

These Breast & Skeletal Health Maintenance & Repair Service Agreement Terms (“Terms”) between Hologic, Inc. (“Hologic”) and Customer (individually a “Party”, together, the “Parties”) govern the repair and maintenance services of equipment listed on the Service Quote (“Equipment”) and the use of Software (Equipment and Software collectively, “Products”). These Terms, together with the applicable service quote (“Service Quote”), Exhibit A, and Exhibit B are collectively defined as the “Agreement”.

## 1. Termination

- a. **Termination Without Cause.** Either Party may terminate this Agreement, with or without cause, after providing the other with sixty (60) days’ prior written notice. In case of such termination by Customer, (unless Customer sells its business, or Customer’s business merges with or is acquired by another entity who will have a controlling interest of 50% or greater), Customer will be assessed a cancellation fee of 25% of the residual Agreement price, based on the effective termination date. If cancellation occurs in the final year of coverage, the fee will be reduced to 15%. Hologic may set-off, credit, or refund any unused amounts prepaid by Customer.
- b. **Termination for Cause.** Customer shall be in default under the Agreement upon: (a) failure by Customer to make any payment due to Hologic within ten (10) days of Hologic providing written notice to Customer of its late payment status; and (b) failure to provide access to the Product as set forth in Section 6(b). Either Party shall be in default under this Agreement if such Party fails to perform any of its other obligations under the Agreement and such breach is not cured within thirty (30) days of the non-breaching Party providing written notice thereof. Failure to remedy a breach under this Section 1(b) may result in termination of the Agreement. Upon the occurrence of any default by Customer, Hologic, at its sole option, may immediately cease providing Services under the Agreement until the default is cured or corrected. In the event of the commencement of any insolvency, bankruptcy or similar proceedings by or against a Party, including any assignment for the benefit of creditors this Agreement shall be terminated immediately.

## 2. Pricing and Payment

Service pricing and payment schedule are listed on the Service Quote. Payments are due net thirty (30) days from the invoice date. Hologic may suspend Services if Customer’s account is past due. If Customer is tax-exempt, Customer will provide a valid tax-exemption certificate to Hologic prior to the invoice date, otherwise Customer shall be invoiced for applicable taxes.

## 3. Services Included

- a. **Services.** Hologic or authorized distributor will provide the services listed on the Service Quote (“Services”). Any Services performed outside of the Coverage Period indicated on the applicable Service Quote are performed at Hologic’s prevailing rates. Each Service Type selected by Customer is detailed in Exhibit A, titled “Service Type Coverage”, which contains coverage details and hours of service. Customer may request Services, telephone support, or remote support by contacting the applicable support team from Exhibit B, titled “Product Support Information”.
- b. **Preventive Maintenance.** Any Preventive Maintenance (“PM”) will be performed according to manufacturer’s recommended schedule. PM generally includes checking mechanical and electrical safety, lubrication, functional testing, and adjusting Equipment to Specifications.
- c. **Software Updates and Software Upgrades.** “Software Updates” are generally available software modifications that correct errors or address safety or quality issues, such as maintenance-only releases, and bug fixes. “Software Upgrades” are new releases of software that contain enhancements improving functionality or capabilities, which are made commercially available by Hologic. Hologic may, in its sole discretion, determine if a new release is an Software Update or a Software Upgrade. Service coverage for Software Updates and Software Upgrades is determined by the Service Type, or as required by applicable law. Unless otherwise indicated by the Service Type or required by applicable law, Customer must request installation of Software Updates and Software Upgrades during the Coverage Period for coverage.

**Software.** “Software” includes all computer software, firmware and associated documentation supplied through this Agreement in connection with the Equipment or Services. If the Equipment includes Software, Customer is granted a non-exclusive, non-transferable license to use the Software on the Equipment on which it is first installed and only in the normal course of business. Customer may not use Software for multi-site quality control or data review or attempt to access its source code. Software remains the sole property of Hologic. Customer must treat Software as confidential, and must maintain all copyright, proprietary, and other notices on the Software. Customer must not copy, sublicense, de-compile, disassemble, or reverse engineer the Software. All information needed for interoperability is available from Hologic. Hologic may develop Software Updates and if, at Hologic’s discretion, Hologic must perform on-site installation, Customer must allow Hologic access to the Equipment to install the Software Updates. Software updates and upgrades for non-Hologic manufactured equipment are subject to the policies of its manufacturer.

