

TERMS AND CONDITIONS OF SERVICE

WHEREAS:

1. LABORIE and the Customer have entered into one or more agreements wherein Customer has purchased certain urodynamics equipment from LABORIE, which may include software licensed as part of such equipment (the "Equipment Agreement");
2. The Customer has requested that LABORIE provide the Services (as hereinafter defined) to the Customer in connection with the Equipment and the Parties have agreed to enter into this Agreement to govern the terms and conditions of the provision of the Services.

NOW THEREFORE in consideration of the premises and the mutual covenants herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereto agree as follows:

1. SERVICES

1.1 During the Term, subject to the full payment of the Fees commensurate with the specific Service Level chosen by the Customer (as set forth in Schedule A), and subject to the restrictions set forth herein, LABORIE will provide the following Services:

- (a) Extended warranty service for the Equipment, consisting of acceptance of defective Equipment from Customer for repair or replacement in accordance with the warranty terms in the Equipment Agreement and LABORIE's standard RMA procedures (including Customer's responsibility for arranging shipment of all Equipment at Customer's expense), such repair or replacement to be billed at LABORIE's standard rates, subject to any adjustments pursuant to Customer's purchased Service Level;
- (b) Advice provided telephonically on the use and maintenance of the Equipment and Software where such Equipment and Software are not operating in accordance with their specifications;
- (c) Instruction provided telephonically on the use and maintenance of the Equipment and Software where such instructions are not included in the documentation accompanying the Software; and
- (d) Remote support (excluding Urocaps) respecting Software via Internet access, which may include making setup modifications, studying software modifications, and providing general system maintenance, provided that Customer supplies a broadband connection from their Internet provider to facilitate the use of remote assistance software; and
- (e) Commercially reasonable efforts to correct any defects in the Software which prevent the Software from operating in accordance with its specifications, which may take the form of providing existing Updates or Upgrades which correct or work around

such defects, specific bug fixes, special releases to remedy defects in the Software or, where bugs or defects are not critical (as determined in LABORIE's sole discretion) inclusion of fixes in a future scheduled release of the Software.

1.2 In addition to the Services described in Section 1.1 above, Customer will be entitled to obtain the Services for the specific Service Level purchased by Customer, as set forth in Schedule A. To the extent of any conflict between the Services to which the Customer is entitled as set forth in this Section 1 and as set forth in the applicable Service Level description in Schedule A, the Service Level description in Schedule A shall prevail.

1.3 With respect to the extended warranty service described in Section 1.1(a), if LABORIE finds, upon inspection of the affected Equipment, that the problem sought to be resolved is not due to a manufacturer's defect covered by the original new product warranty or by the terms of the Equipment Agreement, LABORIE will notify the Customer and advise Customer of the additional repair costs involved. Should the Customer choose to have the repair done at the stated additional cost, the Customer shall submit authorization to LABORIE in writing, which authorization shall indicate the specific Equipment involved, as well as the amount agreed to. Upon receipt by LABORIE of such written authorization, LABORIE shall perform the authorized repair and shall bill the Customer for such repair.

1.4 Where Customer is entitled to obtain loaner equipment as part of the extended warranty service described in Section 1.1(a) and their purchased Service Level, such loaner equipment shall be subject to the terms and conditions of the Equipment Agreement. Upon the repaired or replaced Equipment being provided to Customer, Customer shall immediately return such loaner Equipment to LABORIE. Arranging shipment of all loaner equipment to and from Customer facilities shall be Customer's responsibility and at Customer's expense.

1.5 LABORIE's obligations to perform the Services hereunder, as applicable, will apply only to the specific Equipment and Software identified in Schedule A. Unless otherwise expressly agreed upon by the Parties in writing, the Services shall be available between 8:30 a.m. to 7:30 p.m., Eastern Time, Monday to Friday, excluding Canadian statutory or national holidays (each a "Business Day").

1.6 Except as specifically set forth in a Service Level, the following services (the "**Excluded Services**") are specifically not included in the Services:

- (a) Installation of the Equipment or Software;
- (b) On-site support related to the Equipment or Software;
- (c) Equipment hardware modifications or upgrades;
- (d) Software Updates or Upgrades;
- (e) Corrections of defects found by LABORIE to be:

- (i) in other than a current, unaltered release of the Equipment or Software provided free of charge to Customer;
- (ii) caused by negligence of the Customer or by modifications made to the Equipment or Software by the Customer;
- (iii) arise from use or interoperability of the Equipment or Software in combination with hardware or software not specifically approved by LABORIE;
- (iv) caused by normal wear and tear;
- (v) caused by improper or unauthorized use of the Equipment or Software;
- (vi) caused by use of the Equipment or Software in a manner contrary to, or otherwise not in accordance with, documentation, guidelines or instructions provided by LABORIE in relation to the Equipment or Software;
- (vii) due to external causes such as, but not limited to, power failure or electrical power surges; or
- (viii) defects which do not prevent the Equipment or Software from operating in accordance with its specifications.

