

# General Conditions for Service and Maintenance

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## 1. Scope

For the term set forth in Service Agreement hereof under the heading "Contract Duration", MicroTechniX will provide remedial maintenance service on the equipment described on the preceding pages hereof (the "Equipment") when requested by the Customer, as well as Preventive Maintenance inspections, when scheduled, as further described in the Service Agreement hereto, in order to keep the Equipment operating in accordance with the manufacturer's specifications. MicroTechniX will make every effort to respond to service calls at a mutually agreed upon arrival time consistent with the provisions cited in Section 2.

In the event that

(i) the term of the Service Agreement hereof does not include the Equipment warranty period, or

(ii) the term of the Service Agreement does not commence immediately upon the expiration of the MicroTechniX warranty, or

(iii) the Equipment was serviced prior to commencement of the term by anyone other than MicroTechniX or an authorized MicroTechniX dealer or service provider, or

(iv) the Equipment was moved from its original location or is not connected to its original power supply (other than portable or mobile Equipment),

then the Equipment is subject to inspection by MicroTechniX to determine if it is in good operating condition prior to the commencement of services under the Service Agreement. Any inspection as well as any repairs or adjustments deemed necessary by MicroTechniX during such inspection shall be made at MicroTechniX' per-call rates and terms then in effect and shall include charges for parts, with all such repairs or adjustments to be completed prior to the commencement of service under the Service Agreement.

If the Service Agreement includes any training courses, such training courses may consist of on-site training at the Customer site or a MicroTechniX training facility, self-study or computer based training. In some cases, tuition will cover travel and lodging for off-site training, and in other cases Customer will be responsible for all travel and lodging costs. Details of the training are provided on the previous page(s).

## 2. Principal Coverage Period (PCP)

Service and maintenance will be provided during the principal coverage period ("PCP") as defined in the Service Agreement, excluding the following holidays: New Year's Day, National Holiday, and Christmas Day etc. If one of the foregoing holidays falls on a Saturday, then the holiday will be observed on the previous Friday, and if the holiday falls on a Sunday, the holiday will be observed on the following Monday. Unless an extended hours coverage option has been selected, labor and travel required outside the PCP will be charged at MicroTechniX' per-call rates and terms then in effect.

### 3. Replacement Parts

MicroTechniX will supply the necessary parts, except as indicated in Service Agreement, provided replacement of the parts is required because of normal wear and tear or otherwise deemed necessary by MicroTechniX and further provided that the MicroTechniX-manufactured parts are available from the factory. All replaced parts will be noted on the technicians work order and submitted for approval, a separate invoice for the parts will be presented to the customer. All Parts will be new, standard parts, or used, reworked or refurbished parts that comply with applicable performance and reliability specifications. Exchange parts removed from the Equipment shall become the property of MicroTechniX unless such exchange parts constitute "hazardous wastes", "hazardous substances", "special wastes" or other similar materials, as such terms are defined by any federal, state or local laws, rules or regulations, in which case, at the option of MicroTechniX, the exchange parts shall remain the property of the Customer and shall be disposed of by the Customer in strict compliance with all applicable laws, rules and regulations.

### 4. Preventive Maintenance (PM)

Preventive Maintenance will be carried out according to the manufacturers recommended schedule. Preventive Maintenance generally includes checking mechanical and electrical safety, lubrication, functional testing and adjusting for optimum performance as specified in the detailed Preventive Maintenance work plan.

### 5. Software Maintenance

Whenever the Equipment covered by the Service Agreement utilizes MicroTechniX' operating system software, MicroTechniX will provide all maintenance and updates for such operating system software as part of the Service Agreement. Such updates will solely enhance previously purchased capacities of the Equipment. Operating system software upgrades that provide new features or capabilities or that require hardware changes will be offered to Customer at purchase prices established by MicroTechniX. In addition, some upgrades may require applications training performed by MicroTechniX' personnel that will be offered at MicroTechniX' rates and terms then in effect. MicroTechniX retains the sole right to determine whether an upgrade requires such training.

