



## Diagenode, LLC Standard Terms and Conditions

These Diagenode Standard Sales and Service Terms and Conditions (“Terms”) apply to the sale or use, including loans and rentals, of Diagenode equipment (“Equipment”) and supplies (“Supplies”) (Equipment, Supplies, and any included software, collectively referred to as “Product” or “Products”) and/or the provision of services (“Service” or “Services”) between Diagenode, LLC (together with its affiliates, “Diagenode”) and Customer (each, a “Party” and together, the “Parties”). “Customer” means any person, firm or company receiving a quotation or placing an order for any Products or Services. The Parties, intending to be legally bound, agree as follows:

- 1. Agreement.** These Terms, along with the attached Diagenode quote(s) (“Diagenode Quote”), Diagenode purchase documents, service documents and any documents executed by the Parties, constitute the complete and entire agreement between Diagenode and Customer (collectively referred to herein as the “Agreement”). To the extent that there is a conflict between the Terms, the applicable Diagenode Quote or Diagenode purchase or service documents, the provisions of the Diagenode Quote or Diagenode purchasing or service documents shall take precedence. The Agreement constitutes the entire agreement between the Parties relating to the subject matter covered and supersedes and replaces all other quotations, agreements, understandings, proposals, warranties and representations (whether written or oral) between the Parties with respect to such matters. Any Customer documentation (including Customer’s purchase order terms and conditions) that conflicts with or attempts to modify the Agreement in any way is hereby rejected and of no effect unless specifically agreed to in writing and signed by the Parties. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to entering into the Agreement except as expressly stated in the Agreement. Neither Party shall have any remedy in respect of any untrue statement made by the other upon which that Party relied in entering into the Agreement (unless such untrue statement was made fraudulently or was as to a fundamental matter including as to a matter fundamental to the other Party’s ability to perform its obligations under the Agreement) and that Party’s only remedy shall be for breach of contract as provided in the Agreement.
- 2. Diagenode Quote.** A quote by Diagenode is valid for 30 days and does not constitute an offer. Diagenode may withdraw or revise any quote at any time prior to Diagenode’s acceptance of Customer’s order. The Agreement shall be formed on Diagenode’s written acceptance of Customer’s order. No order which has been accepted by Diagenode may be cancelled or varied by Customer except with the written agreement of Diagenode and on terms that shall indemnify Diagenode in full against any loss, costs (including legal costs), damages, charges and expenses suffered or incurred by Diagenode as a result of that cancellation or variation.
- 3. Product and Service Specifications.** Diagenode reserves the right to make any changes in the specifications of Products or Services which are required to conform with any safety and/or legal requirement.
- 4. Prices.** Prices, fees and charges for Products and Services do not include any Value Added Tax and any other applicable taxes or duty charges. The price payable for the Products and/or Services is as set out in the relevant Diagenode Quote, Diagenode Purchase, Service document, or other document. Unless price protection is explicitly agreed to by Diagenode in writing, Diagenode reserves the right to increase prices on thirty (30) days’ written notice to Customer.
- 5. Payment.** For the provision of Services, Diagenode shall be entitled to invoice Customer for the price of any Service on or at any time after commencement of the relevant Service, unless otherwise stated in the relevant Service document. With respect to the sale of Equipment and Supplies (including kits), Diagenode shall be entitled to invoice Customer upon shipment of the applicable Equipment and/or Supplies (including kits). Unless otherwise agreed to in writing by Diagenode, Customer shall pay invoices within thirty (30) days from the invoice date. All amounts due from Customer under the Agreement shall be paid in full without deduction, withholding, set-off or counterclaim for any reason whatsoever, whether arising in contract, tort (including negligence), breach of statutory duty or otherwise. If Customer fails to make payment on the due date under any Agreement, without prejudice to any other right or remedy available to Diagenode, Diagenode shall be entitled to (i) charge interest on all overdue amounts at an interest equal to 8 percentage points above the prime interest rate, (ii) suspend performance under the Agreement until payment is made in full or (iii) terminate the Agreement immediately by written notice. Diagenode shall not be obligated to deliver any Product or perform any Service during any period when Customer payment is overdue. Customer shall be responsible for all costs (including reasonable legal expenses) incurred by Diagenode to collect overdue payments and/or to take possession or otherwise dispose of Products for which payment is overdue.
- 6. Delay of Performance.** In the event that either Party is prevented from or delayed in performing its obligations under the Agreement due to an event beyond its reasonable control (“force majeure”), including, but not limited to, civil insurrection, terrorism, fire, flood, labor disputes, shortages, delays of suppliers or contractors, or government priority systems, actions taken or threatened by any governmental agencies, acts of God or other contingencies or acts not within the sole control of that Party, the affected Party shall not be liable for any delay in performing or failure to perform its obligations under the Agreement, for the duration of the period of the force majeure event. Without limitation to the foregoing, Diagenode reserves the right during any period where, as a result of a force majeure event, it has insufficient stocks or service capabilities to meet all its customer commitments to (a) make Products or Services available to Customer (as it sees fit) without any liability to Customer, and (b) to make substitutions and modifications in the specification of any Products or Services, provided such substitutions or modifications do not materially affect the performance of the applicable Products or Services.
- 7. Samples and data.** Customer acknowledges and agrees that Diagenode reserves itself the right to retain and use anonymized study results for internal improvement purposes.
- 8. Warranties.** Except as otherwise expressly stated in this Agreement: (i) Equipment manufactured by Diagenode is warranted to the original Customer to perform substantially in accordance with published product specifications for one (1) year starting from the date of shipment, or if installation is required, from the date of installation, provided that certain types of Equipment have longer warranty periods as set forth in the documentation that accompanies the sale of such Equipment (“Warranty Period”); (ii) replacement parts and remanufactured items are warranted for the remainder of the Warranty Period or one (1) year from the date of installation of such replacement parts or remanufactured items, whichever is longer; (iii) consumable Supplies are warranted to conform to published specifications for a period ending on the expiration date shown on their respective packages; (iv) licensed Software is warranted to operate



