

Mammotome

Mammotome Master Service Plan Terms and Conditions (US Customers)

These Mammotome Master Service Plan Terms and Conditions ("Terms") apply to the Service Plan of the Mammotome Equipment between Devicor Medical Products, Inc. ("Mammotome") and Customer during the Coverage Period provided in the Agreement. Mammotome and Customer may hereinafter be referred to individually as a "Party" and collective as the "Parties." The Parties agree as follows:

1. **Acceptance.** The Service Plan shall not become effective unless it is accepted in writing by Mammotome. The Service Plan may not be modified or amended except as approved in writing by Mammotome and may only be renewed after the expiration of the initial Coverage Period by written agreement of Mammotome. Mammotome shall have no obligation to renew the Service Plan.

2. **Pricing/Payment.** Customer agrees to pay Mammotome at the cost set forth in the Agreement. Payment terms are net thirty (30) days. An interest charge of 1% per month (or the maximum rate permitted by law if less than 1% per month) will apply to payments received more than 30 days after the invoice date. If Customer believes that an invoice contains any errors, it must notify Mammotome's customer service department no later than 30 days after the date of the invoice if it wishes to have those errors rectified. The prices set for the Service Plan shall be held and remain strictly confidential. Mammotome shall not be obligated to perform any Service during any period when Customer payment is past due.

3. **Service and Coverage.** During the Coverage Period described in the Agreement, as well as during any renewal Coverage Period, Mammotome will, at no additional charge, provide all parts and labor for repairing malfunction of a product listed in Table 1, provide use of a replacement product ("Loaner") while product is repaired, and pay freight charges to and from Customer associated with shipping the Loaner and the product repaired. Loaners must be returned to Mammotome within one (1) week of receiving the repaired product to avoid additional charges. Replacement parts may be new or rebuilt to perform as new. For Product Support and shipping instructions, please call 1-877-926-2666, Option 3 between the hours of 8:30 AM – 5:30 PM EST.

4. **Limitations.** The Service Plan does not cover: (a) preventative maintenance; (b) circumstances beyond Mammotome's reasonable control (such as but not limited to overriding, bypassing or defeating interlock switches); (c) rebuilding or reconditioning of equipment; (d) misuse or abuse; (e) failure to follow Mammotome's operating instructions; (f) damage from fire, water, electrical surge, or other peril originating outside the Product; (g) repairs by anyone other than an authorized Mammotome representative; or (h) supply items. THE SERVICE DESCRIBED IN THESE TERMS AND CONDITIONS ARE MAMMOTOME'S ONLY OBLIGATION UNDER THIS SERVICE PLAN AS IT RELATES TO MAMMOTOME'S PRODUCT REPAIR AND REPLACEMENT OBLIGATIONS. MAMMOTOME SHALL NOT BE RESPONSIBLE FOR ANY DELAY IN SHIPPING, OR ANY IMPROPER USE OF THE PRODUCT OR LOANER (OR IT'S SOFTWARE) BY CUSTOMER. MAMMOTOME SHALL NOT BE RESPONSIBLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING FROM THIS SERVICE PLAN, INCLUDING PURCHASER'S USE OF THE PRODUCT OR ANY LOANER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, DOWNTIME COSTS, LOSS OF USE OF THE PRODUCT, OR COSTS OF SUBSTITUTE EQUIPMENT, FACILITIES, OR SERVICES. ANY DISPUTE OR CLAIM BETWEEN THE PARTIES ARISING FROM OR RELATED TO THIS SERVICE PLAN SHALL BE HEARD IN THE COURTS OF HAMILTON COUNTY, OHIO. EACH PARTY WAIVES ANY RIGHT TO JURY TRIAL, AND EACH PARTY WAIVES ANY RIGHT TO PUNITIVE, EXEMPLARY, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES.

5. **Assignment.** The Service Plan is not transferable or assignable from the Customer without Mammotome's prior written consent. Mammotome may assign the Service Plan without Customer's consent.

6. **Cancellation by Mammotome.** The Service Plan may be cancelled by Mammotome with thirty (30) days prior written notice for any reason, at any time. Mammotome will provide written notice of such cancellation, which notification shall be effective when transmitted by mail, email, or fax. Should Mammotome wish to cancel, Mammotome will refund Customer a pro-rated amount refund of the price paid for the Service Plan.

7. **Cancellation by Customer** – This agreement can be cancelled by Customer at any time, for any reason, by mailing or delivering to Mammotome's Customer Service Center a written notice of cancellation. If Customer cancels within the first ninety (90) days of the initial Coverage Period Service Start Date, Customer will be charged a handling fee of \$50 and will receive a prorated amount refund of the price paid for the Service Plan, provided there has been no service performed on the equipment covered by this Service Agreement. No refunds are provided for cancellations more than ninety (90) days after the initial Coverage Period Service Start Date.

8. **Product Modifications.** Mammotome reserves the right to make changes to Products built and/or sold by us at any time. Mammotome shall have no obligation to make the same or similar changes on Products previously built and/or sold, including without limitation products repaired under this Service Plan.

9. **Representations and Warranties.** Mammotome represents and warrants that the services performed by Mammotome shall be performed in a professional manner, with due care, consistent with industry practices and in a diligent, workmanlike, and reasonably expeditious manner and in accordance with all applicable laws.

10. **Force Majeure.** Mammotome will not be liable for its failure to perform, or any delay in performance, due to strikes, fire, explosion, flood, riot, lock out, injunction, interruption of transportation, unavoidable accidents, acts of government or a public enemy, terrorism, or any other causes beyond its control.

11. **Notices.** Any notice or communication required or permitted hereunder, will be in writing and sent by first class mail, postage prepaid, to the Parties at the following addresses. Either Party may modify its notice address by providing written notice to the other Party.

To Mammotome:

Devicor Medical Products, Inc.
Attn: Service Department
300 E-Business Way, Fifth Floor
Cincinnati, Ohio 45241

To Customer:

With a Copy to:

Devicor Medical Products, Inc.
Attn: Legal Department
300 E-Business Way, Fifth Floor
Cincinnati, Ohio 45241

With a Copy to:

