

INTEGENX SERVICE CONTRACT AGREEMENT TERMS AND CONDITIONS

1. These Service Contract Plan Terms and Conditions shall govern all orders for and purchases from IntegenX Inc. (herein called "IXI") of Service Contract Plans and other agreements for services relating to instruments and other equipment, including the maintenance, repair, installation, relocation or servicing of instruments and other equipment, and sets forth the agreement between IXI and its customer regarding the performance of such services, unless other terms are specifically designated by IXI to apply to a specific service (See Section 19 below).
2. Services under the Service Contract Plans are provided during normal working hours (Monday through Friday, 9:00 AM to 5:00 PM PST, excluding holidays). Telephone support hours are 9:00 AM to 5:00 PM Pacific Standard Time, excluding holidays. Planned maintenance ("Planned Maintenance") will be performed in accordance with IXI's Planned Maintenance procedures and checklists for the instrument or component being serviced.
3. The decision to repair or replace any parts of the instrument will be made by IXI on the basis of which approach will provide the Customer with the best service. Parts and components replaced or otherwise utilized in the repair of the instrument may be either new or refurbished at the discretion of IXI.
4. IXI will use reasonable efforts under the circumstances to provide service as quickly as possible. The service will be scheduled at a time mutually agreed upon by IXI and the Customer.
5. IXI warrants that it will provide its services at least in accordance with generally accepted standards prevailing in the instrument repair industry at the time and place performed. Warranty claims must be made within ninety (90) days after services are performed. **IXI MAKES NO OTHER WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY WITH RESPECT TO ITS SERVICES, WHICH WARRANTIES ARE EXPRESSLY DISCLAIMED. IXI'S SOLE LIABILITY AND RESPONSIBILITY UNDER THIS AGREEMENT FOR BREACH OF WARRANTY IS RE-SERVICE CONTRACT OF THE SERVICES WITHIN A REASONABLE TIME OR RETURN OF THE FEE PAID FOR THE DEFECTIVE SERVICES AT IXI OPTION. THESE ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR ANY BREACH OF WARRANTY.**
6. Service Contract Plans do not cover replacement of parts, costs, repairs or adjustments defects caused by or repairs necessitated by acts of nature, misuse, damage not caused by IXI, carelessness or unauthorized changes to the instrument made by the Customer, Customer's employees, agents or an unauthorized contractor, or intrusive activity, including without limitation computer viruses, hackers or other unauthorized interactions with instrument or software that detrimentally affects normal operations. Service Contract Plans also do not cover repair or replacement of parts that are radioactive or contaminated with biological, toxic or other dangerous materials or substances.
7. Service Contract Plans do not cover costs, repairs, or adjustments made necessary by connection of the instrument to electrical services or other utilities not in accordance with the installation requirements for the instrument, or by any interruption or surge in voltage (see Site Preparation Guide and User Guide for specifications).
8. Payment terms are net 30 days from date of IXI's invoice to customer. If payment is not received by the due date, IXI may assess and customer agrees to pay a late payment charge at the rate of 1% per month (12% per year) or the maximum legal rate, whichever is less, of the amount due from the due date to the date of payment. If IXI retains a collection agency and/or attorney to collect unpaid amounts, IXI may invoice customer for, and customer will pay, all costs of collection, including without limitation reasonable attorneys fees.
9. Unless otherwise expressly stated by IXI in writing or under the terms of the purchased Service Contract Plan, the initial term of a Service Contract Plan and this Agreement is the one year period of the Service Contract Plan purchased by the Customer, commencing on the date designated by IXI in its quotation or otherwise specified to Customer. A Service Contract Plan and this Agreement may be terminated by either party upon at least thirty (30) days written notice to the other party. Termination will be effective thirty (30) days after the receipt of such notice, or at a later date if one is so specified in the notice ("Termination Date"). Termination cannot be made effective prior to thirty (30) days after notice is received. IXI will cease Service Contract under this Agreement and underlying Service Contract Plan on the Termination Date unless the Customer specifies a separate, earlier date in writing ("Cessation Date"). In that event, IXI will cease Service Contract under this Agreement and underlying Service Contract Plan on such Cessation Date.
10. In the event of termination of this Agreement and an underlying Service Contract Plan under Section 9, if the termination is by Customer, IXI shall calculate at its sole discretion the total price of services actually performed and expenses actually and reasonably incurred in servicing the covered equipment under the underlying Service Contract Plan from its effective date until the Termination Date. The Customer's total payment obligation to IXI under this Agreement shall equal (1) the amount so calculated or (2) the prorated price of the underlying Service Contract Plan from its effective date until the Termination Date, whichever is greater, plus fifteen percent (15%) of the total fee paid for the underlying Service Contract Plan, not to exceed the total amount paid. Any payments made by Customer to IXI in excess of this amount shall be credited to the Customer's account within thirty (30) days after the Termination Date