in accordance with published specifications; (v) Services are warranted to be provided in a competent and professional manner and with reasonable skill and care; and (vi) non-Diagenode manufactured Equipment is warranted through its manufacturer and such manufacturer's warranties shall extend to Diagenode's customers as and to the extent permitted by the manufacturer of such non-Diagenode manufactured Equipment. Diagenode does not warrant that use of Products shall be uninterrupted or error-free, or that Products shall operate with third-party products not authorized or validated by Diagenode. Services will be provided according to the Diagenode Quote, the Diagenode Service documents or separate description of the Services agreed with the Customer, including the definitions-description of the interventions (eligibility, coverage, service requests, support, parts, records, etc.) as well as specific exclusions regarding Service that cannot be delivered-provided or are to be invoiced-agreed separately, and specific duties of Diagenode and/or the Customer.

**9. Warranty Claims and Remedies.** In the event of any warranty claim, Diagenode shall (i) replace with new or remanufactured items any Equipment, part, component, or consumable supply that is in breach of warranty, (ii) use reasonable efforts to promptly correct any Service that is in breach of warranty, and (iii) shall use reasonable efforts to promptly fix or provide a workaround for any Software defect or bug which prevents operation in substantial conformity with functional specifications. Alternatively, Diagenode may elect to repay or credit to Customer an amount equal to the purchase price of the defective Equipment, part, component, Software, consumable supply, or Service. Notwithstanding the foregoing, Diagenode shall not be liable for any damages resulting from the use of the Services by the Customer. Items replaced shall become Diagenode property. All claims shall be initiated by contacting Diagenode within thirty (30) days after discovery of the breach or non-conformity. Diagenode must be given reasonable access and an opportunity to inspect all associated materials. If Customer has not notified Diagenode within one (1) year after the claim arises, Customer shall be barred from instituting any legal action against Diagenode thereafter. These remedies shall comprise Diagenode's entire liability and Customer's exclusive remedy for breach of warranty and are in lieu of any other remedies at law or equity. DIAGENODE'S ENTIRE WARRANTY RESPONSIBILITY IS EXPRESSLY LIMITED TO REPAIR OR REPLACEMENT (AT DIAGENODE'S OPTION AND IN THE FORM ORIGINALLY SHIPPED) OF PRODUCT OR CORRECTION OF SERVICE SUBJECT TO ANY CLAIM, OR, AT DIAGENODE'S ELECTION, REPAYMENT OF, OR CREDITING CUSTOMER WITH, AN AMOUNT EQUAL TO THE DIAGENODE PRICE, FEE OR CHARGE FOR SUCH PRODUCT OR SERVICE. THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, WHETHER EXPRESS OR IMPLIED BY OPERATION OF LAW OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SUCH LIMITED WARRANTY IS GIVEN SOLELY TO THE ORIGINAL CUSTOMER AND IS NOT GIVEN TO, NOR MAY IT BE RELIED UPON BY, ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, CUSTOMERS OF CUSTOMER. THIS WARRANTY IS VOID UPON TRANSFER OF PRODUCT OR SERVICE BY CUSTOMER TO ANY ENTITY WHO IS NOT AN AFFILIATE OF CUSTOMER. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMER. CUSTOMER MAY ALSO HAVE OTHER RIGHTS, WHICH VARY, FROM STATE TO STATE. These warranties do not apply to any item that is: (a) repaired, moved, or altered other than by Diagenode authorized service personnel; (b) subjected to physical (including thermal or electrical) abuse, stress, or misuse; (c) stored, maintained, or operated in any manner inconsistent with applicable Diagenode specifications or instructions, including Customer's refusal to allow Diagenode recommended Software upgrades; or (d) designated as supplied subject to a non-Diagenode warranty or on a pre-release or "as-is" basis.

