

## GENERAL SERVICES TERMS AND CONDITIONS – INFUSION PUMPS

1. **Scope; Entire Agreement.** These General Services Terms and Conditions apply to the repair, maintenance, support, and other services ("Services") offered by Baxter Healthcare Corporation ("Services Provider" or "Baxter") that are described in the **SERVinity** Services Program details as the same may be updated from time to time (each, a "Services Program"). The following documents, listed in order of precedence in the event of any inconsistency among them, constitute the agreement between Services Provider and Customer with respect to the Services Program ("Agreement"): (i) proposals or quotations executed by Services Provider and Customer (if any); (ii) these General Services Terms and Conditions; and (iii) the Services Program description. To the extent no proposals or quotations are executed by Services Provider and Customer, Customer's submission of a purchase order signifies Customer's acceptance of the terms of the Agreement. The Agreement represents the entire agreement between Services Provider and Customer with respect to the Services Program and supersedes any other oral or written agreement between Services Provider and Customer. The Agreement will prevail over any conflicting terms in Customer's purchase order and may only be modified in a writing signed by both parties.
2. **Effective Date.** The effective date of the Agreement is as provided in the initial proposal or quotation.
3. **Initial Term and Renewal; Cancellation.** The initial term of the Services Program is the number of years set forth on the initial proposal or quotation. The Services Program may be renewed upon Services Provider's and Customer's execution of a renewal proposal or quotation, or, in the absence of a renewal proposal or quotation, upon Customer's timely payment of renewal term invoices issued by Services Provider. A renewal term may be of lesser duration than the initial term or any previous renewal term in the event Services Provider deems covered products, equipment, or software "end-of-life" subject to a limited period of continuing support. Either party may cancel the Services Program upon 60 days' written notice to the other party. Customer shall pay Services Provider for all Services performed up to the effective date of cancellation (including Services performed pursuant to implementation projects under certain Services Programs). Customer may incur cancellation fees if it cancels certain Services Programs; such cancellation fees are described in the applicable Services Program description.
4. **Payment Terms.** The fee for the Services Program is payable in annual or monthly installments and is not refundable. The fee does not include any applicable sales, use or other taxes payable by Customer. Payment is due net 30 days from invoice date. Unless waived by Services Provider in writing, undisputed overdue invoices shall be subject to a late payment charge equal to the lesser of 1.5% per month or the maximum rate allowed by law. Customer agrees to pay Services Provider for any and all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred by Services Provider to collect any amounts owed to it. Customer may be obligated to properly reflect and/or report any discount, rebate, or reduction in price in its costs claimed or charges made to federal (e.g., Medicare) or state (e.g., Medicaid) health care programs requiring such disclosure, and Services Provider's invoices may not reflect Customer's net cost. Customer may make written request to Services Provider in the event it requires additional information to meet applicable reporting or disclosure obligations.
5. **Suspension of Performance.** If Customer fails to pay Services Provider's invoices as required, Services Provider may suspend the performance of Services upon 5 days' written notice unless (i) Services Provider receives full payment, or (ii) the parties agree in writing to alternative payment arrangements. Services Provider reserves the right to cancel the Services Program upon written notice to Customer with immediate effect if Customer fails to rectify its non-payment or continues to default on its payment obligation.
6. **Exclusions.** The Services Programs do not cover damage to or failure of covered products, equipment, or software caused by, in whole or in part, the following as determined by Services Provider in its sole discretion: (i) modification or upgrade, or improper repair, by anyone other than Services Provider; (ii) misuse or improper use, including failure to comply properly with routine maintenance requirements specified in the directions for use or service manual; (iii) natural disasters, extreme weather, or other catastrophe; (iv) loss of, or fluctuation in, power; or (v) use of non-Services Provider accessories, replacement parts, and/or third-party software not authorized in writing by Services Provider.
7. **Non-Solicitation.** To the extent permitted by applicable law, during the term of the Services Program and for a period of 6 months following its expiration or cancellation, Customer agrees that it will not directly or indirectly: (i) induce any individual who has provided Services to Customer within the 6-month period immediately preceding the expiration or cancellation of the Services Program to terminate his/her relationship with Services Provider, or (ii) offer employment to, employ, or retain as an independent contractor any individual who was employed by Services Provider to provide Services at any time during the 6-month period immediately preceding the offer, employment, or retention without, in the case of either (i) or (ii), first paying to Services Provider a finder's fee equal to 50% of the annual fee for the Services Program. The foregoing restrictions do not prohibit Customer from placing any general advertisements for employees or hiring individuals who respond to such general advertisements so long as such general advertisements are not directed to any individuals who have provided Services to Customer.
8. **Warranty.** Services Provider warrants that it will perform Services in a reasonably timely, professional, and workmanlike manner using trained and qualified personnel capable of performing Services in accordance with industry standards. Services Provider's exclusive obligation, and Customer's exclusive remedy, for breach of the foregoing warranty is re-performance of defective Services. **THE FOREGOING WARRANTY CONSTITUTES THE SOLE WARRANTY MADE BY SERVICES PROVIDER AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO EMPLOYEE OR REPRESENTATIVE OF SERVICES PROVIDER IS AUTHORIZED TO MODIFY THIS WARRANTY IN ANY WAY OR GRANT ANY OTHER WARRANTY.**
9. **Limitation of Liability.** Services Provider will not be liable for loss or damages because of delays or nonperformance resulting from any cause beyond Services Provider's reasonable foresight or control. Any delays will extend Services Provider's period of performance under the Services Program. **IN NO EVENT AND UNDER NO LEGAL THEORY—WHETHER IN TORT (INCLUDING NEGLIGENCE), CONTRACT, WARRANTY, PRODUCTS LIABILITY, OR OTHERWISE—WILL SERVICES PROVIDER BE LIABLE TO CUSTOMER FOR ANY CONSEQUENTIAL DAMAGES (INCLUDING BUSINESS INTERRUPTION, LOST PROFITS, OR LOST OR CORRUPTED DATA) ARISING OUT OF THE SERVICES PROGRAM OR THESE GENERAL SERVICES TERMS AND CONDITIONS. IN NO EVENT WILL SERVICES PROVIDER'S AGGREGATE LIABILITY TO CUSTOMER FOR DIRECT DAMAGES ARISING OUT OF THE SERVICES PROGRAM OR THESE GENERAL SERVICES TERMS AND CONDITIONS, REGARDLESS OF THE FORM OF ACTION AND REGARDLESS OF THE NUMBER OF CLAIMS MADE, EXCEED THE FEE FOR THE SERVICES PROGRAM PAID OR PAYABLE BY CUSTOMER FOR THE 12-MONTH PERIOD IN WHICH THE FIRST EVENT GIVING RISE TO SUCH DAMAGES OCCURRED. THIS SECTION 9 IS INDEPENDENT OF ANY OTHER LIMITATION OF LIABILITY AND REFLECTS AN ALLOCATION OF RISK SEPARATE FROM PROVISIONS SPECIFYING OR LIMITING A PARTY'S REMEDIES.**
10. **General.** Services Provider and Customer shall comply at all times with applicable federal and state laws and regulations. Customer may assign the Agreement upon notice to Services Provider. The Agreement will be governed by and construed under the laws of the State of Illinois without reference to its conflicts of law principles. The provisions of these General Services Terms and Conditions that by their nature are intended to survive the expiration or cancellation of the Services Program and the Agreement, including Section 9, will survive the expiration or cancellation of the Services Program and the Agreement.