toward future purchases of IXI instruments, consumables or Service Contract Plans. Any unpaid portion of this amount shall be immediately due upon Customer's receipt of an invoice from IXI. If the termination is by IXI, IXI will credit the Customer with or refund to Customer one hundred percent (100%) of the fee paid by Customer for the underlying Service Contract Plan, provided that if the underlying Service Contract Plan is for a period of more than one year, IXI will refund to Customer the amount paid by the Customer for all periods after the most recent anniversary date of the Service Contract Plan. If a Service Contract Plan is terminated early in connection with the trade in of a used IXI instrument for a new IXI instrument, the credit may be applied toward purchase of a Service Contract Plan for the new instrument. Contact your IXI service representative for details. No cash refunds will be made on account of the early termination of any Service Contract Plan or other agreement for services.

11. IXI will indemnify and hold Customer harmless from and against any and all claims for injury or death of persons, or damage to tangible property, occurring while IXI personnel are on Customer's premises performing services pursuant to a Service Contract Plan to the extent caused by the negligent acts or negligent omissions of IXI, provided IXI is given prompt notice of any such claim and the opportunity to control the defense and settlement of same.
12. IN NO EVENT SHALL IXI BE RESPONSIBLE OR LIABLE, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY STATUTE OR ON ANY OTHER BASIS, FOR SPECIAL, INDIRECT, INCIDENTAL, MULTIPLE, PUNATIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SERVICE CONTRACT OR FAILURE TO PERFORM SERVICES OR OTHERWISE, EVEN IF IXI IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES; AND IN NO EVENT SHALL IXI BE LIABLE FOR ANY LOSS OR INJURY THAT IS THE RESULT OF INSTRUMENT OR PRODUCT ERROR OR THE FAILURE OF AN INSTRUMENT OR OTHER PRODUCT TO PERFORM IN ACCORDANCE WITH ITS SPECIFICATIONS. WITHOUT LIMITING THE FOREGOING, EXCEPT SOLELY FOR ANY PAYMENTS MADE UNDER IXI'S INDEMNITY SET FORTH IN SECTION 11, IXI'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS SERVICE CONTRACT AGREEMENT AND ANY UNDERLYING SERVICE CONTRACT PLAN, INCLUDING WITHOUT LIMITATION SERVICES RENDERED THEREUNDER, IN CONTRACT, TORT, WARRANTY OR OTHERWISE, WILL NOT EXCEED THE AMOUNT OF FEES PAID TO IXI FOR THE UNDERLYING SERVICE CONTRACT PLAN.
13. Use of any reagents outside normal usage that deposit or cause to be deposited residual matter in the instrument flow path or that otherwise damage the flow path that are reasonably determined by IXI to have caused instrument failure will require remedial repairs of the effected parts to be completed outside a Service Contract Plan at IXI's then prevailing rates for billable service.
14. Ancillary equipment not manufactured by IXI, such as third party computers, may be excluded from any Service Contract Plan, at IXI's discretion. IXI will pass on to the Customer any manufacturer's warranty of any such ancillary equipment, to the extent permitted by the manufacturer.
15. Neither this Service Contract Plan Agreement nor any Service Contract Plan is assignable or otherwise transferable by Customer. Any assignment or transfer or attempt to assign or to transfer by Customer shall be void.
IXI may require a completed Certificate of Decontamination, or transfer of an instrument to a suitable safe and secure location, as a condition to servicing any instrument. Customer warrants that any instrument or component to be serviced will be fully decontaminated of radioactive, biological, toxic or other dangerous materials or substances prior to servicing so that the service technician will not be exposed to any such materials. **IXI does not service instruments in BSL 3 and BSL 4 laboratories where active biological agents may be present and a danger to IXI personnel exist. IXI reserves the right to review these laboratories on a case by case basis to determine if entry may be possible if specific controls and conditions are met and validated by the appropriate IXI Safety personnel.**
16. Service Contract Plans do not include customer training or services related to the relocation of instruments unless otherwise specifically stated in writing by IXI in any particular case.
17. Neither party shall be liable for delays in Service Contract or non-Service Contract in whole or in part, or for loss, injury, delay, expenses, damages or other casualty suffered or incurred on account of or due to, any causes that are beyond its reasonable control, such as, without limiting the generality of the foregoing, acts of God, fires, strikes, trade disputes, riots, embargos, earthquakes, storms, acts of the government, power losses or shortages, or inability to obtain parts or supplies, provided that the foregoing shall not apply to any obligation to pay money due.