Nothing in the Service Agreement shall in any way grant to Customer any right to or license in any diagnostic service software utilized by MicroTechniX in servicing the Equipment. Such service software is and remains the property of MicroTechniX and is available to Customer pursuant to the terms and conditions of a separate diagnostic materials license agreement, which may require payment of a license fee. This service software shall be disabled by MicroTechniX upon cancellation or termination of the Service Agreement.

## 6. Equipment; Location; Remote Access

The Equipment covered under the Service Agreement is limited to the MicroTechniX furnished Equipment described in the Service Agreement. The Equipment shall not be moved to another location unless Customer obtains the prior written consent of MicroTechniX, subject to the following exceptions

(i) portable Equipment (e.g. routine microscopes, but not including any equipment that is housed in a mobile vehicle, van or trailer) may be moved to other locations within the same facility, so long as the Customer informs MicroTechniX of the location of the Equipment when MicroTechniX is scheduled to provide on-site service;

(ii) if Equipment is located in a trailer, van or other form of mobile vehicle, the Equipment may be moved from the Equipment Location defined in the Service Agreement, provided, however, that MicroTechniX shall not be required to service such Equipment, and the Response Time and Uptime Performance Guarantees (if any) shall not apply, if either

(a) the Customer does not notify MicroTechniX at least one (1) month in advance of the Equipment's mobile route, or

(b) the Equipment is moved more than 25 miles from the original Equipment Location; and

(iii) if fixed Equipment is moved to any other location within the Customer's facility, then either

(a) the Customer will engage MicroTechniX to relocate the Equipment, at MicroTechniX' then current rates and charges, or

(b) if MicroTechniX does not perform the services necessary to relocate the Equipment, then MicroTechniX may suspend services with respect to such Equipment until MicroTechniX performs an inspection of the Equipment, at the Customer's cost, to determine if any repairs are necessitated as a result of any such relocation (in which case the Customer shall be separately charged for such repairs, including parts and labor, at MicroTechniX' rates and charges then in effect).

MicroTechniX service personnel will be given full and free access to the Equipment to perform inspections and service/maintenance on the Customer's premises, and will make specific appointments for such maintenance. If the Equipment is not made available at the appointed time, waiting time beyond a reasonable allowance will be charged at MicroTechniX' per-call rates and terms then in effect.

Customer shall provide MicroTechniX with both on-site and remote access to the Equipment. The remote access shall be provided through the Customer network as is reasonably necessary for MicroTechniX to provide services under the Service Agreement. Remote access will be established through a broadband internet based connection to a Customer owned secure end-point. The method of connection will be a MicroTechniX provided tool with state-of-the-art data communications encryption.

In the event the Customer fails to provide or maintain the remote access connection any Uptime Performance Guarantee shall be void if the remote access connection is not provided and available 24 hours per day, 7 days a week.

## 7. Agreement Term; Price; Payment Terms

The Service Agreement shall be in effect for the period stated in the Service Agreement.

For the basic services to be provided by MicroTechniX under the terms of the Service Agreement, MicroTechniX shall send invoices to the Customer and payments shall be made in advance based on the payment frequency defined in the Service Agreement.

Invoices for all amounts due under the Service Agreement shall be sent to the Customer by regular mail, postage prepaid, at the address of the Customer.

All payments to be made by Customer under the Service Contract are due net thirty (30) days from the invoice date. Past due payments shall bear interest at the rate of 1,5% per month.

## 8. Causes for Exclusion/Separate Charges

The Service Agreement specifically excludes labor, parts and expenses necessary to repair Equipment:

- damaged by fire, accident, misuse, abuse, negligence, improper application or alteration or by a force majeure occurrence as described in Section 16 hereof, or by the Customer's failure to operate the Equipment in accordance with the manufacturer's instructions or to maintain the recommended operating environment and line conditions;
- defective due to unauthorized attempts to repair, relocate, maintain, service, add to or modify the Equipment by the Customer or any third party or due to the attachment and/or use of non-MicroTechniX supplied parts, equipment or software without MicroTechniX' prior written approval;
- defective due to any repair or service of the Equipment by the Customer or any third party prior to the commencement of the term of the Service Agreement;
- which failed due to causes from within non-MicroTechniX supplied equipment, parts or software including, but not limited to, problems with the Customer's network;
- which is worn out and cannot be reasonably repaired due to the unavailability of spare parts from the original equipment manufacturer; or
- which is e.g. a hand piece and which is damaged or defective, or which failed, due to any of the foregoing causes or due to improper cleaning or disinfecting.

