

**GE HEALTHCARE LIFE SCIENCES TERMS AND CONDITIONS OF SERVICES
(UNITED STATES, CANADA AND PUERTO RICO)**

Revised as of July 2016

Billable repairs and Services Agreements

1. DEFINITIONS

1.1. In these Terms and Conditions:

- a) **Buyer** means the person, firm, company or other organization who or which has ordered Services from GEHC;
- b) **GEHC** means the GE Healthcare group company referred to in the final written offer, quotation or order acknowledgement or, if none, the GE Healthcare company providing the Services;
- c) **Contract** means the contract for the provision of Services between GEHC and the Buyer as may be further evidenced by GEHC's final written offer, quotation or order acknowledgement and no prior proposals, statements, representations or conditions will be binding on either Party;
- d) **Equipment** means all electronic equipment, hardware and other electronic or mechanical items in relation to which Services are to be provided, excluding any consumables and spare parts sold separately, unless otherwise agreed;
- e) **Goods** means all items agreed to be supplied by GEHC in connection with the Services other than the Equipment and Software, including, but not limited to, spare parts;
- f) **PM** means preventive maintenance; and shall observe the conditions set forth in Section 3
- g) **PM kit** has the meaning set forth in Section 3.6;
- h) **Services** means all advice given and services performed by GEHC pursuant to the Contract;
- i) **Software** means any firmware, software or data compilations (i) identified in the Contract or (ii) provided to Buyer by GEHC in connection with the Services. For the avoidance of doubt, Software shall not include any "open source" firmware, software or data compilations;
- j) **Standard Warranty** means the Services warranty provided under the original sales agreement by the manufacturer between GEHC and the Buyer in relation to Equipment; and
- k) **Term** means the period between a Contract's effective date and its expiration or early termination, as applicable.

1.2 These Terms and Conditions shall be incorporated into the Contract and shall apply to the exclusion of any conditions of the Buyer. These Terms and Conditions may not be varied or waived except with the express written agreement of GEHC. The failure of GEHC to enforce its rights under the Contract at any time, for any period of time, shall not be construed as a waiver of any such rights. The Parties expressly agree that any requirements, certifications or representations, referenced in any purchase order provided hereunder that specifies any US Federal, US state, or US local government regulations, laws, requirements, obligations, or commitments applicable as a result of funding by a US Federal, US state, or US local government entity or agency, or the flow-down of similar requirements from the Buyer's customer's contracts, are not applicable hereunder and are expressly rejected. In the event that any such requirements are found to apply, then the Parties agree that the only related requirements that may apply are set forth in GEHC's online representations and certifications contained in the System for Award Management ("SAM") found at <http://www.sam.gov>. With regard to any Buy American Act certifications, the country of origin for any products hereunder is as set forth in GEHC's SAM certifications, or, if not set forth therein, the country of origin is considered unknown. Buyer agrees that all

Products meet the definition of a "commercial-off-the-shelf" (COTS) item or a "commercial item" as defined in FAR 2.101. GEHC will use commercially reasonable efforts to provide the related documentation and information required under applicable purchase orders. Nothing herein supersedes or affects the operation of any intellectual property license agreement entered into between GEHC and Buyer.

2. PURCHASED SERVICE OFFERINGS. GEHC has various purchased services offerings for service agreements. Please contact GEHC for more information. These options are NOT applicable to Billable repairs.

3. SERVICES

3.1. When requesting Services Buyer must place a phone call or send an email to GEHC's Service Department, in such suitable manner as GEHC may indicate, including: (i) details of the Equipment defect; and (ii) the exact location of the Equipment, (iii) the serial number of the equipment. Service is available during GEHC's normal business hours Monday to Friday, excluding public holidays, unless specifically otherwise agreed in writing.

3.2. Buyer is responsible for contacting GEHC's Service Department to schedule any PM visit and must make the Equipment available for such purposes. If the PM is not scheduled at Buyer's initiative during the PM contract period, to the extent not prohibited by applicable law, GEHC will have no further obligation to perform said PM once the Contract has expired and GEHC will have the right to retain the purchase price paid for the PM.