- d. **Replacement Parts.** If covered on Exhibit A or warranty, Hologic will provide available replacement parts at no charge. Replacement parts may be new or remanufactured, will be exchanged for the replaced parts, and are warranted to perform in accordance with Specifications for the greater of ninety (90) days or the remainder of the Coverage Period stated on the Quote. Replaced parts become the property of Hologic once replacement parts are installed. Parts not covered on Exhibit A or warranty are provided at Hologic rates current at time of replacement. Replacement parts that provide enhancements or new functionality may be provided at an additional cost.
- e. **End of Support Announcement.** Should Hologic determine that it will no longer support a Product, component, or provide a particular option or feature, Hologic shall provide Customer twelve (12) months written notice prior to ending such support. After such notice, Hologic may remove such affected Product, component, option or feature from coverage, with an appropriate adjustment of charges, with no further action by the Parties.
- f. **Service Reports.** Hologic will provide service reports for all Services performed onsite.
- g. **Response Times.** Subject to the conditions specified in Exhibit A, product support teams are available during support hours listed in Exhibit B. If Customer leaves a message, Hologic’s phone support group will return calls received during support hours within thirty (30) minutes. Should a support team determine that onsite service is necessary, a Hologic Field Engineer will be dispatched. Unless otherwise stated on Exhibit A, Hologic uses best efforts to provide an onsite response for down Equipment within two (2) business days of Customer’s call.

- h. Remote Access. For some Products, Hologic requires remote access to meet service response times and perform support services. Remote access is provided through Unifi™ Connect, or other Hologic technology available at the time service is performed. Customer understands that if Customer is unable to provide remote access, Hologic may not be able to meet the response times specified under this Agreement.

#### **4. Exclusions**

The following services are not covered by the Agreement and will be billed at prevailing rates:

- a. services performed at Customer's request outside the hours in Exhibit A;
- b. services required due to disaster, acts of God, or external failures (including without limitation: abuse, damage from vibration, loss of air-conditioning, power failure, or power surges beyond specified equipment tolerances);
- c. services required due to improper use or actual or attempted unauthorized third-party repair, modifications, software installations, or moves;
- d. services required due to electrical work or cabling external to the Product;
- e. services performed related to information technology, workflow design and analysis, or Customer's network infrastructure, such as internet protocol address configurations;
- f. services performed as a result of changes in laws, regulations or guidelines; and
- g. de-installation, reinstallation, or relocation services.

#### **5. Changes in Coverage**

- a. Inspection. If Customer would like to cover Equipment that has been without warranty or service contract coverage for more than thirty (30) days, serviced by anyone other than Hologic or its authorized representatives, or Customer is in Default for more than thirty (30) days, then, at Customer's expense, Hologic may inspect the Equipment to determine if it conforms to Hologic's published specifications ("Specifications"). If Equipment does not conform to Specifications, Customer must pay prevailing rates to bring the Equipment into Specifications prior to resumption or start of coverage by Hologic.
- b. Adding and Removing Equipment Coverage. The Parties may add Equipment by mutually executed written amendment to this Agreement. If Customer would like to remove Equipment, then after providing Hologic with sixty (60) days' notice, the Parties will amend the Agreement to reflect such removal, subject to the termination fee set forth above in Section 1(a) (if applicable). Advance notice for removal is not required if Equipment is traded-in as part of a new purchase of Hologic equipment from Hologic, and the Title Transfer form conveying title in the traded-in Equipment shall serve as an amendment to the Service Agreement terminating coverage with respect to the transferred Equipment. In the event of any coverage adjustment, the cost on the Service Quote will be prospectively adjusted to reflect such change.

#### **6. Customer Responsibilities**

- a. Routine Maintenance and Supervision. Customer must perform all Hologic-recommended routine maintenance in accordance with user manual. Customer alone is responsible for the supervision, risk mitigation, management and control of Equipment while placed onsite.
- b. Access. If Customer does not provide access to Equipment for a scheduled visit, Customer will pay travel time and labor expenses at prevailing rates.
- c. Data Backup. Customer must backup all data, such as patient data, prior to and during the provision of Services. Hologic is not responsible for loss, corruption, recovery, storage or backup of data.
- d. Location. The Equipment shall be located at the address set forth in the Service Quote and shall not be moved during the Coverage Period stated on the Quote without Hologic's prior written consent.
- e. Use Restrictions. Products are only intended for the uses listed in the applicable operator's manual or instruction for use and are subject to the Specifications and requirements set forth therein. Customer assumes all risks associated with non-listed uses of Products and/or use of Products which is inconsistent with the specifications and requirements applicable to such Products, and Customer hereby indemnifies and holds Hologic harmless from any claim associated with any such uses. Customer is not licensed to, and agrees not to: (i) resell any Product, unless otherwise authorized by Hologic in writing; (ii) transfer, or distribute any Product, directly or indirectly, to any third party for any purpose or use, except as otherwise approved by Hologic in writing; (iii) use or allow anyone to dilute any Product; or (iv) reverse engineer, disassemble, or conduct unauthorized analysis of any Product and/or its method of use.

