

# SERVICE ADDENDUM

This Service Addendum only applies to non-BioFire branded Instruments and is in addition to bioMérieux's Terms & Conditions available at <https://www.biomerieux-usa.com/biomerieux-terms-conditions>. No other terms or conditions shall apply.

## 1. Application

These additional terms and conditions govern all transactions between Customer and bioMérieux for the service(s) set forth in the Agreement ("Service(s)").

## 2. Customer Obligations

Customer shall:

- (a) when contacting bioMérieux's technical support center, provide a plain summary of any Instrument errors or performance issues leading to a service event and otherwise assist in providing error information as reasonably requested by bioMérieux;
- (b) allow bioMérieux personnel access to the Instrument and any attached equipment during the coverage hours listed on the Service Quote ("Coverage Hours");
- (c) follow bioMérieux's pre-service instructions, provided to Customer before Service performance;
- (d) perform verification procedures and routine maintenance consistent with the Instrument user manual, instructions for use, and bioMérieux instructions;
- (e) not introduce any malicious code, computer viruses, or similar bugs to the Instrument; if re-imaging of an Instrument's computer is required due to malicious code, viruses, and/or similar bugs not introduced by bioMérieux, additional charges may apply;
- (f) keep a copy of Instrument passwords; if re-imaging of an Instrument's computer is required due to a lost password, additional charges may apply;
- (g) not allow any third-party to perform service(s) over the Instrument, unless authorized to do so by bioMérieux;
- (h) clean and disinfect the Instrument according to the Instrument user manual and industry standards; and
- (i) install updates and critical operating system patches on the Instrument, including Windows OS updates and updates provided by bioMérieux, to minimize the risk of cyber threats.

bioMérieux may assess additional fees, if necessary, to remedy Instrument errors caused by Customer's failure to meet these obligations. Such fees will be provided to Customer beforehand and are subject to mutual agreement before any remedy is performed. If Customer declines the proposed fees, bioMérieux may terminate this Agreement.

## 3. Service Coverage Level Description

Each Service Quote shall identify the Service Coverage Level purchased by Customer: (i) Full-Service Agreement, (ii) Preventative Maintenance ("PM") + Agreement, or (iii) Repair Center Contract. bioMérieux shall perform the Services in accordance with the terms applicable to the selected Service Coverage Level, as further described in Exhibit A attached hereto.

All Service Coverage Levels include software and firmware updates as released by bioMérieux. The Preventative Maintenance ("PM") schedule for specific Instruments is set forth in Exhibit A. The Full-Service Agreement includes all labor, travel, expenses, and replacement parts necessary to repair the Instrument(s) and restore them to manufacturer specifications, subject to any Service Exclusions and Customer Obligations. Customers located in Alaska and Hawaii are subject to additional charges, which will be provided with the applicable service quote. Replacement parts may be new or refurbished of equivalent quality, at bioMérieux's discretion. All parts removed from the Instrument(s) become the property of bioMérieux.

## 4. Service Exclusions

The Services expressly exclude, and bioMérieux has no obligation to service or repair Instrument(s), due to any of the following:

- (a) neglect or abuse operating the Instrument;
- (b) use of the Instrument for purposes other than for which it was designed;
- (c) operation of the Instrument in a facility that does not meet Instrument user manual requirements, including but not limited to lack of air conditioning, lack of humidity control, or improper electrical power;
- (d) failure to complete routine maintenance and sanitation set forth in the Instrument user manual;
- (e) repair, service, or alterations made or attempted by anyone other than bioMérieux's authorized personnel, including changes to manufacturer's physical, mechanical, and/or electrical design of the Instrument;

- (f) devices or attachments mechanically, electrically, or electronically connected to the Instrument without bioMérieux's express consent;
- (g) software not supplied by bioMérieux, including any consequences of its use;
- (h) any damage caused by computer viruses, Trojan horses, malicious code, or similar elements, except where introduced by bioMérieux;
- (i) relocation of the Instrument not performed or authorized by bioMérieux; and
- (j) damage caused by fire, flood, water, wind, lightning, earthquake, termination of or surge in electric current, and/or similar accidents or disasters.