3.3. GEHC will use commercially reasonable efforts to commence the Services within such time as may be expressly agreed with the Buyer, but will not be liable for any losses incurred by the Buyer in respect of any failure or delay in this respect.

3.4. GEHC undertakes to diagnose any defects in the Equipment and use commercially reasonable efforts to promptly repair such defects. Where practical Services will be carried out at the Buyer's premises. Defective parts will be replaced as deemed necessary by GEHC at Buyer's costs. GEHC reserves the right to use refurbished parts as replacements but, if so, shall use commercially reasonable efforts to ensure that all such parts shall conform with the specifications given by the manufacturer and shall have the same operating features as new parts. Any defective parts which have been replaced hereunder shall become the property of GEHC.

3.5. Buyer shall notify GEHC in writing within five (5) business days of delivery of any Goods of any short delivery or defects reasonably discoverable on careful examination. GEHC's sole obligation shall be, at its sole option, to replace or repair any defective Goods or refund the purchase price of any undelivered Goods.

3.6. GEHC agrees to ensure that industry standard tools and processes are used in connection with the Services, aimed at ensuring that GEHC does not negligently introduce any viruses, trojan horses, worms and similar code on the Equipment. If Buyer's data is lost or corrupted as a direct result of GEHC's gross negligence or willful misconduct in providing the Services, GEHC shall promptly make all commercially reasonable efforts to reconstruct such data at GEHC's cost from a suitable, working back-up to be provided by the Buyer. GEHC shall have no

additional responsibility or liability in relation thereto.

3.7. **PM Kit.** To the extent that a PM for the applicable Equipment requires a PM kit, such kit is included at no extra cost to the Buyer. All components included in the PM kit are replaced during the PM visit. For the avoidance of doubt, GEHC shall at its sole discretion be entitled to charge for any PM parts required during unplanned maintenance events beyond the PM parts supplied during PM visits, as determined by the applicable Contract. Contracts related to GEHC Bioprocess Equipment include any parts required during corrective maintenance.

3.8. **Bioprocess Equipment Parts Availability.** For Bioprocess Equipment Contracts, GEHC will make commercially reasonable efforts to secure availability of PM parts and critical spare parts as defined by GEHC subject to availability as regards LimitedCare and LimitedCare Plus Services. Notwithstanding the foregoing, part lead times will vary by product platform and are not guaranteed. For the Term of the Contract, parts consumed from the dedicated inventory for the Equipment covered by the Contract will be replenished at GEHC's discretion.

3.9. **Remote Access Support.** If Buyer has purchased Goods or Services including remote access support, or if the Equipment can be maintained or repaired through remote access, Buyer shall permit GEHC to connect to the Equipment by remote access. This may include automatic software downloads and proactive monitoring and access to or usage of performance data related to the Equipment to gather resource usage data for benchmarking and quality initiatives. Any data collected by GEHC will be used in accordance with all applicable federal, state and local laws and regulations and in a manner that will maintain confidentiality.

3.9.1. Remote support, when available, will be provided via telephone during the regular business hours of the GEHC office responsible for providing the Services. If a Subject Matter Expert is required and not immediately available, GEHC will use commercially reasonable efforts to provide the Buyer a call back as soon as reasonably practicable.

4. EQUIPMENT CONDITION, HEALTH AND SAFETY

4.1. Buyer shall ensure: (i) proper safety conditions for GEHC's personnel during the provision of the Services; (ii) that the Equipment shall be totally clean and exempt from potentially infected materials and from all biological fluids prior to the provision of any Service; and (iii) that GEHC is properly notified of any safety or bio-hazards and any relevant regulations.

4.2. GEHC's personnel may suspend maintenance or repair operations and disconnect the Equipment if they consider that there is a risk to their safety and health. Buyer shall ensure sufficient lighting (and generally all necessary sources of energy/power) and a telephone/fax line.

5. PRICES AND PAYMENT

5.1. All quotations issued by GEHC for the supply of Goods and/or Services shall remain open for acceptance for the period stated in the quotation or, if none is stated, for sixty (60) days. In all other cases, prices payable are those currently in effect in GEHC's then current pricelist. Unless otherwise agreed in writing by the Parties, extra charges will apply for handling, freight, and packaging.