If MicroTechniX is called upon to service or repair Equipment which falls under this Section 8, a separate invoice will be issued for labor, parts and expenses at MicroTechniX' rates and terms then in effect.

The Service Agreement does not entitle the Customer to services related to information technology, imaging workflow design and analysis, or problem diagnosis. MicroTechniX' responsibility under the Service Agreement does not extend beyond the outbound or inbound sockets of the Equipment. In addition, changes, adjustments, additions or repairs required to or with respect to the Equipment resulting from issues, matters, items or concerns that are the responsibility of the Customer, such as changes related to Customer's network infrastructure, are not covered by the Service Agreement. This may include, but is not limited to, network IP

address changes. Although the Equipment may have limited short term storage capacity, the storage of data, is the responsibility of the Customer.

## 9. Default

Customer shall be in default under the Service Agreement upon:

- (i) a failure by Customer to make any payment due MicroTechniX within ten (10) days of receipt of notice from MicroTechniX that the payment was not made within the applicable payment period;
- (ii) a failure by Customer to perform any other obligation under the Service Agreement within thirty (30) days of receipt of notice from MicroTechniX;
- (iii) a failure to grant MicroTechniX access to the Equipment as set forth in Section 6 hereof;
- (iv) a default by Customer or any affiliate of the Customer under any other obligation to or agreement with MicroTechniX or any assignee of the foregoing (including but not limited to, a promissory note, lease, rental agreement, license agreement or purchase contract); or
- (v) (v) the commencement of any insolvency, bankruptcy or similar proceedings by or against the Customer (including any assignment by Customer for the benefit of creditors).

Upon the occurrence of any event of default hereunder, MicroTechniX may, in addition to any and all other remedies available under law, elect to:

- (i) immediately cease providing services under the Service Agreement and any and all other agreements between the parties, or suspend any training courses, until the default is cured or corrected,
- (ii) terminate the Service Agreement, in which case Customer shall pay to MicroTechniX
  - (a) all amounts due under the Service Agreement through the effective date of termination,
  - (b) as liquidated damages and not as a penalty, an amount equal to 25% of the remaining payments due under the Service Agreement from the date of termination through the scheduled expiration of the term of the Service Agreement, and
  - (c) all costs and expenses of collection, including without limitation reasonable attorneys' fees and court costs incurred by MicroTechniX as a result of the Customer's default, and/or
- (iii) commence collection actions (including court actions) for all sums due under the Service Agreement.



All rights and remedies available to MicroTechniX hereunder, by law or equity, shall be cumulative and there shall be no obligation for MicroTechniX to exercise a particular remedy.

In the event that Customer cures all defaults hereunder, then prior to resumption of services under the Service Agreement, MicroTechniX may inspect the Equipment to determine if it is in good operating condition. Such inspection shall be charged to the Customer at MicroTechniX' per-call rates and terms then in effect. Any repairs or adjustments which MicroTechniX determines are required due to

- (i) the use of any non-MicroTechniX parts,
- (ii) the repair or service of the Equipment by the Customer or any third party during the suspension of services by MicroTechniX, or
- (iii) any of the exclusions from coverage set forth in Section 8 hereof, shall be charges to the Customer at MicroTechniX' rates and terms then in effect and shall include charges for parts, with all such repairs or adjustments to be completed prior to the resumption of service under the Service Agreement.