Additionally, issues respecting laptops, desktop/personal computers, keyboard, mouse, pointing device, tablets, PDAs, printers and cartridges, monitors, electronic catheters, carts and Stille products are not covered under this Agreement, and LABORIE shall have no obligation whatsoever to perform any Services in relation to such items.

1.7 Customer is solely responsible for backing up any and all critical files on a regular basis, prior to any Services being performed by LABORIE, including any repair, troubleshooting, or testing, and LABORIE shall in no event be liable for the loss of any software files, data or otherwise.

2. TERM AND TERMINATION

2.1 The term of this agreement shall be one (1) year from the Effective Date or such other period as indicated in Schedule A (the “**Term**”). Unless deemed ineligible by LABORIE, Customer may renew this Agreement on a yearly basis thereafter (each a “Renewal Term”) by notifying LABORIE of its intent to renew this Agreement and by paying the applicable Fee for such Renewal Term. The Initial Term and all Renewal Terms shall be collectively referred to as the “**Term**”.

2.2 This Agreement may be terminated immediately upon notice for cause if:

- a) Either Party commits a material breach of this Agreement, or consistently fails to properly perform and observe its obligations under this Agreement, and fails to rectify the situation within thirty (30) calendar days of the non-breaching Party delivering notice of the breach or consistent failure to perform; or
- b) Either Party becomes insolvent, or a receiver or receiver-manager is appointed for any part of the property of such Party, or such Party makes an assignment, proposal or

arrangement for the benefit of its creditors or such Party files an assignment in bankruptcy, or any proceedings under any bankruptcy or insolvency laws are commenced against such Party.

2.3 LABORIE shall have the right to terminate this Agreement immediately upon notice to the Customer if the Equipment Agreement or the Software license therein is terminated for any reason.

2.4 Each Party shall have the right to terminate this Agreement for convenience upon thirty (30) days' notice to the other Party.

2.5 Termination of this Agreement shall not affect Customer's payment obligation for any Services rendered by LABORIE prior to the date of termination, and unless Customer terminates this Agreement for LABORIE's breach, or LABORIE terminates this Agreement for convenience, LABORIE shall have no obligation to refund any pre-paid Fees to Customer. LABORIE shall not be obligated to provide any Services after the expiration or termination date, for whatever reason.

2.6 Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would survive the termination or expiration of this Agreement, shall do so.

3. FEES

3.1 Customer shall pay fees for the Services in accordance with the fee schedule set forth in Schedule A (the "Fee"). LABORIE shall invoice the Customer in respect of the Fee, and the Customer shall pay the Fee within thirty (30) days following receipt of such invoice.

3.2 LABORIE reserves the right to change the fee schedule for Services for any Renewal Term, provided that LABORIE shall provide the Customer with written notice of any such change in the fee schedule at least thirty (30) days in advance of the applicable Renewal Term.

3.3 Customer is responsible for, and shall pay all taxes relating to this Agreement, excluding any taxes based on the net income of LABORIE. Unless otherwise indicated, all amounts payable by Customer under this Agreement are exclusive of any tax, duty, levy, or similar government charge that may be assessed by any jurisdiction, whether based on gross revenue, the delivery, possession or use of the Software or Support Services, the execution of this Agreement or otherwise.

3.4 If Customer fails to pay any amount due under this Agreement within thirty (30) days of such payment becoming due and payable, in addition to any other rights and remedies available to LABORIE, LABORIE shall be entitled to charge interest on all outstanding amounts at the lesser of 18% per annum or the maximum rate permitted by law, such interest commencing as of the due date for such payment. Customer shall also be responsible for paying for all reasonable fees and costs incurred by LABORIE, including legal fees, in collecting any overdue amounts or enforcing any provision of this Agreement.

3.5 All amounts herein are in United States dollars.

3.6 LABORIE reserves the right to invoice Customer for additional services requested by Customer that are not included in the Services but are provided by LABORIE to Customer, whether pursuant to Section 1.6 or otherwise, provided that LABORIE provides Customer with notice that such additional services are not included in the Services and are subject to LABORIE's then-current time and materials fee schedule for such services. Invoices for such additional services shall be subject to payment in accordance with this Section 3.

4. INTELLECTUAL PROPERTY RIGHTS

4.1 The Customer acknowledges and agrees that LABORIE shall own all intellectual property rights (whether or not patentable or registerable under copyright, trade-mark or similar legislation or subject to analogous protection) in and to the Equipment and Software, including any and all enhancements and modifications made to the Equipment Software, and all work conceived, created, invented produced, designed or reduced to practice by LABORIE and its personnel as a result of or with respect to any and all Services provided to the Customer pursuant to this Agreement (collectively, the "**Modifications**"). The Customer's rights and obligations relating to the use of the Equipment Software shall be governed by the terms of the Equipment Agreement regardless of whether the Customer, its employees or contractors may have contributed to any Modifications in any way.

5. LIMITED WARRANTY AND LIMITATION OF LIABILITY

5.1 Limited Warranty. LABORIE warrants that all Services provided in accordance with the terms of this Agreement shall be provided in a competent, professional manner by persons who are fully trained and qualified in respect of the Equipment and Software. LABORIE does not represent or warrant that the Services provided hereunder will be capable of achieving a particular result for the Customer's business, or that the operation of the Equipment or Software will be error free or uninterrupted, or that all defects or errors in the Equipment or Software can be found or corrected, although LABORIE shall use commercially reasonable efforts to do so.