**10. Limitation of Liability.** Nothing in the Agreement shall exclude Diagenode's liability to the extent that this liability may not be excluded or limited as a matter of law. Diagenode shall not be liable for any of the following losses or damages (whether such losses or damages were foreseen, foreseeable, known or otherwise): loss of revenue; loss of actual or anticipated profits; loss of the use of money; loss of anticipated savings; loss of business; loss of or damage to or corruption of data; loss of opportunity; loss of goodwill; loss of reputation; or any indirect or consequential loss or damage howsoever caused (including, for the avoidance of doubt, where such loss or damage is of the type specified in this clause), whether arising in contract, tort (including negligence) or otherwise. Save as provided elsewhere in this clause, Diagenode's maximum aggregate liability arising out of or in connection with the Agreement, whether arising in contract, tort (including negligence), or otherwise, shall in no event exceed 125% of the total price payable by Customer for Products and/or the Services under the Agreement.

**11. Governmental Authorizations.** Customer is responsible for compliance with and costs associated with all required licences, certificates, permits, or other governmental authorizations, needed for Customer to use the Product(s) and/or Services, and any export or import licence, exchange permit, or the like required to deliver any Product(s) to Customer's location ("Licences") even if applied for by Diagenode on Customer's behalf. Diagenode will not be liable to Customer in the event that any authorisation is delayed, denied, revoked, restricted or not renewed, and Customer will not be relieved of its obligations under the Agreement. Customer represents and agrees that it will handle all technical data related to the Licences so that it conforms to and complies with all applicable laws, including U.S. export licensing laws and the U.S. Foreign Corrupt Practices Act. Customer shall not trans-ship, divert, re-export or otherwise dispose of any U.S. origin goods or technology obtained from Diagenode except as applicable laws, including U.S. laws and regulations, expressly permit.

**12. Intellectual Property Indemnity.** Diagenode will defend and indemnify Customer against any third-party claim that Customer's use of Products infringes a valid U.S. patent, copyright, or trade mark, provided that: (1) Products are used as approved by Diagenode and have not been altered other than by Diagenode or its authorised service personnel; (2) Customer promptly notifies Diagenode of such claim; (3) Diagenode has sole control of the defense, settlement, or compromise thereof and Customer will be solely responsible for legal expenses and costs it incurs independently of Diagenode's representation; and (4) Customer cooperates with Diagenode and furnishes all aid, information, and assistance necessary or useful to defend such claim. If a final injunction is obtained against Customer's use of any Product, or if in the opinion of Diagenode the Product is likely to become the subject of a successful application for injunction, Diagenode may, at its option and in its sole discretion: (i) obtain for Customer the right to continue using the Product(s); (ii) replace or modify the Product(s) so that it becomes non-infringing; or (iii) if neither (i) nor (ii) is reasonably available, accept return of the affected Product(s) held by Customer, grant a credit therefore as depreciated on a five-year straight-line basis, and terminate the Agreement without any further obligation or liability. The remedy selected by Diagenode will be Customer's exclusive remedy for any damage, cost, or expense resulting from any court order or settlement enjoining Customer's use of the Product(s).

**13. Software Licence.** The term "Software" includes all Diagenode (and third-party) computer software, firmware and associated documentation, whether in printed or machine-readable form which, as the case may be, are supplied under the Agreement or for use in connection with Equipment or Services. To the extent the Product includes Software, Customer is granted a non-exclusive, non-transferable,