5.2. Unless otherwise agreed in writing by the Parties, payment in

full shall be made to GEHC in the currency invoiced no later than thirty (30) days from the date of invoice.

5.3. In the event of late payment, GEHC reserves the right to (a) suspend deliveries and/or cancel any of its outstanding obligations; and (b) charge interest at the lower of: (i) an annual rate equal to twelve percent (12%); or (ii) any applicable maximum statutory rate on all unpaid amounts calculated on a day to day basis until the actual date of payment.

5.4. **Taxes.** (a) All payments due and payable by the Buyer to GEHC under these Terms and Conditions are exclusive of any Value Added Tax ("VAT"), sales and use tax, goods and services tax and similar indirect taxes. In the event that any VAT, sales and use tax, goods and services tax and similar indirect taxes are properly due under any applicable law, regulation or otherwise, this shall be charged by GEHC in addition to any other payments due hereunder and shall be payable by the Buyer on receipt of a valid invoice issued by GEHC, unless the Buyer provides GEHC with valid exemption documentation allowing GEHC not to charge the relevant indirect taxes. In addition and in the case of US domestic transactions only (i) in the event GEHC is assessed taxes, interest and penalty by any taxing authority, Customer agrees to reimburse GEHC for any such taxes, including any interest or penalty assessed thereon; and (ii) each Party is responsible for any personal property or real estate taxes on property that the party owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts.

(b) All payments shall be made by Buyer in full, free and clear of all deductions (including but not limited to withholding taxes). Buyer shall gross-up the amounts due hereunder in order that the payments provided for under these Terms and Conditions are paid fully such that GEHC is in the same position as if no withholding had taken place. Buyer shall furnish to GEHC within one (1) month accurate official receipts from the appropriate governmental authority for all deducted or withheld taxes.

6. WARRANTY

6.1. Sections 6.2 to 6.4 shall apply in the event no other specific warranty has been agreed in the Contract and are subject to Section 7.

6.2. **Goods** - GEHC warrants to Buyer that, for a period of ninety (90) days after delivery, all Goods purchased hereunder will meet GEHC's most recent specifications at the time of delivery. Any claim for breach of this warranty must be delivered in writing to GEHC within the above warranty period. Buyer's sole and exclusive remedy (and GEHC's sole and exclusive liability) for a breach of this warranty is limited to repair, replacement or refund at the sole option of GEHC. Such remedy shall not extend the Term.

6.3. **Services** - GEHC warrants that all Services will be carried out with reasonable care and skill. GEHC's sole liability for breach of this warranty shall be at its sole option to give credit for or re-perform the Services in question. This warranty shall only extend for a period of ninety (90) days after the completion of the Services and any claim for breach shall be submitted by the Buyer in writing within the above warranty period.

6.4. **Software** - GEHC warrants, for a period of ninety (90) days after the date of delivery, that the Software substantially conforms to its published specifications and that the media on which the

Software resides will be free from defects in materials and workmanship under normal use. GEHC does not warrant that the Software is error free or that Buyer will be able to operate the Software without problems or interruptions. GEHC's sole liability and Buyer's exclusive remedy in the event of breach of this warranty is limited to repair, replacement or refund, at the sole option of GEHC. Any claim for breach of this warranty shall be submitted by the Buyer in writing within the above warranty period.

6.5. ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS AND CONDITIONS (STATUTORY, EXPRESS, IMPLIED OR OTHERWISE) AS TO QUALITY, CONDITION, DESCRIPTION, MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT (EXCEPT FOR THE IMPLIED WARRANTY OF TITLE) ARE HEREBY EXPRESSLY EXCLUDED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GEHC HEREBY EXPRESSLY DISCLAIMS, AND BUYER HEREBY EXPRESSLY WAIVES, ANY WARRANTY REGARDING RESULTS OBTAINED THROUGH THE USE OF THE EQUIPMENT, GOODS OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID, OR INCOMPLETE RESULTS.

