

IN VITRO TECHNOLOGIES PTY.LTD. SERVICE AGREEMENT TERMS AND CONDITIONS

A.B.N. 27102379895

1. SERVICE

In Vitro shall provide service during the term of this Agreement for all items of equipment (hereinafter "Equipment") determined by In Vitro to be eligible for coverage hereunder. Eligibility of Equipment shall be determined, at the expense of the Customer, on the basis of the following :

- (a) Each item of Equipment subject to a In Vitro Service Agreement at the effective date of this Agreement shall be eligible for coverage hereunder;
- (b) Items of Equipment not eligible under paragraph (a) above, but which are otherwise examined and accepted, in writing, by In Vitro Service Department, shall be eligible for coverage hereunder

Equipment determined eligible for coverage hereunder shall be listed in the schedule or schedules (hereinafter "Schedule") executed by In Vitro and Customer concurrently herewith or hereafter, and made a part hereof. Equipment found ineligible will not be covered hereunder; provided that, if Customer so requests, shall bring any such item of Equipment up to necessary standards for eligibility. All labour and parts required to bring any such Equipment up to necessary standards for eligibility shall be for Customer's account and shall be charged at In Vitro then current and applicable rates. Equipment may be added from time to time subject to mutual agreement of the parties and determination of eligibility in accordance with the foregoing.

All service for items of Equipment covered by this Agreement shall be performed by In Vitro during its normal working hours, 8.45am to 5.00pm (Saturdays, Sundays and In Vitro holidays excluded), at the locations(s) specified for the Schedule for the items of Equipment covered hereunder.

2. TERM

The term of this Agreement shall commence on the effective date hereof and shall continue in full force and effect until the last date of expiration of the Schedule, unless sooner terminated as provided in paragraph 4.

3. SERVICE RESPONSIBILITY

In Vitro will provide service during the term of this Agreement for Equipment covered hereunder when required solely as a result of normal use in accordance with proper operating procedures. In Vitro will make service calls as specified in the Schedule. All service shall be performed by a In Vitro Service Engineer. The judgement of the responsible Service Engineer regarding any corrective work on Equipment covered hereunder shall be conclusive.

- (a) Parts and labour required to keep Equipment in good operating condition shall be supplied in accordance with the Schedule. Parts may be new or, in some cases, rebuilt to new part specifications.
- (b) This Agreement specifically excludes Equipment adjustment, repair or parts replacement required because of :
 - 1) accident, neglect, misuse, failure of or improper electrical power, transportation, alteration, vandalism, fire, or other casualty;
 - 2) causes other than ordinary use;
 - 3) attempted repair or service of Equipment by other than In Vitro service Engineers without prior approval of In Vitro;
 - 4) improper servicing of Equipment by other than In Vitro Service Engineers; or
 - 5) installation or reinstallation of Equipment without prior approval of In Vitro.
- (c) Defective parts removed from the Equipment and replaced in accordance with this Agreement shall become the property of In Vitro.

4. CUSTOMER RESPONSIBILITY

Customer shall provide free of charge, and with ready access, adequate working space and adequate light, heat, ventilation, electrical current and outlets for the use of the In Vitro Service Engineer. Customer shall be responsible (and shall be charged at In Vitro then current and applicable rates) for all service and parts furnished hereunder and required because of, or attributed to, failure of Customer to properly use or perform simple preventative maintenance on Equipment or attributed to excluded causes as set forth in paragraph 3 (b) above.

In the event Customer fails to perform any of its obligations hereunder as and when required, In Vitro may suspend service until Customer so performs; if Customer fails to perform for more than fifteen (15) days after written notice from In Vitro, In Vitro may elect to terminate this Agreement.

5. INVOICES AND PAYMENTS

The Basic Charge for services rendered pursuant to paragraph 2 hereof, shall be the amount designated in the Schedule, and shall be paid to In Vitro at its address first herein set forth or such other place as In Vitro may designate by written notice.

6. WARRANTY

The sole responsibility and liability of In Vitro under this Agreement shall be limited to providing service during the term hereof in accordance with its Service Responsibility as defined in paragraph 3. In Vitro makes no warranty, express or implied in fact or by operation of law, statutory or otherwise, as to any service furnished hereunder (including labor and covered parts) or as to the Equipment serviced. Except as otherwise provided hereinabove, parts installed or furnished by In Vitro to otherwise purchased by Customer from In Vitro shall be subject to the In Vitro Terms and Conditions of Sale attached hereto or as may be communicated to Customer by In Vitro from time to time. Provided that nothing herein shall be taken to exclude any warranty or condition the exclusion of which is not permitted by law.

7. DAMAGES AND LIABILITY

In Vitro liability for damages shall not exceed the payment of (a) either supplying the service again or (b) making a payment of the cost of having the service supplied again. In no event shall In Vitro be liable for incidental, consequential, resulting or special loss or damage, of any kind, however caused, arising out to, or in any way connected with, the Service Agreement or the service rendered by In Vitro to the customer. Provided that In Vitro carries out its obligations with due diligence and in accordance with this Agreement then its liability to the customer shall not extend to any claim the customer may have for loss of profits or patient billing arising from any equipment supplied or serviced by In Vitro.

8. INDEMNITY

Each Party agrees to hold the other harmless and defend each other from any damage, injury or liability resulting from, or in any way related to, any fault or neglect or the other party, its employees, agents or licensees, or any fault or neglect of others not parties hereto; provided, however, that both parties shall give each other written notice of any such claim or demand relating thereto.

9. GENERAL

- (a) This Agreement shall be binding on the parties hereto, their heirs, administrators, executors, representatives and assigns. Customer shall not assign this Agreement or any rights hereunder without the prior written consent of In Vitro Service hereunder shall not be transferable, and In Vitro shall not be required to render service hereunder at locations different from those listed in the Schedule without its written consent.
- (b) No action, regardless of form, arising out of, or in any way connected with, the services rendered or to be rendered may be brought by Customer more than two (2) years after the cause of action has accrued or such shorter statutory period as may be applicable.
- (c) Any waiver on the part of either party hereto of any right or interest hereunder shall not imply the waiver of any subsequent breach or the waiver of any other right or interest.
- (d) The Agreement, including the Schedule, contains the sole agreement and understanding between the parties concerning the subject matter hereof and supersedes all prior communications, whether oral or written. No representation, promise or condition not expressly provided in writing executed by a proper and duly authorised officer of each of the parties hereto shall be binding on either party. Provided that nothing herein shall be taken to exclude any warranty or condition the exclusion of which is not permitted by law.
- (e) Routine Service where this forms part of the service contract will have times nominated and agreed to with client.

Routine Service details attached.

NOTE :

Customer agrees and warrants that all Equipment listed and to be serviced under the Service Agreement is in good condition on the date of execution of this Schedule.

Subject to unforeseen circumstances and causes beyond In Vitro control, In Vitro agrees to respond to Customer requests for Emergency Services as soon after receipt thereof as reasonable practicably; provided, however, that In Vitro shall have no liability whatsoever for delays in responding to any such requests.