This Agreement does not include (i) service and/or support on any LIS interface (unless otherwise agreed to in writing), (ii) replacement of consumable parts (i.e. batteries, lamps, bulbs, nozzles, or printer cartridges); or (iii) replacement of Instrument(s) due to obsolescence. bioMérieux has no obligation to replace an Instrument installed more than five (5) years ago if it cannot be repaired. bioMérieux has no obligation to repair or replace computer hardware installed on Instrument(s) that are more than three (3) years old, including computer hardware requiring replacement due to the end of support of the applicable operating system.

## **5. Warranty**

During the term of the applicable Service Agreement, bioMérieux will perform the Services in accordance with the Terms herein. If any covered repair or service is performed during the final thirty (30) days of the term, bioMérieux warrants that specific repair or service for an additional thirty (30) days from the date it is performed, even if the Service Agreement term has expired. Customer's sole and exclusive remedy for a breach of this warranty is repair or replacement of the Instrument by bioMérieux.

## **6. Customer Onsite Safety Policies**

While performing Services at Customer's premises, bioMérieux personnel will follow Customer's reasonable, written safety policies, provided such policies are supplied to bioMérieux in advance of the visit. Both parties will cooperate in good faith to maintain a safe working environment.

## EXHIBIT A - SERVICE COVERAGE LEVEL DETAILS

Service Contract Inquiries: [US.ServiceSales@bioMerieux.com](mailto:US.ServiceSales@bioMerieux.com)

	FULL-SERVICE AGREEMENT*	PREVENTATIVE MAINTENANCE + AGREEMENT	REPAIR CENTER CONTRACT**
<b>TECHNICAL SUPPORT - 1-800-682-2666</b>			
Extended Hours - 24/7 telephone technical support, including during weekends and statutory holidays	✓	✓	✓
Remote diagnostics feature for troubleshooting instrumentation is included	✓	✓	
<b>ONSITE SUPPORT</b>			
Available between 7:00 AM – 7:00 PM local time in the Continental U.S., 7 days a week	✓		
24 Hours Response Time within commercially reasonable efforts	✓		
<b>***PREVENTATIVE MAINTENANCE (PM) – See Instrument Specifics Below***</b>			
Planned PM within twelve (12) months, during regular bioMérieux business hours, local time, Monday to Friday.	✓	✓	
<b>SOFTWARE UPDATES</b>			
Regular software updates for bug fixes or functionality improvements.	✓	✓	✓
Software upgrades for new functionalities.	✓	✓	✓
<b>FIRMWARE UPDATES</b>			
Firmware updates performed as required by bioMérieux.	✓	✓	✓

**\*Instrument(s) under bioMérieux's one (1) year warranty from the date of installation receive Full-Service coverage.**

**\*\*RCC: Only Available for PREVIColor and Mycoplasma**

- Replacements under RCC: Replacement Instrument shall be new standard or equivalent refurbished. Upon notification and authorization, bioMérieux will pay for all related transportation charges. bioMérieux will ship a replacement Instrument with all necessary parts and in turn the customer will return the malfunctioning Instrument and all parts provided per the return checklist, e.g. power cords, nozzles, dip tubes, and reagent trays. Customer is responsible for returning the malfunctioning Instrument, in its entirety, within 30 days of receipt of the replacement Instrument. Failure to return the malfunctioning Instrument, in its entirety, on time, will result in a penalty fee and/or this Agreement being terminated.

**\*\*\*PM DETAILS:**

- All Instruments receive one (1) Preventative Maintenance visit ("PM") per year, except for the following Instruments, which receive two (2) PM's per year: VITEK 2 (120 or above), EASYMAG, and VITEK REVEAL.

**ADDITIONAL CHARGES:**

- Zone charges: Customers in AK and HI are subject to additional zone charges, which will be provided to Customer with the Service Quote.
- Remote access: Remote access denial may result in additional service charges for unnecessary dispatches.