7. CONTRACT AND WARRANTY EXCLUSIONS

7.1. The Contract does not include the following: (i) the repair, replacement, or disposal of any accessories or power supply equipment, refrigeration units, computers, printers, keyboards, and video included with GEHC equipment; or (ii) consumable items or parts deemed necessary for the normal operation of the Equipment covered, including but not limited to, lamps, lasers, filters (including dichroics), electrodes, flow cell, pump seals, valves, tubing, fluids, objectives, batteries (including UPS), oil or slide kits, acrylic enclosure and any other disposable supply or saleable items;

7.2. With the exception of LimitedCare/LimitedCare Plus, the Contract does not include any items, parts or accessories identified by GEHC as End of Support. For LimitedCare/LimitedCare Plus, all parts are included to the extent still available from stock.

7.3. The Contract does not include service made necessary by: (i) the use of the Equipment or Goods in combination with any software, tools, hardware, equipment, supplies, accessories or any other materials or services not furnished by GEHC or recommended in writing by GEHC; (ii) any defect arising from specifications or materials supplied by the Buyer; (iii) fair wear and tear; (iv) fraud, willful misconduct or negligence of Buyer or any of its representatives; (v) failure to follow GEHC's use restrictions, recommendations or instructions; (vi) any alteration, modification, repair or enhancement of the Equipment or Goods by the Buyer or any third party without GEHC's prior written consent; (vii) any misuse of the Equipment or Goods including, without limitation, use of the Equipment or Goods not in accordance with GEHC's specifications; (viii) any Equipment or Goods damaged or lost as a result of a force majeure event; (ix) transfer, installation or use of the Equipment or Goods outside its place of delivery at the time of signature of the Contract; (x) any Equipment or Goods, if the price payable for such Equipment or Goods has not been paid in full in accordance with the terms of the Contract; or (xi) damage due to liquids, moisture, freezing, computer viruses or other damage incurred by the acts or omissions of the Buyer or its representatives.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. The Buyer shall provide – and where applicable procure – adequate approvals or licenses for GEHC to use Buyers' and/or third party's service software, documentation and any other proprietary information as reasonably necessary to allow GEHC to perform the Services. Buyer agrees to compensate GEHC and hold GEHC harmless from any liability in this respect.

8.2. All intellectual property rights in the Equipment, Goods and/or Services shall at all times remain vested in GEHC and/or its licensors. Any user license as may be granted to the Buyer under the Contract shall be non-transferable and non-exclusive and shall only be used for the Buyer's own internal business purposes of operating the Equipment. Any such license shall terminate automatically on the termination or expiry of the Contract for whatever reason.

8.3. GEHC shall have a right to use performance data related to the Equipment which has been collected by GEHC during the provision of the Services under this Contract for internal use, including, but not limited to, benchmarking and quality initiatives. Any data collected by GEHC will be used in accordance with all applicable federal, state and local laws and regulations and in a manner that will maintain confidentiality.

9. INDEMNIFICATION; LIMITATION OF LIABILITY

9.1. Either Party shall defend, indemnify, and hold harmless the other from and against any and all damages incurred or suffered by such indemnified Party arising, directly or indirectly, from any: (i) breach by the indemnifying Party of any of its covenants, agreements, representations, warranties or other obligations in these Terms and Conditions; or (ii) fraud, gross negligence or intentional misconduct by the indemnifying Party or its representatives in connection with these Terms and Conditions. In addition, Buyer shall defend, indemnify, and hold harmless GEHC and its affiliates, and their respective representatives, from and against any and all damages incurred or suffered by GEHC or such persons arising, directly or indirectly, from: (i) any misuse or unintended use of the Equipment, Goods or Services; and (ii) any claim that the Buyer's use of the Goods and/or the Services infringes the intellectual property rights of any third party.

9.2. IN NO EVENT SHALL GEHC BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND HOWEVER CAUSED (INCLUDING FAULT OR NEGLIGENCE) ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT OR THESE TERMS AND CONDITIONS, INCLUDING THE SALE, INSTALLATION, USE OR INABILITY TO USE ANY EQUIPMENT, GOOD OR SERVICE, INCLUDING WITHOUT LIMITATION, DATA LOSS, LOSS OF PROFITS, GOODWILL OR BUSINESS INTERRUPTION.

