

HOLOGIC SURGICAL WARRANTY TERMS AND CONDITIONS

1. WARRANTIES.

Hologic Standard 1-Year Warranty: Unless otherwise expressly stated, Equipment is warranted to the original Customer to perform substantially in accordance with published product specifications for one (1) year starting from the date of shipment (“Warranty Period”). Replacement parts and remanufactured items are warranted for the remainder of the Warranty Period or 90 days from shipment, whichever is longer. Consumable Supplies are warranted to conform to published specifications for a period ending on the expiration date shown on their respective packages. Licensed Software is warranted to operate in accordance with published specifications. Services are warranted to be supplied in a workman-like manner. Hologic does not warrant that use of Products will be uninterrupted or error-free, or that Products will operate with non-Hologic authorized third-party products.

Extended Warranty (if applicable). If Customer purchases a Hologic Extended Warranty on Equipment, then Customer’s Warranty Period will be extended by the additional coverage period specified on Customer’s purchase documentation (the “Extended Warranty Period”). Preventative maintenance recommended by Hologic for the Equipment will be completed free of charge during the Extended Warranty Period.

2. WARRANTY CLAIMS AND REMEDIES.

In the event of any warranty claim, Hologic shall replace with new or remanufactured items any Medical Equipment, part, component, or consumable supply that is in breach of warranty, and shall use reasonable efforts to promptly fix or provide a workaround for any Software defect or bug which prevents operation in substantial conformity with functional specifications. Alternatively, Hologic may elect to repay or credit to Customer an amount equal to the purchase price of the defective Medical Equipment, component, Software, consumable supply, or Service. Items replaced shall become Hologic property. All claims shall be initiated by contacting Hologic within the applicable Warranty Period and 30 days after discovery of the breach or non-conformity. Hologic must be given reasonable access and an opportunity to inspect all associated materials. If Customer has not notified Hologic within one (1) year after the claim arises, Customer shall be barred from instituting any legal action against Hologic thereafter. These remedies shall comprise Hologic’s entire liability and Customer’s exclusive remedy for breach of warranty and are in lieu of any other remedies at law or equity. HOLOGIC’S ENTIRE WARRANTY RESPONSIBILITY IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT (AT HOLOGIC’S OPTION AND IN THE FORM ORIGINALLY SHIPPED) OF PRODUCT OR CORRECTION OF SERVICE SUBJECT TO ANY CLAIM, OR, AT HOLOGIC’S ELECTION, REPAYMENT OF, OR CREDITING CUSTOMER WITH, AN AMOUNT EQUAL TO THE HOLOGIC PRICE, FEE OR CHARGE THEREFOR. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUCH LIMITED WARRANTY IS GIVEN SOLELY TO THE ORIGINAL CUSTOMER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, CUSTOMERS OF CUSTOMER. THIS WARRANTY IS VOID UPON TRANSFER OF PRODUCT BY CUSTOMER TO ANY ENTITY WHO IS NOT AN AFFILIATE OF CUSTOMER. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER. CUSTOMER MAY ALSO HAVE OTHER RIGHTS, WHICH VARY, FROM STATE TO STATE. These warranties do not apply to any item that is: (a) repaired, moved, or altered other than by Hologic authorized service personnel; (b) subjected to physical (including thermal or electrical) abuse, stress, or misuse; (c) stored, maintained, or operated in any manner inconsistent with applicable Hologic specifications or instructions, including Customer’s refusal to allow Hologic recommended Software upgrades; or (d) designated as supplied subject to a non-Hologic warranty or on a pre-release or “as-is” basis.

3. LIMIT OF LIABILITY. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL LOSSES, DAMAGES, OR EXPENSES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, DATA, OR USE), DIRECTLY OR INDIRECTLY ARISING FROM THE SALE, HANDLING, SERVICE OR USE OF PRODUCT ORDERED OR FURNISHED PURSUANT TO THIS AGREEMENT, OR FROM ANY CAUSE RELATING THERETO UNLESS EXPRESSLY AGREED TO BY THE PARTIES IN WRITING. EXCEPT FOR PERSONAL INJURY OR DEATH TO THE EXTENT RESULTING FROM HOLOGIC’S NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS, HOLOGIC IS NOT LIABLE UNDER ANY LEGAL THEORY OR FOR ANY CAUSE WHATSOEVER, WHETHER BASED UPON WARRANTY, CONTRACT, TORT, NEGLIGENCE, OR OTHER THEORY, EVEN IF ADVISED OF THE POSSIBILITY THEREOF, FOR ANY AMOUNT IN EXCESS OF THE PRICE, FEE OR CHARGE THEREFOR RECEIVED BY HOLOGIC.

4. ADVANCED EXCHANGE PROGRAM. Should Customer require Equipment maintenance or repair, such Equipment shall be returned to Hologic and will be swapped and permanently replaced with either new or refurbished Equipment. Such replacement Equipment will have its own unique serial number and Customer shall not receive its original Equipment back unless explicitly agreed in advance. Use of the Advanced Exchange Program to swap Equipment under a Hologic warranty shall be at no additional charge to Customer. Use of the Advanced Exchange Program to swap Equipment outside a Hologic warranty shall incur a separate fee, to be invoiced to Customer at the time a Return Merchandise Authorization (RMA) is issued.