

Standard Terms and Conditions for Equipment Services

- 1) **SCOPE:** These Standard Terms and Conditions for equipment services (“Services”) apply to the services described on Radiometer America, Inc.’s (“RADIOMETER”) quote. By accepting the quote for Services, unless modified by a written agreement between the parties, Customer (identified in the quote) agrees to these terms and conditions (which, along with the quote and any attachments is incorporated by reference, is the “Agreement”). Any terms or conditions on a purchase order, order acknowledgement or any other documents relating to the services will be null and void. The Agreement is effective on the earlier of Customer’s written or verbal acceptance or commencement of performance of the services.
- 2) **PAYMENT:** RADIOMETER will invoice Customer for the Services at the beginning of each Service period. Payment terms are thirty (30) days of the date of invoice.
- 3) **TERMINATION:** This Agreement shall remain in force for the applicable Service period. Either party may terminate this Agreement upon thirty (30) days’ written notice to the other party. Any service performed prior to the effective date of this Agreement or performed subsequent to the expiration or termination of this Agreement will be billed at the then current time and materials rate.
- 4) **CANCELLATION | PRORATION SCHEDULE:** In the event that the Agreement is terminated prior to the end of the applicable annual Service period, RADIOMETER will refund 50% of payment if terminated within first 3 months, 25% if terminated between 4-6 months, and 0% if terminated after 6 months of the start of the contract. Any balance will be returned to the Customer.
- 5) **EQUIPMENT AVAILABILITY:** RADIOMETER and Customer will set a mutually agreeable date and time, for each service visit. Customer agrees to make applicable instruments and facilities available for servicing at the time of Services.
- 6) **SERVICES FEATURES LIST:** The features of the Services plan selected by the Customer can be found on RADIOMETER’s site at <https://tinyurl.com/Services-Features-List>.
- 7) **WARRANTY:** RADIOMETER warrants that the Services will be performed in a workmanlike manner and that the parts supplied hereunder shall conform to RADIOMETER’s specifications. THE WARRANTIES IN THIS SECTION ARE PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. RADIOMETER DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTY ABOUT THE MERCHANTABILITY OF THE PRODUCTS, INFRINGEMENT OR THEIR FITNESS FOR A PARTICULAR PURPOSE. RADIOMETER’s sole liability under the foregoing warranty is to reservice the instrument(s) and/or repair or replace the defective part or, at RADIOMETER’s option, return of the sum paid for such services.

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If a third party manufactured product is supplied to Customer (such as software, printers, or personal computers), RADIOMETER assigns to Customer any rights that may exist under the warranty provided by the manufacturer. However, RADIOMETER does not warrant the performance of the third party manufactured product or provide any remedy for failure of the third-party product to perform. In the event that a third party manufactured product is no longer supported by the original manufacturer, RADIOMETER may provide an upgrade solution, at an additional fee mutually agreed upon by the parties.

- 8) INDEMNITY: RADIOMETER agrees to indemnify and save harmless the Customer from and against any and all third party claims, demands, suits and expenses by reason of injury or death of any person(s) or damage to any property (except as excluded hereafter) solely and directly attributable to the negligent acts or negligent omissions of RADIOMETER, its agents or employees while on the premises of the Customer and arising out of Services provided.
- 9) LIMITATION OF LIABILITY: EXCEPT FOR BREACH OF CONFIDENTIALITY, NEITHER PARTY WILL HAVE ANY LIABILITY TO THE OTHER, OR ANY THIRD PARTIES FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PENAL LOSS OR DAMAGE OF ANY NATURE WHATSOEVER (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR LOSS OF USE), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE.
- 10) CAUSES BEYOND CONTROL: RADIOMETER is not responsible for (i) failure to fulfill its obligations under this Agreement from causes beyond its control or (ii) replacement of any instruments (identified under this Agreement) which RADIOMETER reasonably deems to be unrepairable.
- 11) WORKER'S COMPENSATIONS: RADIOMETER agrees to maintain Worker's Compensation insurance as may be required by law covering its employees who perform the Services.
- 12) GOVERNING LAW: This Agreement is entered into and shall be governed and construed by the laws of the State where Customer is located, without reference to the conflicts of law provisions. Each party expressly waives its rights to trial by jury.
- 13) SUCCESSORS AND ASSIGNS: This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns; however, the Customer may not assign any part of this Agreement without the express written consent of RADIOMETER.

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- 14) COUNTERPARTS: This Agreement may be executed by the parties hereto in several counterparts, each of which shall be an original and all of which shall constitute together but one and the same agreement.
- 15) COMPLETE AGREEMENT. This Agreement constitutes the entire understanding and agreement between RADIOMETER and Customer concerning the subject matter hereof and supersedes all prior or contemporaneous negotiations.
- 16) OWNERSHIP OF PARTS: All parts, for which RADIOMETER has supplied a replacement, shall become the property of RADIOMETER.
- 17) RETURNED GOOD POLICY: RADIOMETER's Returned Material Authorization policy shall apply to any approved returned instruments or parts.
- 18) LIVEConnect: LIVEConnect provides remote access by RADIOMETER for the purpose of troubleshooting and support. Customer is responsible for providing network connection to access the Internet and maintaining responsibility for Internet service and security. Customer shall provide and secure an internet enabled connection with specific access to the RADIOMETER systems. Trending data (analyzer performance data) may be routinely collected by RADIOMETER, utilizing remote diagnostics. The collected data does not contain confidential patient data. The customer accepts that Radiometer may use such data for development purposes in order to optimize products and build additional services to improve the RADIOMETER solution. Any set up and implementation fees related to LIVEConnect services shall be as specified in the applicable quote.