

- Depot Service Agreement Terms and Conditions**
- I. PURPOSE**
The purpose of this Agreement is to set forth the understandings of the parties of the terms and conditions applicable to the servicing of the "Instrument" identified on the face of this Agreement.
- II. APPLICATION**
This Agreement shall be applicable only to the Instruments distributed by Us that have been subject to an RDC maintenance agreement immediately prior to this Agreement, or any Instrument which has been subject to prior reconditioning by Us and accepted in writing under the terms of this Agreement. The cost of all necessary reconditioning shall be borne solely by You, prior to the implementation of this Agreement.
- III. RDC OBLIGATIONS**
- A.** We shall service the Instrument for the period set forth on the face of this Agreement.
- B.** The following provisions shall apply to any repairs and/or servicing by Us.
- All repairs and/or servicing shall be performed during normal working hours, i.e. Monday through Friday from 8:00 a.m. to 5:00 p.m. (local time), excluding Roche Diagnostics Corporation holidays at a designated RDC depot service location. Instruments shall be repaired or exchanged at Our discretion.
 - Instruments requiring repair shall be returned to You using appropriate care and packaging to ensure undamaged delivery and returned to the designated RDC depot service location.
 - Upon each instance of repair or servicing, as the case may be, We shall make a report indicating Our representative's name, the date, a description of the work performed, any improvements to be made or that are planned and any other observations and/or suggestions. We shall provide a copy of each report to You.
 - When it is deemed necessary by Us, We shall make a documented report to You including any fact which appears to have an impact on the proper functioning of the Instrument and any particular measures required to maintain the Instrument in good working order. We shall specifically note operating errors, faulty Customer maintenance and desired modifications.
- C.** Our obligations shall not include the following:
- Provision of reagents, accessories or consumable items, such as printer paper, photometric lamps, probes, cassettes, etc., or any other items identified in the Operator Manual as consumable supplies, which are consumed or required to make the required repair. Replacement of consumable parts will be billed to You at Our current price in effect for such parts.
 - Services such as the painting of the Instrument and integration of the Instrument with equipment not provided or installed by RDC, e.g. computer equipment not sold or distributed by RDC.
 - Peripheral devices (washers, computers used to link more than one (1) analyzer, etc.) which are not an incorporated part of the analyzer, which are sold by Roche Diagnostics Corporation are not covered by service agreements.
 - Water equipment, un-interruptible power supplies, power conditioners and other accessories external to the Instrument are not covered by service agreements.
- IV. CUSTOMER OBLIGATIONS**
- A.** You agree to use the Instrument in strict accordance with Our operating instructions, to permit servicing and repair work by Our personnel only, and to obtain Our written consent prior to connecting the Instrument to any other equipment or using non-RDC equipment and/or accessories, including non-Roche software, with the Instrument.
- B.** You agree to use the Instrument in an appropriate location and with electrical connections which correspond to the electrical supply specifications of the manufacturer. You will protect the Instrument from all adverse elements, such as dirt, dust and liquids of any kind.
- C.** You agree to designate a key operator who shall be made available to Us to describe the Instrument malfunction to Our representatives by telephone and who shall be qualified to perform simple adjustments and corrections as requested by Our representative. Failure to designate a key operator may result at Our option in cancellation of this Agreement, or a service call invoiced by Us at Our then premium rates for service, shipment, labor and parts.
- D.** Customer remains solely responsible for ensuring that all Equipment operators are adequately trained and are competent to operate the Equipment in accordance with manufacturer's specifications and the Customer's requirements. Customer will ensure only trained operators will use Equipment.
- V. SHIPPING EXPENSE**
You agree to bear one-half of all shipping expenses related to the shipment of any RDC-owned Instruments loaned to You and related to the shipment of the Instrument to and from Our designated service location.
- VI. EXCLUSIONS FROM COVERAGE**
Your payments under this Agreement do not cover repairs which may not be imputed to the manufacturer or to Us, including in particular, and without limiting the generality of the foregoing:
- Repairs required to remedy breakdown or damage which results from operator errors, abnormal or unapproved uses, acts of third parties, faulty electrical connections, fluctuations or failures in air conditioning, heating or cooling systems and electrical power failures.
 - Repairs required to remedy breakdown or damage which results from force majeure, including natural disasters such as fire, flood, earthquake, wind damage, tornadoes and lightning, and/or acts of violence, such as strikes, riots, sabotage, demonstrations, acts of terrorism, war, civil war, acts of public authorities and all other acts beyond Our reasonable control or the reasonable control of the equipment manufacturer.