18. This Service Contract Plan, together with IXI's quotation regarding the Service Contract Plan(s) or other services subject to these terms and conditions, and IXI's description of the services provided under the Service Contract Plan purchased by the Customer (collectively, "IXI's Terms"), represents the entire agreement between the parties with respect to the subject matter herein and supersedes and entirely replaces (i) any previous agreements between the parties with respect to the subject matter herein and (ii) any pre-printed, standard or other terms set forth in customer purchase order or any other document not signed by an authorized representative of IXI, which are hereby rejected and shall be void. Customer's submission of a purchase order or other instrument regarding the purchase of a Service Contract Plan in response to IXI's quotation or any other IXI document that includes or incorporates these terms shall be deemed acceptance of these terms to the exclusion of any other terms and conditions appearing in or referenced in such purchase order or other instrument, which are hereby deemed to be material alterations and notice of objection to which is hereby given, notwithstanding anything contained to the contrary in such purchase order or other instrument or elsewhere. Any acceptance by IXI of any offer of customer is expressly conditioned on customer's assent to and acceptance of IXI's Terms to the extent they are additional or different terms. Except as otherwise provided in these terms, in the event of an inconsistency between these terms and the terms appearing on IXI's quotation or other agreement signed by an authorized representative of IXI, the terms appearing on IXI's quotation or such other agreement shall supersede and take precedence over the inconsistent provision(s) of these terms, and all other provisions of these terms shall remain in full force and effect.
19. No amendment of these terms or modification thereof shall be binding unless in writing and signed by a duly authorized representative of both IXI and customer. IXI's failure to exercise any rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights or any other rights hereunder. Headings are included herein for convenience of reference only and shall not constitute a part of these terms for any other purpose. If any provision of these terms shall be held to be invalid or unenforceable for any reason, such provisions shall, to the extent of such invalidity or enforceability, be severed without in any way affecting the remainder of such provision or any other provision thereof, all of which shall continue in full force and effect. No additions or modifications to this Service Contract Agreement shall be valid unless specifically agreed to in writing by both parties. This Service Contract Plan Agreement and any underlying Service Contract Plan shall be governed by the laws of the State of California, exclusive of its conflict of laws rules.

TERMS OF SERVICE CONTRACT PLAN

IntegenX Service Contract Plan Terms and Conditions set forth above are incorporated into and are an integral part of the Plan described below.

SERVICE CONTRACT PLAN

Inclusions:

- A. Parts, labor and travel for the number of Planned Maintenance visit(s) each year designated by IntegenX for the instrument covered by the Service Contract Plan. Planned Maintenance visits may be performed during the time of a scheduled remedial service call or at any time during the contract period at IntegenX discretion.
- B. Telephone and email access to Technical Support during business hours
- C. On site repair service
- D. Operating software upgrades
- E. Applications support