royalty-free licence to use Software solely on the Equipment on which it is first installed or as designated in the Agreement, in connection with the Equipment in the normal course of Customer's business and solely as permitted by the operator's manual/instructions for use, and for no other purpose or business. No licence is provided under the Agreement to use Software for multi-site quality control or data review purposes or for source code of any type. Software, shall, at all times, remain the sole property of Diagenode. Software is agreed to contain and shall be treated as Diagenode's confidential information. Customer (i) shall maintain all copyright, proprietary, and other notices on the Software and (ii) shall not modify, adapt, translate, de-compile, disassemble, or reverse engineer the Software, or attempt to derive the source code for the Software, or authorize a third party to do any of the foregoing. The Parties agree that all information needed for interoperability of the Software with independently created programs will be available from Diagenode on request and on payment of Diagenode's reasonable costs and expenses for procuring and supplying such information. From time to time, Diagenode may develop new versions or updates for the Software. Customer agrees to allow Diagenode access to the Equipment in order to implement any new versions or updates to the Software. If Customer transfers Equipment to a third-party, Customer may assign the right to use Software on the Equipment; provided that the third-party agrees in writing with Diagenode to be bound by and to permit Diagenode to enforce the provisions of this clause. Customer has no other right to use, sell, assign, transfer, copy, or sublicense the Software. As identified in the applicable software product specifications, some third-party software vendors (including Microsoft Corporation) provide different warranties and require different or additional terms applicable to software which they supply; such warranties and terms supersede the Agreement and Customer agrees to abide by such terms with respect to such third-party software.

**14. Confidential Information.** Both Parties agree to hold in strict confidence the terms of the Agreement and all information provided to the other in connection with the performance of their respective obligations under the Agreement, including, without limitation, financial information and information relating to Customer and pricing, except to the extent that such information is or becomes public knowledge (other than by breach of this clause) or disclosure is required by applicable law. Notwithstanding the above, the terms and conditions of the Agreement will not be disclosed to any third-party without the prior written consent of the other Party, except either Party may disclose the terms and conditions of the Agreement to its employees, professional advisers, agents or independent contractors that are providing contractual services for the applicable Party and who require the knowledge of the terms and conditions of the Agreement, so long as such individuals are subject to applicable non-disclosure agreements.

**15. Data Protection; HIPAA Compliance.** Both parties will comply with all applicable requirements of applicable data protection legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under data protection legislation. In order and as part of providing the Products and Services, Diagenode may process personal data of Customer, Customer's employees, shareholders, directors, agents or other person(s) acting on behalf or on the request of the Customer ("Customers' Personal Data"). Customer will ensure it has all the necessary appropriate consents and/or notices in order to enable the lawful transfer of Customers' Personal Data to Diagenode. Further information on Diagenode's data processing can be found in the privacy notices on our Global website (<https://www.hologic.com/privacy-policy>) or the country-specific Diagenode website, as applicable. To the extent HIPAA (as defined below) applies, both Parties shall comply with the applicable provisions of the privacy regulations within the Health Insurance Portability and Accountability Act of 1996, as enacted in 45 C.F.R. parts 160, 162, and 164 and as codified at 42 U.S.C. § 1320d, as amended from time to time ("HIPAA"). Diagenode agrees that if it directly or indirectly gains access to Protected Health Information ("PHI") during any interaction with Customer it shall keep the PHI confidential pursuant to the terms of this Agreement.

**16. Compliance with Laws; Federal and State Reporting/Disclosure Laws.** Diagenode and Customer agree to comply with all applicable laws, regulatory requirements and regulations in connection with their respective rights and obligations under the Agreement and shall not do or permit anything to be done which might cause or otherwise result in a breach by the other Party of the same. Customer acknowledges and agrees that federal and state reporting laws, including, but not limited to, the Federal Physician Payments Sunshine Act, may require Diagenode to disclose certain aspects of this arrangement.

**17. Anti-Bribery.** Neither Customer nor any officer, director, employee, direct or indirect beneficial owner or shareholder, or any other party acting on behalf of Customer will, directly or indirectly, pay, offer, promise to pay or authorize the payment of, any monies or financial or other advantage in violation of Anti-Corruption Laws (defined below) and/or Diagenode's Anti-Bribery Compliance Policy. Further, neither Customer nor Customer personnel has taken or will take, directly or indirectly, any action that would cause Diagenode or Diagenode's officers, directors, employees and/or affiliates to be in violation of Anti-Corruption Laws. Diagenode may terminate the Agreement immediately upon written notice to Customer where Diagenode determines in good faith that Customer has breached this clause, and Customer shall indemnify Diagenode from any claims, suits, investigations, penalties and fines of any kind arising from any breach of this clause. "Anti-Corruption Laws" means any applicable foreign or domestic anti-bribery and anti-corruption laws and regulations, as amended from time to time, including, without limitation, the US Foreign Corrupt Practices Act 1977 and any laws intended to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. This provision shall survive any termination of the Agreement.

