

Hologic Professional Services Terms and Conditions

(US Customers)

1. **TERMS AND CONDITIONS.** These Hologic Professional Services Terms and Conditions (“Terms”) set forth the conditions under which Hologic, Inc. (“Hologic”) shall provide the professional services to Customer per the Professional Services Quotation (“Quote”) to which these Terms are attached. Any terms and conditions contained in any Customer documentation including Customer’s purchase order are hereby rejected and of no force and effect.
2. **PAYMENT TERMS.** Hologic shall remit invoice(s) to Customer upon completion of the professional services and payment shall be made upon Customer’s receipt of invoice. Hologic may charge monthly interest at the maximum rate permitted by law on all amounts not paid by the invoice due date until all such amounts are paid in full. Customer will reimburse Hologic for reasonable costs (including attorneys’ fees) relating to the collection of past due amounts. Failure to make timely payment may result in suspension of services (in addition to other rights or remedies available at law or in equity) until all past due amounts are brought current.
3. **TAXES.** Customer shall be responsible for all such taxes for the purchase or use of products or professional services provided hereunder. Hologic shall be responsible for all other taxes, including, but not limited to, Hologic’s net income taxes and excise taxes imposed on Hologic. The Customer shall be responsible for all taxes due unless Customer is tax exempt from such taxes as evidenced by a valid tax exempt certificate, which shall be provided to Hologic prior to the commencement of services. If Hologic is required to charge any taxes, Hologic shall invoice Customer for any such taxes.
4. **OTHER SERVICES.** The Quote provides the best guess estimate for the services to be provided based on information available at the time it was prepared and supersedes all previous proposals for such services. Any service, part, or accommodation not included under the Quote will be billed at the prevailing rate(s) on the date such service, part, or accommodation is provided.
5. **LIMITED WARRANTIES AND EXCEPTIONS.** Hologic warrants that the services provided hereunder will be performed by trained individuals in a professional workman-like manner. Hologic will promptly re-perform any non-conforming services for no charge as long as Customer provides reasonably prompt written notice to Hologic (not to exceed thirty (30) days from the date of performance). The foregoing remedy is Customer’s exclusive remedy and Hologic’s sole liability for warranty claims. To the extent the professional services are for clinical training course, Hologic neither (i) warrants, guarantees nor otherwise commits any result and/or success with respect to increase of a course attendee’s capabilities, knowledge, or skill, and attendance or completion of any training relating to mammography equipment neither warrants nor guarantees that Customer facility and/or course attendee will pass inspection, or have no adverse inspection observations, under the Mammography Quality Standards Act (“MQSA”) and applicable state law; or (ii) makes any representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability or suitability with respect to information relayed during the course. **ALL WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE EXPRESSLY DISCLAIMED AND THOSE IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OR TRADE. THESE WARRANTIES AND EXCLUSIONS OF WARRANTIES SHALL APPLY TO THE CUSTOMER AND TO ANY END-USER PURCHASING OR USING THE SERVICES.**
6. **LIMITATION OF LIABILITY.** Hologic’s entire liability and Customer’s exclusive remedy for any damages incurred by Customer from any cause whatsoever, regardless of the form of action, whether liability in contract or in tort, arising from the services furnished hereunder or from any cause related thereto, shall not exceed an amount equal to the amount of the price, fee, or charge paid by Customer for the services provided herein. The foregoing limitation of liability shall not apply to claims by Customer or third parties for bodily injury or damage to real property or tangible personal property caused solely and directly by the gross negligence or willful misconduct of Hologic or its authorized representatives. **IN NO EVENT SHALL HOLOGIC BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF GOOD WILL, LOSS OF PROFIT, LOSS OF USE, LOSS OF DATA, LOSS OF IMAGES, LOSS OF BUSINESS INFORMATION, INTERRUPTION OF BUSINESS, LOSS OF MEDICAL INFORMATION, CORRUPTION OF MEDICAL INFORMATION, MISDIAGNOSIS OF A MEDICAL CONDITION, LOSS OF IMAGE QUALITY, LOSS OF IMAGE FIDELITY OR ANY OTHER LOSS, OR FOR ANY CLAIMS MADE MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION OCCURRED. THESE EXCLUSIONS OF WARRANTIES AND LIMITATION OF LIABILITIES SHALL APPLY TO THE CUSTOMER AND TO ANY END-USER PURCHASING OR USING THE SERVICES.**
7. **HIPAA COMPLIANCE.** To the extent HIPAA (as defined below) applies, both parties agree to comply with the applicable provisions of the privacy regulations within the Health Insurance Portability and Accountability Act of 1996, as enacted in 45 C.F.R. Parts 160, 162, and 164 and as codified at 42 U.S.C. §1320d, as amended from time to time (“HIPAA”). Hologic agrees that if it directly or indirectly gains access to Protected Health Information (“PHI”) during any interaction with Customer, it will keep the PHI confidential.
8. **CUSTOMER’S RULES.** When at Customer’s premises, Hologic shall abide by and adhere to Customer’s applicable rules and regulations while performing its obligations hereunder.
9. **GOVERNING LAW.** Upon execution of the Quote, this shall be considered to be a Massachusetts contract, entered into in Massachusetts, and shall be governed and viewed under the laws of the Commonwealth of Massachusetts without reference to its conflict of laws provisions. The parties specifically agree that any action relating to the relationship between the parties, these Terms, the products or services provided, purchased or licensed hereunder, shall be brought and tried in State or Federal Courts located in Boston, Massachusetts. Customer hereby waives all objections to, and consents to the venue and personal jurisdiction of such Courts.
10. **FORCE MAJEURE.** Hologic’s obligations hereunder are subject to force majeure, including but not limited to, civil insurrection, terrorism, fire, flood, labor disputes, shortages, delays of Customer, delays of suppliers or contractors, or government priority systems, actions taken or threatened by any governmental agencies, acts of God, or other contingencies or acts not within the sole control of Hologic. Hologic will not be liable for any loss, damage, delay, or penalty due to causes beyond its reasonable control.