#### **7. Limited Warranties and Exceptions**

Hologic warrants that Services will be performed by trained individuals in a workmanlike manner. The remedy for any warranty claim is limited to Hologic re-performing any non-conforming Services at no charge, as long as Customer provides prompt written notice to Hologic. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. HOLOGIC DISCLAIMS IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

#### **8. Limitation of Liability**

Except for bodily injury or damage to real or tangible personal property caused solely and directly by the gross negligence or willful misconduct of Hologic or its authorized representatives, Hologic's liability for any damages is limited to the annual Service Quote price in effect when the cause of action arose. IN NO EVENT SHALL HOLOGIC BE LIABLE FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES. ADDITIONALLY, HOLOGIC SHALL NOT BE LIABLE FOR ANY CLAIMS BROUGHT MORE THAN ONE YEAR AFTER THE CLAIMANT HAS KNOWLEDGE OF THE CLAIM.

#### **9. Force Majeure**

Neither Party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrections, fires, floods storm, explosions, acts of God, war, governmental action, labor or material shortages or any other

cause which is beyond the reasonable control of such Party. The foregoing provisions regarding force majeure shall not be operative to delay or excuse payment of any amount.

#### **10. Assignment**

Customer may not assign or subcontract any portion of its rights or obligations under the Agreement without prior written consent from Hologic. Hologic may assign or subcontract its rights, responsibilities, and/or obligations, provided that any assignee assumes applicable obligations in writing.

#### **11. Confidentiality**

Except to the extent disclosure is required by applicable law, both Parties agree to hold in strict confidence the Agreement terms and all information in connection with performance of the Agreement, including without limitation, pricing, protected health information, and information relating to the Customer.

#### **12. Product Performance Data**

Operational and performance data that is stored, recorded, made available, processed, created, derived, generated and collected from the Hologic manufactured or licensed Products ("Performance Data") is exclusively owned by Hologic and Hologic has all right, title and interest in and to any and all Performance Data. Performance Data does not include patient health information.

#### **13. Waiver and Severability**

If either Party fails to perform obligations under this Agreement, such nonperformance does not affect the other Party's right to enforce performance at any time. Waiver of any remedy or material breach of any subject matter contained in this Agreement is not a waiver unless agreed to by the Parties in writing. Each provision of this Agreement is separate and independent of one another, and the unenforceability of any provision shall not affect the enforceability of any other provision. If any provision is held to be excessively broad or unenforceable, such provision shall be modified accordingly so that it is enforceable to the fullest extent possible by law.

#### **14. Notices**

All notices provided for in this Agreement shall be in writing, addressed to the appropriate Party at the respective address set forth in the Service Quote or any then-current address of which it has received notice. Any notification required shall be deemed to have been provided either one (1) day after being given to an express overnight carrier with reliable delivery tracking; or when sent by a confirmed facsimile with another copy sent by any other means specified in this paragraph; or three (3) business days after having been mailed postage prepaid by United States registered or certified mail.

Hologic, Inc.  
250 Campus Drive  
Marlborough, MA 01752  
Attn: Contracts Department  
Fax: 866-523-8691

With a copy to:

Hologic, Inc.  
250 Campus Drive  
Marlborough, MA 01752  
Attn: Legal Department  
Fax: 508-263-2959

#### **15. Applicable Law**

The Parties agree to comply with applicable law, including but not limited to, applicable provisions of Health Insurance Portability and Accountability Act of 1996, the Federal Anti-Kickback Statute, and the requirement for access clause set forth in 42 C.F.R. 420.302.

#### **16. Equal Employment Opportunity Policy**

**Hologic is an equal opportunity employer and federal contractor or subcontractor. Consequently, the Parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The Parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.**

#### **17. Independent Contractors**

Hologic is an independent contractor. No joint venture, partnership, principal-agent, or employment relationship exists or is implied between the Parties.

#### **18. Insurance**

During the Coverage Period stated on the Quote, Hologic will maintain the following insurance coverages in amounts complying with applicable law: (a) worker's compensation insurance covering its employees, agents, or representatives; (b) general liability insurance covering the acts or omissions of Hologic and its employees, agents, or representatives; and (c) products liability insurance. Hologic will provide a certificate of insurance to Customer upon request.