## 10. Limitation of Liability

MicroTechniX' entire liability and Customer's exclusive remedy for any direct damages incurred by the Customer from any cause whatsoever, and regardless of the form of action, whether liability in contract or in tort, arising under the Service Agreement or related hereto, shall not exceed an amount equal to the Annual Agreement Price for the specific item of Equipment under the Service Agreement that caused the damage or is the subject matter of, or is directly related to, the cause of action. Such maintenance charges will be those in effect for the specific item of Equipment when the cause of action arose. The foregoing limitation of liability shall not apply to claims by Customer or third parties for bodily injury or damage to real property or tangible personal property caused solely and directly by the gross negligence or willful misconduct of MicroTechniX. In addition, MicroTechniX shall have no liability hereunder to Customer to the extent that Customer's or any third party's acts or omissions contributed in any way to any loss it sustained or to the extent that the loss or damage is due to a force majeure occurrence as described in Section 16 hereof or any other cause beyond the reasonable control of MicroTechniX.

THIS IS A SERVICE AGREEMENT. WITHOUT LIMITING THE LIMITATION OF LIABILITY SET FORTH IN THE PRECEDING PARAGRAPH, MICROTECHNIX EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL MICROTECHNIX BE LIABLE FOR ANY LOST PROFITS, LOST SAVINGS, LOST REVENUES, LOSS OF USE OR DOWNTIME (EXCEPT AS OTHERWISE PROVIDED HEREIN), LOST DATA, OR FOR ANY INDIRECT, INCIDENTAL, UNFORESEEN, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OR FORM OF ACTION, EVEN IF MICROTECHNIX HAS BEEN ADVISED OF THE POSSIBILITY THEREOF, ARISING OUT OF OR IN CONNECTION WITH THE SERVICE CONTRAVT OR THE USE OR PERFORMANCE OF THE EQUIPMENT.



## 11. Notices

Except for the issuance of invoices as set forth in Section 7 hereof, all notices required to be provided hereunder shall be in writing and shall be sent by overnight delivery via a nationally recognized delivery service or by certified or registered mail, postage prepaid, to MicroTechniX at the address set forth on the first page of the Service Agreement and to the Customer at the address stated in the Service Agreement. Notice given in compliance with this Section 11 shall be sufficient for all purposes under the Service Agreement, and such notice shall be effective when sent. Either party may change its notice address only if notification is sent in writing pursuant to this Section 11.

## 12. Governing Law; Waiver of Jury Trial

The Service Agreement shall be governed by the laws of Belgium. TO THE EXTENT NOT PROHIBITED BY LAW, THE PARTIES WAIVE ALL RIGHTS TO A JURY TRIAL IN ANY LITIGATION ARISING FROM OR RELATED IN ANY WAY TO THIS AGREEMENT OR THE TRANSACTION CONTEMPLATED HEREBY.

## 13. Damages, Costs, And Fees

In the event that any dispute or difference is brought arising from or relating to the Service Agreement or the breach, termination, or validity thereof, the prevailing party shall not be entitled to recover from the other party punitive damages. The prevailing party shall be entitled to recover from the other party all reasonable attorney's fees and collection agency fees incurred, together with such other expenses, costs and disbursements as may be allowed by law.

## 14. Severability; Headings

No provision of the Service Agreement or hereof which may be deemed invalid, illegal or unenforceable will in any way invalidate any other portion or provision of the Service Agreement or hereof. Paragraph headings are for convenience only and will have no substantive effect.

## 15. Waiver

No failure, and no delay in exercising, on the part of any party, any right under the Service Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right preclude the further exercise of any other right.

## 16. Force Majeure

MicroTechniX will not be liable to Customer for any failure to fulfill its obligations under the Service Agreement due to causes beyond its reasonable control and without its fault or negligence including, but not limited to, governmental laws and regulations, acts of God or the public, war or other violence, civil commotion, blockades, embargoes, calamities, floods, fires,

earthquakes, explosions, accidents, storms, strikes, lockouts, work stoppages, labor disputes, or unavailability of labor, raw materials, power or supplies. In addition, in the event of any determination pursuant to the provisions of a collective bargaining agreement between the Customer and any labor union representing any employees of the Customer preventing or hindering the performance of any of the obligations of MicroTechniX under the Service Agreement, or determining that the performance of any such obligations violates provisions of that collective bargaining agreement, or in the event a trade union, or unions, representing any of the employees of the Customer otherwise prevents MicroTechniX from performing any such obligations, then MicroTechniX shall be excused from the performance of such obligations unless the Customer makes all required arrangements with the trade union, or unions, to permit MicroTechniX to perform the work. The Customer shall pay any additional costs incurred by MicroTechniX that are related to any labor dispute(s) that involve the Customer.