[Remainder of this page intentionally left blank. Additional terms and conditions on the following page.]

Additional Professional Services Terms and Conditions for Equipment Relocation Services

1. **EQUIPMENT AND LOCATION.** Hologic shall provide the services to relocate the equipment ("Equipment") as listed on the Quote from the current location ("Current Location") to the destination location ("Destination Location") pursuant to the Equipment Relocation Questionnaire, attached hereto and incorporated herein as Exhibit 1. The parties will schedule the relocation services to be performed at a mutually agreed upon date and time. Customer must complete Exhibit 1 in its entirety and return to Hologic prior to scheduling relocation date; failure to do so may result in scheduling delay. Equipment relocation requires a two (2) week lead time, and if applicable pursuant to Section 2 below, room drawings require up to an additional two (2) week lead time. Subject to availability, a relocation may be expedited for a surcharge of \$500.00.

Customer is solely responsible for the state and functionality of the Equipment prior to relocation and all costs to bring the Equipment into conformance with Hologic's customary standards of configuration, performance, manner of use, or installation ("Specifications") upon completion of relocation. Equipment that is covered under an active full service agreement with Hologic shall not incur such costs and will conform to Specifications upon completion of relocation provided the Equipment is not damaged during Transportation (as defined in Section 7 below).

2. **RELOCATION SERVICES.** Unless specifically stated to the contrary on the Quote, Equipment relocation services include:

- (i) De-installation of Equipment at Current Location;
- (ii) Scheduling of Transportation;
- (iii) Transportation of Equipment by third party subcontractor, including:
 - a. Preparation/packaging of Equipment for transportation;
 - b. Transportation (FOB Origin, Freight Prepaid & Add) of Equipment from Current Location to Destination Location;
- (iv) Installation of Equipment at Destination Location;
- (v) Automatic Exposure Control ("AEC") recalibration of Equipment, if applicable;
- (vi) Field Engineer labor and travel time to de-install, reinstall, and recalibrate Equipment.
- (vii) If specifically listed as a line item on the Quote, non-construction room drawing(s) for the Destination Location listing environmental and electrical requirements to enable the Equipment to meet Specifications, to be delivered via email to designated Customer contact.

Re-installation and recalibration at Destination Location will take approximately two and a half (2.5) days for mammography Equipment and two (2) days for bone densitometry Equipment.

3. **EXCLUSIONS.** Equipment relocation services exclude:

- (i) Parts (including, but not limited to, longer cables for the new room) to conform the Equipment to Specifications;
- (ii) Consumables;
- (iii) Packaging materials. Packaging, subject to availability, may be purchased at an additional cost;
- (iv) Post-implementation configuration services (including, but not limited to, enterprise integration of the Equipment at Destination Location), unless specifically quoted under the Quote;
- (v) Training of any sort, including but not limited to proper use of Equipment, unless specifically quoted under the Quote;
- (vi) Repair of Equipment damaged during Transportation;
- (vii) Disposal of packaging materials;
- (viii) Removal or installation of additional items from or at Customer's facilities, including, but not limited to, wall paddle racks.

