reason. You or we may cancel your Service Plan by sending a written notice of termination to the other at least 30 days before effective date of termination.

(B) Terminating for Cause. We may immediately terminate a Service Plan if the instrument covered by the Service Plan is transferred to another location without our advance written consent, or we may adjust the cost of providing the Instrument Services at the new location provided you agree in writing to pay the new rate which may be higher.

(C) Effects of Termination. If a Service Plan is terminated by you under Section 8.6(A) or by us under Section 8.6(B), we will charge you for the total price of services actually performed and expenses actually and reasonably incurred in servicing the covered instrument under the underlying Service Plan from its effective date until the effective termination date, or the prorated price of the underlying Service Plan from its effective date until the effective termination date, whichever is greater, plus 15% of the total fee

paid for the underlying Service Plan. We will credit you for any payment that you made to us in excess of this amount and you may use the credit toward future purchases from us of instruments, consumables or Service Plans. We do not provide cash refunds on account of the early cancellation of any Service Plan or other agreement for Instrument Services.

#### 9. Limited Warranty for Instrument Services.

9.1. Limited Warranty. We warrant that the Instrument Services we provide to you will be in accordance with the generally accepted standards prevailing in the Instrument Service industry. You must make any claim for breach of this warranty within 90 days of the date the Instrument Services were performed and prior to any unauthorized repair, change, or modification has been made to any part of the instrument.

9.2. Exclusions. Our warranties do not apply to (i) your neglect, carelessness, or misuse, such as but not limited to, connecting the instrument to electrical services or other utilities not in accordance with the installation requirements for the instrument, using incompatible solvents or samples with the instrument, operating the instrument not in conformance with our instructions or specifications, or your improper or inadequate maintenance of the instrument; (ii) installation of software or use in combination with software or products that we did not supply or authorize; (iii) modification, repair, service transfer to another location of the instrument that you or your employees, agents or an unauthorized contractor made; (iv) intrusive activity, including without limitation computer viruses, hackers or other unauthorized interactions with instrument or software that detrimentally affects normal operations; from acts of nature or accident; or (v) any defects or damage that we did not cause. ADDITIONALLY, ANY INSTALLATION, MAINTENANCE, REPAIR, SERVICE, RELOCATION OR ALTERATION TO OR OF, OR OTHER TAMPERING WITH, THE PRODUCTS PERFORMED BY ANY PERSON OR ENTITY OTHER THAN US WITHOUT OUR PRIOR WRITTEN APPROVAL, OR ANY USE OF REPLACEMENT PARTS WE HAVE NOT SUPPLIED, WILL IMMEDIATELY VOID AND CANCEL ALL WARRANTIES WITH RESPECT TO THESE INSTRUMENT SERVICES AND THE AFFECTED PRODUCTS.

9.3. Remedies. During the applicable warranty period only, for services not meeting our warranty, we agree, at our option to: (i) re-perform the defective Instrument Services, or (ii) refund to you the fee you paid to us for the defective Instrument Services, if applicable. This section states our entire liability for a valid warranty claim under the Agreement.

9.4. Limitations. OUR WARRANTIES EXTEND ONLY TO YOU, THE ORIGINAL PURCHASER, AND YOU CANNOT TRANSFER THEM. WITH RESPECT TO INSTRUMENT SERVICES, EXCEPT AS EXPRESSLY STATED, WE DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY.

#### 10. Compliance with Laws, Codes, Rules and Regulations.

10.1 We make no representation that the Instrument Services we provide to you will meet or satisfy standards of any governmental body, including the U.S. Food and Drug Administration. You agree that it is your responsibility to ensure that such services are adequate to meet your regulation or certification requirements and that all requirements of any governmental body or other organization, including, but not limited to, any requirement of the U.S. Food and Drug Administration are your responsibility.

10.2 In fulfilling obligations under the Agreement, we and you agree to comply, and to have our and your employees and subcontractors assigned to the Agreement and business relationship comply, with all applicable laws, codes, rules and regulations which may relate to our respective activities and responsibilities under the Agreement.