**18. Fraud and Abuse.** Diagenode hereby certifies that it is not currently a listed vendor in the: (a) Federal General Services Administration's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in accordance with Presidential Executive Orders 12549 and 12689 "Debarment and Suspension;"; and (b) Office of the Inspector General of the Department of Health and Human Services' "List of Excluded Individuals/Entities." Any discounted pricing terms offered under this Agreement may be a "discount or other reduction in price" under the Federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). Customer shall take all actions necessary to comply with the Anti-Kickback Statute discount safe harbor regulations, 42 C.F.R. § 1001.952(h), including, but not limited to (i) maintaining accurate records reflecting the pricing terms of Products and Services purchased under the Agreement; (ii) fully and accurately reporting any discount received under the Agreement, if applicable; and (iii) making available information provided to Customer by Diagenode concerning cost reports and other filings with the government, including but not limited to, the Secretary of the U.S. Department of Health and Human Services or other state agencies.

**19. Access to Books and Records.** Until the expiration of four (4) years after the furnishing of Products or Services under this Agreement, Diagenode shall make available upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and such books, documents and records of Diagenode as are



necessary to certify the nature and extent of the costs hereunder. If Diagenode carries out any of its duties under this Agreement through a subcontract, for the value or cost of \$10,000 or more over a 12-month period, with a related organization, such contract must contain a clause placing the same duty on the subcontractor as the Agreement places on Diagenode. This section survives the termination of this Agreement according to its terms. If the law or regulations are effectively amended to increase or decrease the annual amount necessary to require this clause, the amount set forth herein shall be amended accordingly. Notwithstanding the presence of this clause in this Agreement, this clause only applies if the actual dollar amount paid during any 12-month period equals or exceeds the government threshold amount.

**20. Default.** In addition to any events of default specified elsewhere in this Agreement, the occurrence of any of the following events constitutes a default ("Default") by either applicable Party: (a) non-payment when due of any amount payable by Customer in accordance with this Agreement; or (b) failure to materially perform any covenant or condition of this Agreement. In the event of Default by Customer hereunder, all indebtedness of Customer may, at the option of Diagenode and without demand or notice of any kind, immediately become due and payable, and in addition to all other remedies, Diagenode may (i) require Customer to return any Diagenode-owned Equipment and/or (ii) immediately terminate this Agreement. The non-Defaulting Party is entitled to recover from the Defaulting Party any and all expenses and damages that the non-Defaulting Party sustains by reason of Default including, but not limited to, reasonable attorneys' fees, and in the case of Diagenode, all expenses of repossession, removal, storage and disposition of the Equipment. The remedies and rights specified herein are cumulative and not exclusive. The exercise or the non-exercise of any right or remedy does not limit or prejudice the non-defaulting Party as to that right or remedy or as to any other rights or remedies provided by applicable law.

**21. Insolvency of Customer.** Without prejudice to any other right or remedy available to Diagenode, Diagenode shall be entitled to suspend further deliveries of Products or Services, immediately terminate the Agreement and, if any Products or Services have been delivered but not paid for, the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary if: (i) Customer becomes insolvent, has a receiver, administrative receiver, administrator or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction); (ii) Customer ceases, or threatens to cease, to carry on business; or (iii) Diagenode reasonably apprehends that any of the events mentioned above is about to occur in relation to Customer or any other matter which in the opinion of Diagenode may prejudice its rights against Customer.

**22. Waiver and Severability.** If either Party fails to perform its obligations under the Agreement, such non-performance shall not affect the other Party's right to enforce performance at any time. Waiver of any remedy or material breach of any subject matter contained in the Agreement shall not be viewed as a waiver unless agreed to by the Parties in writing. Each provision of the Agreement is separate and independent of one another, and if a provision (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal the other provisions (or parts of a provision) will remain in full force and effect. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, such provision will apply with whatever modification is necessary so as to give effect to the commercial intention of the Parties.

**23. Assignment.** Customer shall not assign, novate, sub-license, sub-contract or transfer any of its rights or obligations under the Agreement without the prior written consent of Diagenode. Diagenode may assign, novate, sub-license, sub-contract or transfer all or any of its rights or obligations under the Agreement without Customer's consent.

**24. Notices.** Any required notices will be given in writing, in the English language.

**25. Governing Law and Jurisdiction.** The validity, interpretation and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Delaware. For any legal action arising from or related to this agreement, the parties hereby consent and submit solely to jurisdiction and venue of the courts located in Delaware and agree that such courts shall be the sole courts utilized and hereby waive any jurisdictional or venue objections to such courts. However, in the event that Diagenode is the plaintiff, Diagenode will have the alternative to refer the dispute to jurisdiction of the courts located in any place where Products were delivered, where Services were provided, or where the Customer has a place of business or has a registered address.

**26. Equal Employment Opportunity Policy.** Diagenode is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.