## 17. Confidentiality

MicroTechniX and the Customer shall maintain the confidentiality of any information provided or disclosed to the other party, its employees or agents (a "receiving party") relating to the business, customers of the disclosing party, including but not limited to know-how, technical data, processes, software, techniques, developments, inventions, research products and plans for future developments, proprietary matters of a business or technical nature, as well as the Service Agreement and its terms (including the pricing and other financial terms under which the Customer will be obtaining the services hereunder). Confidential Information shall also include all written materials (including correspondence, memoranda, manuals, training materials, notes and notebooks) and all computer software, models, mechanisms, devices, drawings or plans which may be disclosed or made available embodying Confidential Information. All Confidential Information shall be and remain the sole and exclusive property of the disclosing party. Each party shall use reasonable care to protect the confidentiality of the information disclosed, but no less than the degree of care it would use to protect its own confidential information, and shall only disclose the other party's confidential information to its employees and agents having a need to know this information. Confidential Information shall not include any information or data which (i) is or becomes public knowledge (through no fault of the receiving party or any of its employees or agents), (ii) is made available to the receiving party by an independent third party without any obligation of confidentiality, (iii) is already in the receiving party's possession at the time of receipt from the disclosing party (as such prior possession can be properly demonstrated by it), or (iv) is required by law to be disclosed, provided that the receiving party gives the disclosing party advance notice of the requirement for disclosure so that the disclosing party can take whatever action it deems necessary to protect the disclosure of its Confidential Information. In addition, this confidentiality provision shall not apply to any action brought by either party to enforce the terms of the Service Agreement against the other party. Any unauthorized use, disclosure or misappropriation of any Confidential Information by the receiving party in violation the foregoing may result in irreparable and continuing damage to the disclosing party; in the event of such breach, the disclosing party shall be entitled to obtain immediate injunctive relief and any other relief or remedies to which it may be entitled. The receiving party waives any requirement that the disclosing party post a bond or other security in connection with any petition filed by the disclosing party for injunctive relief. In the event that a court of competent jurisdiction determines that the receiving party has breached this provision, then the receiving party shall reimburse the disclosing party for the costs of any court proceedings and all reasonable attorney's fees.

## 18. End of Guaranteed Support Announcement

Notwithstanding anything to the contrary contained herein, in the event that MicroTechniX makes a general announcement that it will no longer offer service agreements for an item of Equipment or components thereof, or provide a particular service agreement option or feature, whether due to the unavailability of spare parts or otherwise (an "EOS Announcement"), then upon no less than twelve (12) months prior written notice to the Customer, MicroTechniX may, at its option,

- (i) cancel the Service Agreement or
- (ii) remove any affected Equipment, components, options or features from coverage under the Service Agreement, with a corresponding adjustment of the Annual Agreement Price.

At the end of this twelve (12) month period and at the request of the Customer, MicroTechniX will use commercially reasonable efforts to provide service or parts on a time and materials basis only, at MicroTechniX' rates and terms then in effect, for any Equipment, components, options or features subject to an EOS Announcement.