 - Repairs required to remedy breakdown or damage caused by defects or malfunctions of any external computer hardware or connections to RDC equipment, or any external water supply equipment or connections to Our equipment.
 - Normal daily, weekly, monthly, and semi-annual maintenance services to be provided by You such as the replacement of fuses, lamps, tubes, reagents and probes.
 - Repairs required to remedy problems due to improper completion of, or the lack of normal operator daily, weekly, monthly, quarterly and semi-annual maintenance service as identified in the Instrument Operator Manual.
 - Repairs required to remedy problems due to use of accessories and/or reagents not supplied or approved by Us.
 - Damage incurred in shipment to Your facility or resulting from movement of the Instrument by You not supervised by Us.
 - In the event We are called upon to perform repairs such as those listed in A, B, C, D, E, F and/or G above, the following provisions shall apply:
 - We shall compile detailed cost estimates describing the work to be performed, the number and cost of supplies and parts to be provided, the expected time to completion, the hourly rate and other details and conditions of the repairs.
 - You will provide Us with a purchase order for such repairs. Any terms and conditions of Your purchase order that conflict with the terms of this Agreement are hereby rejected and the terms of this Agreement shall control. Repairs described in this section shall be billed separately.
- VII. SPECIAL SERVICE**
- A.** Service work of a special nature involving modification of units for special applications and accessories, etc., will be quoted on an individual basis.
- B.** The selection, acquisition, and service of external devices is Your responsibility. We will only be responsible for servicing Our Instruments up to the communications port for linking to a computer. Any cables, switches, or peripheral devices which are connected externally are not Our responsibility. Damage to the Instrument as a result of connection to external devices shall invalidate this Agreement.
- C.** The following provisions shall apply to any special service of an Instrument pursuant to this section.
- You shall give Us at least one (1) month advance notice of any request for special service. It shall be Your responsibility to provide transportation and personnel assistance necessary to properly relocate the Instrument if applicable.
 - A detailed cost estimate shall be submitted by Us for any special service, including the details of the service, the cost of the special service and any other pertinent information.
 - Upon reaching an agreement regarding the special service, You shall forward a purchase order to Us for the special service to be performed. All special service requests are subject to final approval by Us.
- VIII. INSTRUMENT MODIFICATIONS**
We may be required to modify the Instrument in order to improve its use and reliability. All such modifications shall be the subject of a detailed cost estimate by Us and shall be assented to by You by submitting a purchase order to Us. All modification work shall be billed separately. Modified Instruments shall be subject to this Agreement in all respects. Modifications shall not extend the normal warranty period.
- IX. DEFAULT**
Each of the following is a "Default" under this Agreement: (a) You fail to provide payment of any sum to be paid hereunder within 10 calendar days of its due date; (b) You do not perform any of Your other obligations under this Agreement or in any other agreement with Us and this failure continues for 15 calendar days after We have notified You of Your non-performance; (c) You become insolvent. You dissolve or are dissolved, or You assign Your assets for the benefit of Your creditors, or enter (voluntarily or involuntarily) any bankruptcy or reorganization proceeding; (d) any guarantor of this Agreement dies, does not perform its obligations under the guaranty, or becomes subject to one of the events listed in clause (c) above; or (e) You offer products purchased or received under this Agreement for resale.
- A.** Abusive and repetitive requests by You for service and/or parts shall entitle Us to terminate this Agreement via the following procedure:
- We shall inform You of the nature of such abuse and corroborate the same with incidences of unnecessary service, etc.
 - In addition to such corroboration, We shall provide You with thirty (30) days written notice of Our intent to terminate the Agreement and the Agreement shall so terminate at the end of said thirty-day period.
- B. REMEDIES**
If a Default occurs, We may do one or more of the following: (a) We may cancel or terminate this Agreement or any or all other agreements that We have entered into with You; (b) We may require You to immediately pay Us, as compensation for loss of Our bargain and not as a penalty, a sum equal to (i) the Service Agreement Payments, and any other amounts owing under this Agreement at the time of default, (ii) the present value of all unpaid Service Agreement Payments for the remainder of the term discounted at 5% per year, compounded monthly, plus (iii) all other amounts due or that become due under this Agreement; (c) We may cease providing service under this Agreement or any other Agreements We have entered into with You; (d) We may exercise any other right or remedy available at law or in equity. YOU AGREE TO PAY ALL OF OUR COSTS OF ENFORCING OUR RIGHTS AGAINST YOU, INCLUDING REASONABLE ATTORNEYS' FEES.