#### 11. Indemnification.

11.1. Our General Indemnity. We will indemnify and hold you harmless from and against any and all third-party claims for injury to persons, including death, or damage to tangible property occurring while our employees are on your premises to the extent the claims are caused by our employees' gross negligence, recklessness, and willful misconduct, provided we are given prompt notice of any claim and, to the extent permitted by applicable law, the opportunity to control the defense and settlement of the claim.

11.2. Conditions to Our Indemnity. As a condition to any of our indemnification obligations you must (a) notify us in writing, as soon as you become aware of any claim; (b) not admit any liability or take any other action in connection with the claim that could affect the defense; (c) to the extent permitted by applicable law, allow us to solely control the defense or settlement of the claim; and (d) give us your reasonable information, co-operation and assistance.

12. Limitation of Liability. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE OR YOU WILL NOT BE LIABLE UNDER ANY LEGAL THEORY (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, MULTIPLE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO COSTS OF COVER, LOST PROFITS, LOST DATA, LOSS OF BUSINESS, LOSS OF GOODWILL OR LOSS OF REVENUE) THAT WE OR YOU MIGHT INCUR UNDER THE AGREEMENT, OR THAT MAY ARISE FROM OR IN CONNECTION WITH OUR PRODUCTS OR SERVICES, EVEN IF WE OR YOU HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. WE WILL NOT BE LIABLE FOR ANY LOSS OR INJURY THAT IS THE RESULT OF INSTRUMENT, EQUIPMENT, OR PRODUCT ERROR OR THE FAILURE OF AN INSTRUMENT, EQUIPMENT, OR OTHER PRODUCT TO PERFORM IN ACCORDANCE WITH ITS SPECIFICATIONS. OUR TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THESE SERVICE TERMS, ANY SERVICE PLAN, OR INSTRUMENT SERVICES, INCLUDING WITHOUT



LIMITATION ANY SERVICES RENDERED THEREUNDER, OR BREACH THEREOF OR FAILURE TO PERFORM IN CONTRACT, TORT, WARRANTY, OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES YOU PAID US FOR THE SPECIFIC SERVICE PLAN OR INSTRUMENT SERVICES THAT GIVE RISE TO YOUR CLAIM.

NOTWITHSTANDING THE FOREGOING, THE PROVISIONS ABOVE IN THIS SECTION 12 DO NOT LIMIT A PARTY'S LIABILITY FOR INDEMNIFICATION, BREACH OF CONFIDENTIALITY, FRAUD, OR THAT CANNOT BE LIMITED BY LAW.

13. Miscellaneous.

13.1. Assignment. You or we may not transfer or assign your Service Plan or any contract with us for Instrument Services without the prior written consent of the other, which consent will not be unreasonably withheld or delayed. Any attempted transfer or assignment in violation of this Section 13.1 will be void. Notwithstanding the foregoing and subject to Section 8.6(B) of these Service Terms, we or you may assign the Agreement without consent to an affiliate or to a purchaser of all or substantially all of our or your assets or in connection with a merger, acquisition, or consolidation, provided that we or you provide written notice to the other of such assignment within a reasonable time from the date of such assignment and further provided that the non-assigning party is not prohibited by law or regulation or business policies from conducting business with the entity to which this Agreement is assigned. Our and your rights, obligations and liabilities will inure to the benefit of and bind our and your successors and assigns.

13.2. Intellectual Property. Nothing in these Service Terms shall be deemed or construed as a license or grant of any intellectual property rights, whether express, implied, by estoppel, or otherwise, to you, or to limit our rights to enforce our patent or other intellectual property rights.

13.3. Governing Law. The Agreement and performance under it will be governed by the laws of the State of California, USA, without regard to provision on the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.

13.4. Uncontrollable Circumstances. We or you will not be responsible or liable for failing to perform our or your obligations (excluding your payment obligations) under the Agreement to the extent caused by circumstances beyond our or your reasonable control.