## 19. Removal of Equipment from Coverage

The Customer may remove Equipment from coverage under the Service Agreement at any time upon no less than thirty (30) days prior written notice to MicroTechniX if the use of the Equipment is permanently discontinued and the Equipment is removed from service. There is no fee for this cancellation. Prorated credit will be issued for any advance payments made by the Customer for the period after the effective date of removal (based on the notice requirement). In addition, if the Customer sells or otherwise transfers any of the Equipment to a third party and the Equipment remains installed and in use at the same location, but such third party does not assume the obligations of the Customer under the Service Agreement or enter into a new service agreement with MicroTechniX with a term at least equal to the unexpired term of the Service Agreement, then the Customer may terminate the Service Agreement with respect to such Equipment upon no less than thirty (30) days prior written notice to MicroTechniX, in which case the Customer shall pay to MicroTechniX (i) all amounts due under the Service Agreement through the effective date of termination (based on the notice requirement) and (ii) as liquidated damages and not as a penalty, an amount equal to 25% of the remaining payments due under the Service Agreement for such Equipment from the date of termination through the scheduled expiration of the term of the Service Agreement.

## 20. Uptime Performance Guarantee [DOES NOT APPLY TO EVERY SERVICE AGREEMENT]

For any Equipment that includes an Uptime Guarantee as specified in the Service Agreement, MicroTechniX guarantees that the Equipment will function at the minimum Uptime Performance (defined below) level set forth in the Service Agreement (computed as described below).

“Uptime Performance” is defined as the capability of the Equipment to be utilized. The equipment will be considered to be operational (i.e., it will not be considered to be “down”): (a) unless it cannot be utilized; (b) if MicroTechniX is prepared to perform maintenance services to make the Equipment operational but such service is refused by the Customer or is deferred by the Customer until a later time or date; (c) if the Equipment is not otherwise made available to MicroTechniX’ service engineers; (d) if the Equipment is down is due to, associated with, or caused by (i) misuse, negligence, or operator error, (ii) inadequate environmental conditions (not conforming with the environmental specifications provided by MicroTechniX), including temperature and humidity, line power exceeding MicroTechniX’ requirements of voltage, frequency, impulses or transients, (iii) any of the exclusions set forth in Section 8 hereof, or (iv) acts of God or other force majeure events described in Section 16 hereof; or (e) during periods in which MicroTechniX is performing scheduled or Preventive Maintenance, changing high vacuum components, and installing updates and/or upgrades. If the Equipment is not operational, then the Customer must immediately notify the MicroTechniX Service Center. Downtime will not commence until such notification is given to MicroTechniX.

For purposes of calculating the Uptime Performance level percentage, such computation shall be made over the PCP, to include any extended coverage hours as indicated on the Service Agreement. The Equipment’s Uptime Performance shall be calculated to comply with the above guidelines on an annual basis. If the Equipment’s Uptime Performance level is found to be less than the guaranteed percentage, as computed in accordance with the above guidelines, MicroTechniX will extend the term of the Service Agreement by seven (7) calendar days for every percentage point (rounded to the nearest percent) below the guaranteed percentage. These days will be added at the end of the term of the Service Agreement. For example, if the guaranteed percentage is 97%, then 96% Uptime Performance would result in an extension of seven (7) calendar days and 95% Uptime Performance would result in an extension of fourteen (14) calendar days. The foregoing states MicroTechniX’ entire obligation and liability, and the Customer’s sole remedy, for MicroTechniX’ failure to meet the Uptime Performance Guarantee.

In order for the Uptime Performance Guarantee to be effective, the Customer must place all calls for service through MicroTechniX’ Service Center and must accept all Technical Assistance that is offered by MicroTechniX, including, but not limited to, telephone support and remote diagnostics. For any period of time that the Customer does not seek and accept Technical Assistance from MicroTechniX, then the Equipment shall be considered to be operational.

The Customer agrees to allow connection to MicroTechniX’ Remote Service diagnostic equipment, where available, for the Equipment covered by the Service Agreement. MicroTechniX Remote Service is required for Remote Service-capable systems. The Uptime Performance Guarantee shall be void if the SRS connection is not provided and available 24 hours per day, 7 days a week.

