

**1 APPLICABILITY**

All purchase orders for services and extended warranty coverage ("Service Agreement") are accepted and executed on the understanding that the Customer is bound by the following Standard Conditions of Sale for Service ("Terms"). Where there is inconsistency between these Terms and any conditions which the Customer seeks to impose, these Terms shall prevail. Any deviations to these Terms shall only be binding upon Hamilton if approved in writing.

**2 SERVICES**

Hamilton shall provide the services to Customer in North America as described in the Service Agreement ("Services") in accordance with these Terms. The Services provided shall be limited to the following:

(a) Maintenance Service: Hamilton agrees to provide maintenance service to keep the covered instrument(s) in good working order throughout the term of a Service Agreement, as more fully set forth in Section 7 below. Maintenance service includes periodic preventive maintenance according to specific needs of the instrument as determined by Hamilton. This preventive maintenance may be performed during the course of remedial maintenance. Maintenance service also includes lubrication, adjustments and replacement service parts, all as deemed necessary by Hamilton. Replacement parts may be new or refurbished and are furnished on an exchange basis; the replaced parts become the property of Hamilton.

(b) If either Party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other party in writing. Hamilton shall, within a reasonable time after such request, provide a written estimate to Customer of: (i) the likely time required to implement the change; (ii) any necessary variations to the fees and other charges for the Services arising from the change; (iii) the likely effect of the change on the Services; and (iv) any other impact that the change might have on performance of a Service Agreement. Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change ("Change Order"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing.

(c) Hamilton may, from time to time change the Services without the consent of Customer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in a Service Agreement.

**3 RIGHT TO INSPECTION**

Hamilton reserves the right to inspect any instrument prior to inclusion under a Service Agreement and may require that the instrument(s) be returned to the proper operating specifications at the Customer's expense prior to inclusion.

**4 PERFORMANCE DATES**

Hamilton shall use reasonable efforts to meet any performance dates requested in a purchase order or specified in a Service Agreement, and any such dates shall be estimates only.

**5 PAYMENT TERMS**

5.1 Customer shall pay all invoiced amounts due to Hamilton in US dollars, NET 30 days from the date after receipt of Hamilton's invoice. Customer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Hamilton, whether relating to Hamilton's breach, bankruptcy, or otherwise.

5.2 Should an invoiced amount be disputed by the Customer, Customer shall have the opportunity to pay the dispute in full under protest in order to avoid the application of penalties and interest. Should the dispute be determined and resolved in favor of the Customer, Customer shall be entitled to reimbursement of the disputed amount.

**6 TAXES AND FEES**

Customer will pay, when due, all taxes, including sales, use, privilege, excise, personal property, value added, and other taxes, but not federal or state income or franchise taxes imposed on Hamilton, and all other governmental charges, assessments, fees and any related interest or penalties imposed with respect to the Products or the transactions contemplated by a Purchase Agreement.

**7 CUSTOMER OBLIGATIONS**

Customer shall:

(a) Provide a suitable environment for the instruments as specified by Hamilton, including adequate space and electrical power, and to provide Hamilton full, free and safe access to the instruments and shall cooperate with Hamilton in all matters relating to the Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Hamilton, for the purposes of performing the Services;

(b) Respond promptly to any Hamilton request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Hamilton to perform Services in accordance with the requirements of a Service Agreement;

(c) Provide such customer materials or information as Hamilton may request to carry out the Services in a timely manner and ensure that such Customer materials or information are complete and accurate in all material respects; and

(d) Obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

**8 CUSTOMER ACTS OR OMISSIONS**

If Hamilton's performance of its obligations under a Service Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Hamilton shall not be deemed in breach of its obligations under these Terms or any Service Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

**9 PARTS AND LABOR**

A Service Agreement shall include all required service parts, travel and labor except as otherwise stated within. Consumable parts, including syringes, tubing, and valves, are not included.

**10 SERVICE HOURS**

Service will be provided during normal working hours 8 a.m. to 5 p.m., Monday through Friday. All phone inquiries will receive a follow up call within 4 hours. If service is required, every effort will be made to be on site on the same or next regular business day. Inoperable instruments will take priority over other calls such as preventive maintenance.

**11 DEFAULT**

Hamilton shall have the right to discontinue Services and also at its discretion to terminate Service Agreement if the Customer defaults in payment as stated under section 4 of this document or in respect of its other obligations to Hamilton.