4. **PRICING.** Pricing quoted on the Quote assumes (i) no special mounting or accommodation requirements; (ii) Equipment can be moved easily through and out of Current Location; and (iii) Equipment can be moved easily into and through Destination Location; additional fees may apply if other conditions exist at the time the services are provided.

5. **ACCESS.** Hologic must be provided appropriate access by Customer to the Equipment's Current Location and Destination Location in order to perform its obligations hereunder.

6. **PARTS.** Subject to availability, Hologic will provide all parts necessary for the Equipment to conform to Specifications at Hologic's then-current prices. Replacement parts for the Equipment and software will be supplied on an exchange basis, may be new or remanufactured, and are warranted to perform in accord with the manufacturers published product specifications for ninety (90) days from the date installed. Exchange parts removed from the Equipment shall become the property of Hologic.

7. **TRANSPORTATION.** Transportation includes, but is not limited to, crating, loading, storage and movement of the Equipment ("Transportation"). Customer acknowledges and agrees that a third party subcontractor packages the Equipment at Current Location and transports the Equipment from the Current Location to the Destination Location.

8. **INSURANCE.** Hologic shall at all times during the performance of services hereunder maintain in effect the following insurance with respect to Customer's location: (a) worker's compensation insurance covering any and all of its employees, agents or representatives who may be providing the services to Customer hereunder, in amounts and coverage complying with the requirements of the applicable state; (b) general liability insurance covering the acts or omissions of Hologic and its employees, agents or representatives, and any and all equipment and other personal property of Hologic; and (c) products liability insurance.

9. **CANCELLATION BY CUSTOMER.** Once the services are scheduled and confirmed, Customer must provide Hologic with at least twenty-four (24) hour advance written notice in the event the services need to be rescheduled or cancelled, otherwise a cancellation fee shall apply and be due and payable by Customer upon receipt of invoice. If Hologic does not receive a cancellation notice and Customer is not at the location to provide Hologic's representatives access for scheduled services, Customer shall be subject to a cancellation fee. Notice to Hologic shall be given electronically by email to: ClientServices@hologic.com.

10. **CANCELLATION BY HOLOGIC.** Hologic reserves the right to re-schedule or cancel scheduled services if such services cannot be reasonably provided for reasons beyond Hologic's control. Hologic shall provide prompt notice to Customer in the event services cannot be provided as scheduled.

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Additional Professional Services Terms and Conditions for Post-Implementation Configuration Services

1. **EQUIPMENT AND SERVICES.** Hologic shall provide the services on the equipment ("Equipment") as listed on the Quote. The parties will schedule the services to be performed at a mutually agreed upon date and if applicable, time. Services not listed on the Quote are not covered by the Agreement and if performed by Hologic or its representatives, shall be invoiced separately at the prevailing travel time, labor and parts rates.
2. **STATEMENT OF WORK.** To the extent referenced on the Quote, a statement of work ("SOW") detailing the services to be provided will apply hereunder.
3. **REMOTE ACCESS.** Based on the services to be provided, Customer may be required to provide Hologic with remote access to the Equipment to enable Hologic to deliver the services. Any required remote access shall be provided through Hologic Connect™ or Hologic's then-current remote access technology. In the event Customer does not provide Hologic with such remote access, Hologic, in its sole discretion, may separately charge Customer for travel time and labor costs for services where Hologic is therefore required to dispatch its designated representatives for on-site support.
4. **CUSTOMER RESPONSIBILITIES.** Customer acknowledges and agrees that Customer alone is responsible for ensuring all Customer data is backed up in accordance with applicable policies, rules and regulations. Hologic shall not be liable for any lost or corrupt data of Customer.
5. **CONFIRMATION OF COMPLETION.** Customer acknowledges and agrees, upon completion of the services to be provided by Hologic, to sign the Confirmation of Completion Addendum, attached hereto and incorporated herein.
6. **CANCELLATION BY CUSTOMER.** Services to be provided remotely may only be canceled by Customer prior to performance by written notice to Hologic. For services to be provided on-site, Customer must provide Hologic with at least twenty-four (24) hour advance written notice in the event the services need to be rescheduled or cancelled; if Hologic does not receive a cancellation notice and Customer is not at the location to provide Hologic's representatives access for scheduled services, a cancellation fee shall apply and be due and payable by Customer upon receipt of invoice. Notice to Hologic shall be given electronically by email to: ClientServices@hologic.com.
7. **CANCELLATION BY HOLOGIC.** Hologic reserves the right to re-schedule or cancel scheduled services if such services cannot be reasonably provided for reasons beyond Hologic's control. Hologic shall provide prompt notice to Customer in the event services cannot be provided as scheduled.

