

ADDITIONAL TERMS AND CONDITIONS TO EQUIPMENT SERVICE PROGRAM AGREEMENT

1. **Scope.** The terms and conditions set forth in this document are incorporated into each printed Equipment Service Program Agreement (“**Agreement**”) incorporating these terms by reference. Defined terms used in this document will have the same meaning as defined in the Agreement unless otherwise specified herein.

2. **Service Coverage.**

Customer has purchased from Abbott, and Abbott shall provide Customer, the Service Package described in the Agreement. Customer shall operate, maintain, and protect Abbott equipment (“**Covered Equipment**”) and consumables subject to the Service Package in accordance with the instructions contained in applicable operations manuals, reagent package inserts and/or any other information provided by Abbott. In addition, Customer shall provide Abbott with prior written notice at least 10 days in advance of moving and relocating the Covered Equipment from its installed site so Abbott may provide field service support for de-installation and re-installation of such equipment if required, it being understood such relocation services will be subject to additional charges on a time and materials basis according to Abbott’s then-current rates. Repairs required to remediate issues determined by Abbott to have been caused by Customer’s negligence in following instructions or in moving the Covered Equipment without Abbott’s assistance will not be covered by the Service Package and Abbott is permitted to charge Customer for such repairs on a time and materials basis at Abbott’s then-current rates. Abbott is permitted to immediately terminate the Agreement if Covered Equipment requires repeated repairs due to Customer’s negligence in following instructions or damage caused by relocating the Covered Equipment without Abbott’s assistance.

Services requested by Customer not specifically covered in the Service Package, include without limitation any site visits, will be subject to additional charges on a time and materials basis at Abbott’s then-current rates. Further, unless otherwise specified in the Agreement, the following items required to repair or maintain Equipment are not covered in the Service Package and must be separately purchased by Customer: (a) Abbott products, including tests, as well as other consumables (such as printer paper, batteries, photometric lamps, probes, cuvettes, or any item identified in the operations manual as consumable supplies); (b) disposables; and (c) components and accessories.

3. **Payment Terms.** Payment terms are net 30 days. Past due balances are subject to a service charge of 1.5% per month or the highest rate allowed by law, whichever is lower. Unless Customer is fully exempt from all taxes, Customer is required to pay all federal, state, and local taxes that may be imposed on the Service Package. Customer shall reimburse Abbott for any such taxes paid by Abbott. Abbott shall add any such applicable taxes to invoices. If Customer is tax-exempt, Customer shall provide Abbott with a copy of its tax-exempt certification via email (fin-custsaletaxexempt@abbott.com). The obligations to pay service charges will survive Agreement termination.

4. **Discount Disclosure.** Any discounts, rebates or other price reductions (collectively referred to herein as “discounts”) issued by Abbott to Customer may constitute a discount under applicable law (42 U.S.C. § 1320a-7b(b)(3)(A)). Abbott will provide detail pertaining to such discounts and the allocation of total net purchase dollars for equipment, service, supplies and miscellaneous purchases upon Customer’s request. Customer may have an obligation to report such discounts to any State or Federal program that provides reimbursement to Customer for the items to which the discount applies, and, if so, Customer shall fully and accurately report such discounts. Further, Customer shall retain invoices and other price documentation and make them available to Federal or State officials upon request.

5. **Termination.**

Either Abbott or Customer are permitted to terminate the Agreement in the event of a material breach by the other party that, if possible to cure, remains uncured 30 days after written notice specifying the breach is given by the non-breaching party to the breaching party. A material breach, without limitation, includes: (a) Customer’s failure to timely pay any amount it owes Abbott under the Agreement and (b) Abbott’s failure to perform services owed under the Service Package.

Either Abbott or Customer are permitted to immediately terminate the Agreement upon the occurrence of any of the following events relating to the other party (a) the making of assignment for the benefit of creditors by such party; (b) the institution of bankruptcy, reorganization, liquidation or receivership proceedings by or against such party; (c) insolvency of such party.

Customer is permitted to terminate his Agreement without penalty with 30 days written notice to Abbott if Customer upgrades the Covered Equipment to a next generation system offered by Abbott.

Abbott is permitted to terminate the Agreement with reasonable notice and without penalty with 30 days written notice in the event Abbott ceases offering the Service Package.

6. **Termination Fee.** Customer is permitted to terminate the Agreement at any time for any reason by providing Abbott 30 days written notice of termination and by PAYING ABBOTT A TERMINATION FEE EQUAL TO 50% OF THE TOTAL AMOUNT OWED BY

CUSTOMER TO ABBOTT UNDER THE AGREEMENT FOR THE REMAINDER OF THE TERM (“TERMINATION FEE”). Customer acknowledges and agrees that the Termination Fee represents reasonable compensation to Abbott for its losses and expenses resulting from Customer’s early termination of the Agreement, and is not a penalty.

7. **Notices.** Unless otherwise indicated in the Agreement, all notices, and required approvals, consents, and agreements referenced in the Agreement shall be given in writing, and delivered by First-Class Mail, postage prepaid, by Certified Mail, return receipt requested, or by reputable overnight carrier at the appropriate addresses listed within the header of the Agreement.
8. **Service Warranty.** Abbott warrants that with the exception of software which shall be covered by a separate software license agreement warranty, the repair or replacement parts furnished under the Agreement and installed by an Abbott service representative during a service call will be free from defects for 90 days after the installation date, and services performed under the Agreement will be free from defects in workmanship for 30 days after the service date. ABBOTT MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. Abbott will perform warranty related services only during business hours (9 a.m. – 5 p.m.) during week days.
9. **Uptime Guarantee.**

If Customer notifies Abbott in writing of Abbott’s failure to satisfy the up-time guarantee stated in the Service Package (“**Uptime Guarantee**”) in a given calendar year, and Abbott verifies such claim, Abbott shall provide Customer with a one-time credit equal to 2% of the Service Package’s annual cost. The Uptime Guarantee is limited to new Architect instrumentation, including Architect i1000SR, i2000SR, c4000, c8000, and c16000.

The Covered Equipment is considered to be “up” when it can generate clinical test results or function in the way for which it is intended and is based on a 24 hours per day, 7 days per week, annual basis, excluding planned maintenance (i.e., preventative maintenance or system upgrades). To be eligible for the Uptime Guarantee, Customer must have (a) AbbottLink connectivity at 80% or higher, (b) a Customer instrument maintenance score of greater than 90%, and (c) Abbott certified laboratory technicians only operating Covered Equipments. The Uptime Guarantee is limited to electrical and mechanical hardware failures, excluding operator-replaceable supplies and consumables that require onsite Abbott field service representative intervention and/or failures caused by operator errors, Customer site discrepancies, reagents, calibrators, controls, natural disasters, or any environmental problems beyond Abbott’s control. Non-operational or “Downtime” is calculated using twenty-four (24) hours per day, seven (7) days per week, on annualized basis based on Abbott’s field service representative’s service order which Customer will review at the conclusion of each repair.
10. **Assignment.** Customer is not permitted to assign the Agreement without Abbott’s prior written consent.
11. **Governing Law.** This Agreement or the performance, enforcement, breach or termination thereof, or any dispute arising in any manner out of, or in relation to, this Agreement shall be construed, governed, and interpreted in accordance with the laws of the State of Illinois, United States of America, without regard to its conflict of laws principles