## 12 TERMINATION OF SERVICE

The customer may withdraw any or all instruments from a Service Agreement by providing Hamilton with sixty (60) days written notice. Upon said termination Hamilton, at its discretion shall refund the lesser of, any prepaid amounts or the Service Agreement value, less the time and material cost of Services rendered by Hamilton based on the rates in effect at the time of Service. Either party may withdraw any or all of the instruments from this Agreement at any time for failure of the other to comply with any of these Terms.

## 13 LIMITED WARRANTY

- 13.1 The repair of damage, replacement of parts, or any increase in Service time caused by accident, disaster, neglect, abuse, misuse, transportation, modifications, accessories, use of third party consumables (i.e. third party tips), unauthorized software, or non-Hamilton repairs are not covered by this Agreement. A Service Agreement does not cover computer equipment sold with Hamilton instruments, such warranty is transferred to the computer manufacturer immediately after the sale. Service Agreement support for third party integrated instruments must be explicitly identified in the Service Agreement for coverage.
- 13.2 The warranty expressly does not cover damage caused by normal wear, faulty maintenance performed by a third party, failure to observe the operating instructions, and installation not carried out by Hamilton as well as due to other reasons for which Hamilton is not responsible. HAMILTON MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING BUT NOT LIMITED TO ANY (a) WARRANTY OF MERCHANTABILITY; (b) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; OR (c) WARRANTY OF TITLE WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE.

## 14 LIMITATION OF LIABILITY

- 14.1 IN NO EVENT SHALL HAMILTON BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES OR DIMINUTION IN VALUE, ARISING OUT OF OR RELATING TO ANY BREACH OF THESE TERMS, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED IN ADVANCE BY CUSTOMER OR COULD HAVE BEEN REASONABLY FORESEEN BY CUSTOMER, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT OR OTHERWISE) UPON WHICH THE CLAIM IS BASED, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL HAMILTON'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO A PURCHASE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO HAMILTON FOR THE PRODUCTS SOLD IN THE PURCHASE AGREEMENT.
- 14.2 The limitation of liability set forth in Section 14.1 above shall not apply to (i) liability resulting from Hamilton's gross negligence or willful misconduct and (ii) death or bodily injury resulting from Hamilton's gross negligent or willful acts or omissions.

## 15 NO GUARANTEE

Services provided do not assure uninterrupted operation of instruments and Hamilton is not responsible for failure to render Services due to causes beyond its control including Force Majeure.

## 16 FORCE MAJEURE

Hamilton shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached a Service Agreement or these Terms, for any failure or delay in fulfilling or performing any obligations stated when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Hamilton including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

## 17 WAIVER

No waiver by Hamilton of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by Hamilton. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these Terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

## 18 ATTORNEY FEES

Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce a Purchase Agreement the parties shall be responsible for their own attorney's and accountant's fees associated with the costs of litigation, and in no event shall the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party against whom enforcement was sought.

## 19 CONFIDENTIAL INFORMATION

All non-public, confidential or proprietary information of Hamilton, including but not limited to specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts or rebates, disclosed by Hamilton to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential" in connection with a Purchase Agreement is confidential, solely for the use of performing the Purchase Agreement and may not be disclosed or copied unless authorized in advance by Hamilton in writing. Upon Hamilton's request, Customer shall promptly return all documents and other materials received from Hamilton. Hamilton shall be entitled to injunctive relief for any violation of this Section. This Section does not apply to information that is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by Customer on a non-confidential basis from a third party.

## 20 ASSIGNMENT

Customer shall not assign any of its rights or delegate any of its obligations under a purchase order without the prior written consent of Hamilton. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under a purchase order.

## 21 NO THIRD-PARTY BENEFICIARIES

A purchase order is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is



intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

**22 LEGAL CONSTRUCTION**

These Terms and all Service Agreements to which the same apply shall be construed in accordance with the laws of the State of Nevada, U.S.A. Any disputes arising in connection with these Terms and all sale contracts to which the same apply shall be finally settled by arbitration in accordance with the laws and rules of the State of Nevada and such proceedings held and located in Reno, Nevada, U.S.A.

**23 SEVERABILITY**

If any term or provision of a Service Agreement or these Terms are invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of a Purchase Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.