## 21. Response Time Guarantee [DOES NOT APPLY TO EVERY SERVICE AGREEMENT]

MicroTechniX guarantees that it shall meet any on-site response time as specified in the Service Agreement for system “down” situations. Response time is measured from the time

that the Customer notifies the MicroTechniX Service Center that a system is down. The response time only applies during the PCP, to include any extended coverage hours (if selected by the Customer), as indicated in the Service Agreement. For example, a request for on-site service made at noon on a Monday (where the PCP is 8:00 a.m. through 5:00 p.m., Mondays through Fridays) will have a guaranteed arrival time of 4:00 p.m. on the same day for customers with a four (4) hour response time and a guaranteed arrival time of 11:00 a.m. on the next day for customers with an eight (8) hour response time guarantee. A request for onsite service made at 9:00 a.m. on a Saturday will have a guaranteed arrival time of noon on the next Monday for customers with a four (4) hour response time and 4:00 p.m. on that Monday for customers with an eight (8) hour response time guarantee. If a request for on-site service is made outside the PCP (to include extended coverage hours, if selected by the Customer), MicroTechniX will use its best efforts to have a FSE on-site as soon as possible.

If MicroTechniX responds to a request for on-site service during the PCP but its work to repair or service the Equipment continues after the expiration of the PCP (to include any extended coverage hours, if applicable), then any work outside the PCP will be billed to the Customer, unless any optional Continuous Effort coverage that is available for the Equipment has been purchased as part of the Service Agreement. Continuous Effort coverage ensures that in room/system down situations, work will continue past the contracted PCP (including any extended coverage hours, if applicable, and/or core modality specific hours, as defined in the Glossary, if applicable) at no additional charge until the system is repaired or 1:00 a.m., whichever comes first, as long as the FSE has been on-site for one hour or more before the end of the contracted PCP (including any extended coverage hours and/or core modality specific hours, if applicable).

The remedy provided by MicroTechniX for its failure to meet the on-site response time guarantee is as follows: for each one (1) hour or portion thereof that MicroTechniX fails to meet the on-site response time guarantee, the Customer will receive one (1) free hour of overtime after the PCP for that service event. The foregoing states MicroTechniX' entire obligation and liability, and the Customer's sole remedy, for MicroTechniX' failure to meet the Response Time Guarantee.

## 22. Non-Assignment

Customer may not assign the Service Agreement unless it obtains the prior written consent of MicroTechniX, which consent shall not be unreasonably withheld or delayed. MicroTechniX may not assign the Service Agreement unless it obtains the prior written consent of the Customer, which consent shall not be unreasonably withheld or delayed, except that MicroTechniX may assign without Customer approval to any subsidiary or affiliated company or any of its authorized dealers.

## 23. Reimbursement for Training Courses upon Early Termination

If the Service Agreement includes any training courses and the Service Agreement is terminated or Equipment is removed from coverage as provided hereunder prior to the expiration of the term, then MicroTechniX may bill the Customer for any balance due and owing



with respect to those training courses that have been completed by the Customer, and Customer agrees to pay the same.

## 24. Execution; Counterparts

If the Customer is a corporation or partnership, the person signing the Service Agreement on its behalf certifies that such person is an officer or partner thereof, that his or her action was duly authorized by appropriate corporate or partnership action, that such action does not conflict with the corporate charter or bylaws or the partnership agreement, as the case may be, or any contractual provision binding on such corporation or partnership, and that no consent of any stockholders to his or her action is required.

This Service Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original document but all of which together shall constitute one and the same agreement.

## 25. Entire Agreement

The Service Agreement, including all exhibits and addenda attached hereto, constitutes the entire agreement between the parties relating to the subject matter hereof, and supersedes all prior and contemporaneous oral or written representations or communications between the parties. The Service Agreement may not be modified or amended, except in writing executed by the appropriate designated officers of the parties hereto. Any variation in the terms and conditions contained in the Service Agreement (including, but not limited to, the inclusion of Customer's own terms and conditions in any purchase order or other document issued by Customer in response to and/or referencing MicroTechniX' quotation for service or the Service Agreement) shall not be deemed to be a part of the Service Agreement and shall not be binding upon MicroTechniX unless set forth in writing and executed by the appropriate designated officer of MicroTechniX. Subject to the limitations expressed herein, the Service Agreement will be binding upon and inure to the benefit of the parties hereto, their successors, legal representatives, and permitted assigns.