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Additional Professional Services Terms and Conditions for Clinical Training

1. **CLINICAL TRAINING COURSES.** The Quote contains the name and details of the clinical training course, including the duration of the course, the maximum number of course attendees per course, and whether the course will be supplied remotely or in person at Customer's site. Customer is solely responsible for all expenses relating to course attendance. Customer is responsible for ensuring that course attendees meet course prerequisites, if applicable.
2. **COURSE CREDIT.** Each course attendee that completes the course shall receive a certificate at the conclusion of the course evidencing course completion. Such certificate shall contain the course attendee's name, the Customer's name, the course attendee's American Society of Radiologic Technologists ("ASRT") number, the name of the course and the applicable ASRT credit hours earned. Documentation of course attendance is retained by Hologic for a three (3) year period. Copies of certificates may be requested by Customer at any time during such three (3) year retention period for an additional cost.
3. **DELIVERY AND LOCATION OF COURSE.** Course must be scheduled and completed within twenty-four (24) months of Hologic's receipt of a fully executed Quote.
 - a. **SCHEDULING.** Upon receipt of a fully executed Quote and Customer's purchase order, Hologic will contact the Customer to schedule the training course. Once a training course is scheduled, Hologic will provide Customer with a course agenda, which shall outline the course content and list any course prerequisites.
 - b. **IN PERSON AT CUSTOMER'S SITE.** For training courses to be delivered in person at Customer's premises, Customer shall be responsible for the provision and expense of adequate facilities and other applicable resources necessary to conduct the training, other than materials necessary to conduct the course, if any, which shall be supplied by Hologic. Hologic does not supply any food or beverage as part of the course.
 - c. **REMOTE.** Training courses to be delivered remotely shall require the applicable technology listed in the Quote or as otherwise provided in Section 4 herein. Customer shall be responsible for the provision of the applicable technology and adequate internet connection, as applicable, to enable the course attendees to attend and partake in the training course. Hologic cannot take any responsibility for the failure of Customer's hardware or inadvertent internet connection loss or quality deterioration during the provision of any remote course.
4. **REMOTE ACCESS.** In accordance with the Quote, Customer may be required to provide Hologic with remote access to certain Hologic-manufactured mammography equipment ("Equipment") to permit Hologic to deliver some or all of the training course content. The remote access shall be provided through Hologic Connect™ or Hologic's then-current remote access technology.
5. **ACCESS.** Hologic must be provided appropriate access by Customer to Customer's premises in order to perform its obligations hereunder.
6. **CANCELLATION BY CUSTOMER.** Once a course is scheduled and confirmed, Customer must provide Hologic with six (6) business days advance written notice in the event the course needs to be rescheduled or cancelled, otherwise a fee of \$2,000.00 shall apply and be due and payable by Customer upon receipt of invoice. If Hologic does not receive a cancellation notice and Customer is not at the location to provide Hologic's representatives access for a scheduled and confirmed training course, Customer shall be subject to the \$2,000.00 fee. Further, any expenses incurred by Hologic prior to cancellation of a scheduled and confirmed course purchased by Customer shall be subject to reimbursement by Customer. Notice to Hologic shall be given electronically by email to: Clientservices@hologic.com.
7. **CANCELLATION BY HOLOGIC.** Hologic reserves the right to re-schedule or cancel a scheduled and confirmed training course if such course cannot be reasonably provided for reasons beyond Hologic's control, such as a course instructor being or becoming unavailable. Hologic shall provide prompt notice to Customer in the event a course cannot be provided as scheduled.
8. **INTELLECTUAL PROPERTY AND CONFIDENTIALITY.** All material presented during a training course is considered intellectual property of Hologic and is and shall remain the sole property of Hologic. The taping, filming, photographing, or other recording of any course, course content, training material and/or materials used for the provision of training courses are strictly prohibited.

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