13.5. No Waiver; Invalidity. Our or your failure to exercise any rights under the Agreement is not a waiver of our or your rights to damages for breach of contract and is not a waiver of any subsequent breach. If any provision or part of the Agreement is found by any court of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of the Agreement. No person other than you or us will have any rights under the Agreement. Headings are for convenience only and shall not be used in the interpretation of these Service Terms.

13.6. Confidentiality. All non-public information that either party ("Receiving Party") receives or acquires from the other party ("Disclosing Party"), either in writing, orally, or through observation of operations, or in the course of fulfilling obligations under the Agreement that is marked as confidential, or if not so marked, which a reasonable person would identify as confidential given the nature of the information and the circumstances of its disclosure ("Confidential Information") shall be held by the Receiving Party in confidence at all times, employing reasonable means to protect the confidentiality of the Confidential Information and used solely as required to perform the obligations under the Agreement, and shall be returned or destroyed when no longer required, or upon request by the Disclosing Party. The Receiving Party shall ensure that all recipients of the said Confidential Information, including a Receiving Party's employees, agents, subcontractors and/or licensors, comply with the obligations under this section. For the avoidance of doubt, it is understood and agreed that our Confidential Information includes the terms of the Agreement and any non-public technical information, commercial information (including prices, without limitation), manuals or instructions received from us as a result of discussions, negotiations and other communications between you and us in relation to our products or Instrument Services, and your Confidential Information includes the terms of the Agreement and any non-public information about you, your business, operations, and research and development programs, or that is viewed or accessed either during the performance of this Agreement or as a result of discussions, negotiations or other communications between you and us. A Receiving Party will not disclose, or allow to be disclosed, the Confidential Information by any means to any third party without the prior written approval of the Disclosing Party.

The above obligations of confidentiality and non-disclosure do not apply to information that:

- (A) is or becomes publicly available other than through breach of these Service Terms;
- (B) is lawfully obtained by either party from a lawful third party without breach of these Service Terms by a party or its employees, agents, subcontractors or licensors;
- (C) was known to a party prior to disclosure to such party by a Disclosing Party as shown by documentation sufficient to establish such knowledge; or
- (D) is required by law to be disclosed by you or us.

13.7. Notices. Any notice or communication required or permitted under these Service Terms must be in writing and will be deemed received when personally delivered, or 3 business days after being sent by certified mail, postage prepaid, to a party's specified address.

13.8. Our Insurance. For the duration of the Agreement:

(A) We will pay for and maintain the following minimum limits of insurance coverage: (i) commercial general liability and products liability coverage with limits not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, (ii) commercial automobile liability covering liability arising out of our operation of any vehicle (any automobile, including owned, non-owned and hired vehicles) with minimum limits of \$1,000,000 combined single limit each accident, (iii) umbrella liability coverage with limits not less than \$5,000,000 per occurrence and \$5,000,000 aggregate, and (iv) workers' compensation as may be required by the jurisdiction in which we are doing business and employers' liability insurance of \$1,000,000. Coverage may be provided on a claims-made rather than occurrence basis. If coverage is provided on a claims-made basis, coverage will be maintained for a period of three (3) years following termination of the Agreement with a retroactive date on or prior to the effective date of the Agreement.

(B) If agreed in writing that these Service Terms will govern, you will be included as an additional insured under the commercial general liability and umbrella liability policies for liability arising out of operations by us or on our behalf, but only to the extent required by written Agreement.

(C) Upon request, we will promptly furnish a certificate of insurance, and applicable endorsement, to you evidencing such coverages. To receive a certificate of insurance, you must provide your desired address for the certificate holder. Any applicable endorsement will be a blanket endorsement.

(D) We will provide a minimum of thirty (30) days advance written notice to you in the event of cancellation of our insurance policies in the event a gap in coverage would be reasonably expected to occur.

13.9. Changes to Terms. We reserve the right to change these Service Terms at any time. Any changes made will not apply to the Agreement between us for any order we receive before the changes are made. The most recent revision date can be found at the end of these Service Terms.

March 10, 2021

Revised on July 12, 2022 for  
San Bernardino County Sheriff's Dept