- X. INDEMNITY**
You agree to indemnify Us from all liabilities arising from Your misuse of the Equipment.
- XI. PRICE/PAYMENT TERMS**
- A.** After the first 24 months from the commencement of this Agreement, We may adjust each selected service price once annually. This price includes the cost of labor and providing of Instrument parts, and one-half the expense of shipment of Instruments loaned to the customer and related to the shipment of the Instrument to and from the designated RDC service location except as noted on the front of this document. You are responsible for any state and local sales taxes that may apply to this Agreement and agree to pay when due, either directly or by reimbursing us, such taxes.
- B.** The payment required hereunder shall be payable at the beginning of each service period upon receipt of an invoice. All payments are due net thirty (30) days from Our invoice date. You agree that all payments not received by Us on or before the due date will be subject to 1.5% per month late charges or the maximum permitted by law, whichever is less.
- C.** The prices for special services shall be determined from detailed and descriptive estimates. Such estimates shall include all essential elements in the calculation of the price and shall include in particular the estimated number of work hours required, the hourly billing rates and a list of supplies as well as the prices or any other factors usually mentioned in regard to such services.
- XII. TERM AND TERMINATION**
The term of this Agreement shall be for the term set forth on the face of this Agreement, beginning on the Commencement Date. In the event of a material breach of this Agreement by Us, You may terminate this Agreement upon ninety (90) days written notice to Us; provided, however, that such notice shall be ineffective if We cure such breach within the ninety (90) day notice period. In addition, You may terminate this Agreement at any time by giving Us at least ninety (90) days advance written notice and paying Us 1/6th of the pro-rated value of the remaining term (from the effective date of termination) of this Agreement. All of the Your obligations must be current to terminate this Agreement prior to completion of the Initial Term.
- XIII. RENEWAL**
Upon termination of this Agreement, We may, in Our discretion, renew this Agreement, decide not to renew this Agreement, or offer alternative coverage and/or pricing.
- XIV. WARRANTY/LIMITATION OR REMEDY/INDEMNITY**
- A.** We warrant that the instrument services provided under this Agreement will be free from defects of workmanship for a period of thirty (30) days from the date of service.
- B. WE HEREBY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE INSTRUMENT, PARTS AND SERVICES PROVIDED, EXCEPT THE LIMITED WARRANTY SET FORTH ABOVE. WE ARE NOT LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR REVENUES, LOSS OF THE USE OF THE CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES AND DOWNTIME COSTS, RESULTING FROM OR ARISING IN CONNECTION WITH THE PERFORMANCE, DELAY IN PERFORMANCE OR NONPERFORMANCE OF ANY TERMS OR CONDITIONS OF A ROCHE DIAGNOSTICS WARRANTY OR SERVICE AGREEMENT OR FROM THE USE OR MISUSE OF THE INSTRUMENT (OR ANY SUBSTITUTE THEREFORE) OR ANY MATERIAL OR WORKMANSHIP DELIVERED HEREUNDER, EVEN IF WE HAVE BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. YOUR EXCLUSIVE REMEDY UNDER THIS LIMITED WARRANTY WILL BE REPERFORMANCE OF ANY SERVICE WHICH PROVES TO BE DEFECTIVE.**
- XV. MISCELLANEOUS**
You agree that the laws of the State of Indiana will govern this Agreement and You consent to the exclusive jurisdiction of and venue in any court located within the State of Indiana. You expressly waive Your rights to trial by jury. Should any provision of this Agreement be held invalid, ineffective or unenforceable, the remaining terms will remain in full force and effect. Our obligations under this Agreement shall be suspended in the event that We are hindered or prevented from complying with Our obligations because of labor disturbances, wars, fires, storms, accidents, interferences or any other cause beyond Our reasonable control. You agree that the terms and conditions in this Agreement with all Roche Diagnostics Corporation addenda, make up the entire agreement between You and Us with respect to the subject matter hereof. No waiver of or modification to any term of this Agreement is valid unless it is in writing and signed by Us and You. You agree that We are authorized to supply missing information or correct obvious errors in this Agreement. If We delay or fail to enforce any of Our rights under this Agreement, We will be able to enforce Our rights at a later time. All notices shall be given in writing by the party sending the notice and shall be effective when deposited in the U.S. Mail, certified with return receipt requested, addressed to the party receiving the notice at its address shown on the face of this Agreement. All of Our rights shall survive the term of this Agreement. The titles and headings used in this Agreement are for convenience only and shall not be used to interpret the term and conditions of this Agreement.