9.3. The total liability of GEHC arising under or in connection with the Contract or the Equipment, Goods and Services, whether in contract, tort (including negligence), statute or otherwise shall, to the extent permitted by applicable law, be limited to damages in an amount equal to the amount paid to GEHC under the Contract.

10. LICENSES, PERMITS AND EXPORT CONTROL

10.1. Each Party shall apply and obtain from any appropriate

governmental authorities all relevant licenses, permits and approvals necessary for the performance of the Contract and shall bear all related costs arising therefrom.

10.2. Buyer and GEHC hereby agree that they shall not, except as expressly permitted by applicable laws, make any disposition by way of transshipment, re-export, diversion or otherwise, of U.S. origin goods and technical data (including computer software), or the direct product thereof, supplied by GEHC hereunder. Buyer hereby certifies that products, information or assistance furnished by GEHC or its affiliates hereunder shall not be used in the design, development, production, stockpiling or use of chemical, biological, or other weapons either by the Buyer or by any entity acting on the Buyer's behalf.

10.2.1. Buyer shall not export the Equipment, Goods or any information or documents provided hereunder outside of the country of delivery without the requisite export license from the relevant body of the United Nations or other similar international organization, the United States Government, the European Union, the country of origin or the original country of export. Buyer shall furnish GEHC with copies of all documents relating to such export.

10.2.2. The obligations of the Parties to comply with all applicable export control laws and regulations shall survive any termination of the Contract, or other discharge of any contract obligations.

11. TERM

11.1. The Contract shall commence on the effective date set forth in GEHC's final written offer, quotation or order acknowledgement, as applicable, and shall continue in full force and effect for the Term.

12. TERMINATION OR MODIFICATION OF SERVICES AGREEMENTS – NOT APPLICABLE TO BILLABLE REPAIRS

12.1. The Contract may be terminated by either Party only as follows:

- a) Upon one Party providing written notice to the other Party that the other Party has breached any provision hereunder in any material respect and the breaching Party fails to remedy such breach within sixty (60) days after the non-breaching Party delivers written notice of the breach to the breaching Party; or
- b) Immediately upon written notice with respect to a Party in the event of (a) such Party's insolvency, receivership, or voluntary or involuntary bankruptcy; (b) an assignment by such Party for the benefit of creditors; or (c) any substantial part of such Party's property being or becoming subject to any levy, seizure, assignment or sale for or by any creditor or governmental agency without being released or satisfied within thirty (30) days thereafter.

12.2. This Contract may be modified only by mutual agreement of GEHC and Buyer ("Modification"), such as to add on new equipment purchased by Buyer from GEHC.

12.3. In the event of a change of control of the Buyer, GEHC may immediately terminate the Contract, in its entirety or in part, upon written notice to the Buyer.

12.4. In the event GEHC is unable to support the Buyer under a "LimitedCare" or "LimitedCare Plus" Contract (as such terms are

briefly defined below and more fully in GEHC materials regarding purchase service offerings) due to lack of spare part supply, GEHC reserves the right to terminate such LimitedCare/ LimitedCare Plus Contract with immediate effect.

"LimitedCare" is a service offering available only for Equipment having an official End-of-Support date occurring during or before the Contract term.

"LimitedCare Plus" is a service offering which includes the same Service coverage as LimitedCare with one additional preventative maintenance visit in a twelve- month period.

12.5. In the event of termination or Modification, the Buyer shall promptly pay GEHC any monies due for the Services actually performed, including preventative and corrective maintenance, in accordance with GEHC's list prices for such Services and expenses actually and reasonably incurred in servicing the covered Equipment from the effective date on the Contract through the date of termination. Any payments made by Buyer to GEHC in excess of this amount shall be credited to the Buyer's account within thirty (30) days after the date of termination toward future purchases of GEHC products or service agreements. Any unpaid portion of this amount shall be immediately due upon Buyer's receipt of an invoice from GEHC. In no event shall the pro-rated Contract amount for each whole or partial month already concluded be refunded or credited to Buyer.