5.2 Limitation of Liability. OTHER THAN AS OTHERWISE PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LABORIE MAKES NO WARRANTY OR CONDITION, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE EQUIPMENT, SOFTWARE, MODIFICATIONS, THE SERVICES OR ANY OTHER SERVICES PROVIDED IN ACCORDANCE WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. OTHER THAN AS SPECIFICALLY PROVIDED IN THE EQUIPMENT AGREEMENT, THE CUSTOMER ASSUMES THE ENTIRE RISK AS TO THE USE AND PERFORMANCE OF THE EQUIPMENT, THE SOFTWARE, AND THE MODIFICATIONS. IN NO EVENT SHALL LABORIE BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF REVENUES OR PROFITS,

BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THE USE, INABILITY TO USE OR THE PERFORMANCE OR NON-PERFORMANCE OF, THE EQUIPMENT, THE SOFTWARE, THE MODIFICATIONS, OR THE PROVISION OF THE SERVICES, EVEN IF LABORIE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR CLAIM, OR IT IS FORESEEABLE. IN NO EVENT SHALL LABORIE'S MAXIMUM AGGREGATE LIABILITY TO THE CUSTOMER FOR DIRECT DAMAGES EXCEED THE TOTAL AMOUNT PAID BY THE CUSTOMER FOR THE SERVICES PERFORMED BY LABORIE IN ACCORDANCE WITH THIS AGREEMENT WITHIN THE 12 MONTHS PRECEDING THE DATE ON WHICH THE CLAIM AROSE. THE LIMITATIONS OF THIS SECTION SHALL APPLY WHETHER OR NOT THE ALLEGED BREACH OR DEFAULT IS A BREACH OF A FUNDAMENTAL CONDITION OR TERM.

6. GENERAL

6.1 Notices: Any notices, reports or other communications required or permitted to be given under this Agreement shall be in writing and shall be sufficient if delivered by hand or sent by registered mail, courier or facsimile addressed to LABORIE or Customer at their respective addresses appearing in this Agreement, or to such other address as one party advises the other party in writing. Any such notices, reports, or other communications shall be deemed to have been received by the party to whom they were addressed: (a) upon delivery by hand, (b) five (5) business days after being sent by registered mail, (c) upon delivery by courier, as evidenced by the courier receipt, or (d) upon successful receipt confirmation report after being sent by facsimile

6.2 No Waiver: No waiver by either Party of a breach or omission by the other Party under this Agreement shall be binding on the waiving Party unless it is expressly made in writing and signed by the waiving Party. Any waiver by a Party of a particular breach or omission by the other Party shall not affect or impair the rights of the waiving Party in respect of any subsequent breach or omission of the same or different kind.

6.3 Assignment, Subcontracting and Succession: Except as expressly permitted herein, Customer shall not assign or subcontract or purport to assign or subcontract any of the Customer's rights or obligations under this Agreement without first obtaining LABORIE's prior written consent. If such consent is given on any particular occasion, it shall still be required for all subsequent assignments and subcontracts. This Agreement shall be binding upon the Parties hereto and their respective lawful successors and permitted assigns.

6.4 Severability: If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, any such provision shall be severable from this Agreement, in which event this Agreement shall be construed as if such provision had never been contained herein.

6.5 Force majeure: Neither Party shall be deemed to be in default of this Agreement for failure to fulfill its obligations due to causes beyond its reasonable control. This provision shall not be construed as excusing any payment obligations of either Party hereunder.

6.6 Dispute Resolution and Governing Law: The Parties agree to work in good faith to resolve any dispute that may arise under this Agreement. Notwithstanding the foregoing, and notwithstanding any termination of this Agreement, each Party shall have the right to pursue any right or remedy available to it in law or in equity. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Vermont, excluding rules of private international law that lead to the application of the laws of any other jurisdiction. The Parties specifically agree that the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded from application to this Agreement.

6.7 Entire Agreement/Modification: This Agreement and the accompanying Schedules constitute the entire agreement between the Parties and supersedes all previous agreements and understandings relating to the subject matter hereof. This Agreement may not be altered, amended, or modified except by a written instrument signed by the duly authorized representatives of both Parties.

6.8 Counterparts: This Agreement may be executed in counterparts, or facsimile counterparts, each of which when executed by either of the Parties shall be deemed to be an original and such counterparts shall together constitute one and the same Agreement.

7. HIPAA

7.1 In the event that LABORIE Medical is inadvertently exposed to any protected health information, LABORIE Medical agrees to comply with the applicable provisions of the Administration Simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C., 1320d through d-8 ("HIPAA"), and the requirements of any regulations promulgated there under.

The Parties executed this Agreement on the date(s) set out below after having the opportunity to discuss this Agreement with their legal advisors. Each Party represents and warrants that its respective signatory is duly authorized to execute this Agreement on its behalf.