12.6. In the event of early termination due to reasons attributable to the Buyer or a Modification, the Buyer shall pay to GEHC a Processing Fee equal to Two Hundred and Fifty (\$250) Dollars times the number of units by which coverage under the Services Contract decreases. Solely for example purposes: if a Modification is done to remove three units of equipment from the Services Contract but two new units of equipment are added, the Processing Fee will be \$250. The lowest Processing Fee shall be zero.

13. DISPUTES AND GOVERNING LAW

This Contract shall be governed by and construed in accordance with the substantive laws of the State of New York and the parties hereby submit to the non-exclusive jurisdiction of the courts of the State of New York. THE PARTIES EXPRESSLY WAIVE AND FOREGO ANY RIGHT TO A TRIAL BY JURY.

14. MISCELLANEOUS

14.1. Assignment. Neither Party may assign, delegate or otherwise transfer its rights and obligations in whole or part, or any right, remedy, obligation or liability arising hereunder or by reason hereof, except without the prior written consent of the other Party hereto. Notwithstanding, GEHC may assign these Terms and Conditions without Buyer's consent to (i) one or more of its affiliates; or (ii) to a successor to, or purchaser of that portion of its business to which the Services pertains. Subject to the foregoing, these Terms and Conditions shall inure to the benefit of and be binding upon the Parties hereto and their respective permitted successors and assigns. GEHC may sub-contract any part of its rights and obligations to an Affiliate or third party as determined by GEHC.

14.2. Entire Agreement. Unless otherwise specified herein, these Terms and Conditions represent the entire agreement between the Parties and supersede in their entirety all prior agreements

concerning the subject matter hereof, and no modification, amendment, revision, waiver, or other change shall be binding on either Party unless consented to in writing by the Party's authorized representative. Any oral or written representation, warranty, course of dealing, or trade usage not contained or referenced herein shall not be binding on either Party.

14.3. Force Majeure. Neither Party shall be liable for any failure of or delay in performing any of its obligations under these Terms and Conditions (other than any payment obligation), and neither Party shall be deemed to be in breach of any of its obligations hereunder, if such failure, delay or breach is due to any cause beyond the reasonable control of such Party, including, without limitation, war, terrorism, riots, fire, explosion, flood, earthquake, insurrection, embargo, strikes of employees, currency restriction, shortage of transport, inability to obtain power or fuel, general shortage of material, acts or omissions of governments in their sovereign capacity or failure of public utilities or common carriers, embargoes, shortage of or inability to obtain supplies (each, a "Force Majeure Event"). Such non-performance will be excused for as long as such Force Majeure Event shall be continuing. The non-performing Party shall give prompt written notice to the other Party of such Force Majeure Event. If the Force Majeure Event exceeds two (2) months, GEHC may immediately terminate these Terms and Conditions without liability.

14.4. No Third Party Beneficiaries. These Terms and Conditions are entered solely by and between, and may be enforced only by, the Parties hereto (and their respective permitted successors and assigns) and, except to the extent expressly provided for herein, is not intended to confer on any other person any rights, remedies, obligations or liabilities under or by reason of these Terms and Conditions.

14.5. Notices. All notices, requests and other communications to any Party hereunder shall be in writing and shall be given to GEHC or the Buyer, as the case may be.

14.6. Relationship. The relationship of the Parties hereunder is that of independent contractors. Nothing in these Terms and Conditions shall be deemed to create a partnership, joint venture or similar relationship between the Parties, and no Party shall be deemed to be the agent of the other Party.

14.7. Severability. If any provision of these Terms and Conditions or the application thereof in any particular circumstance, is held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other provision hereof and the remaining provisions of these Terms and Conditions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

14.8. Waiver. Failure by either Party hereto to enforce any rights under these Terms and Conditions shall not be construed as a waiver of such rights nor shall a waiver by either Party hereto in one or more instances be construed as constituting a continuing waiver or as a waiver in other instances.

14.9. Product-Specific Terms and Conditions. Additional terms and conditions govern the sale of certain products, including, but not limited to, Software. Such additional terms and conditions are available from the sales offices of GEHC and shall take precedence in the event of any inconsistency with these Terms and Conditions.
