

HAMAMATSU CORPORATION ON-SITE SERVICE TERMS AND CONDITIONS FOR WARRANTY, CONTRACT AND BILLABLE SERVICE

ELIGIBILITY FOR SERVICE

On-site Service is contingent on the customer providing a safe work area. The customer will attest to the recognition of all known site hazards (if any) and provide (if necessary) any Personal Protective Equipment to *HAMAMATSU employees or representatives* to safely work at the customer's site. A safety questionnaire will be sent to the customer for completion prior to a site visit, and shall be filed annually.

Customer warrants and ensures the premises upon which *HAMAMATSU CORPORATION* personnel will enter to service the equipment shall comply in all material respects with (a) all applicable federal, state and local laws, rules and regulations, in particular, the Occupational Safety and Health Act of 1970 and (b) the Site shall be safe and suitable for the ongoing use and operation of the equipment.

Equipment is eligible for service provided *HAMAMATSU CORPORATION'S* serviceability requirements and site safety requirements are met.

If the product is covered under warranty or a service contract the customer shall immediately notify *HAMAMATSU CORPORATION* of equipment malfunction.

SERVICE RESPONSIBILITIES OF *HAMAMATSU CORPORATION*

HAMAMATSU CORPORATION, at its option, will repair or replace parts or equipment requiring service. Service may include the replacement of parts deemed necessary by *HAMAMATSU CORPORATION*. For repairs covered under warranty, all parts shall be new parts or parts of equal quality, (old parts become the property of *HAMAMATSU CORPORATION*).

SERVICE LIMITATIONS

The following services are not included for products covered under warranty or service contract: (a) services which, in *HAMAMATSU CORPORATION's* opinion, are required due to improper treatment or use of the equipment; (b) unauthorized attempts by other than *HAMAMATSU CORPORATION* personnel to repair, maintain, or modify the equipment; or (c) causes external to *HAMAMATSU CORPORATION* maintained equipment, including use other than the ordinary and normal business use of the equipment under conditions specified by *HAMAMATSU CORPORATION*.

Maintenance materials, tools, documentation, site management guide, and diagnostics and test

equipment provided by *HAMAMATSU CORPORATION* shall remain the exclusive property of *HAMAMATSU CORPORATION*.

Unless otherwise noted, service does not include applicable travel charges, reconfiguration, or coverage on locally observed holidays.

HAMAMATSU CORPORATION reserves the right to refuse coverage of repairs when failure is due to excessive use.

CHARGES

Charges for maintenance services not covered under the terms of a warranty or service contract shall be invoiced at *HAMAMATSU CORPORATION'S* per call rates, terms, and conditions in effect when the service is performed.

Charges are exclusive of and Customer is responsible for all sales, use, and like taxes. Payment terms are established with approval by Hamamatsu's Accounting Department.

LIMITATION OF LIABILITY AND WARRANTY

Except for the express warranties stated therein, *HAMAMATSU CORPORATION* disclaims all warranties, including all implied warranties of merchantability and fitness for a particular purpose.

Customer's right to recover property damages caused by *HAMAMATSU CORPORATION'S* fault or negligence shall be limited to \$30,000. *HAMAMATSU CORPORATION* will not be liable for damages resulting from loss of data, profits, use of products, or incidental or consequential damages, even if advised of the possibility of such damage. This limitation of *HAMAMATSU CORPORATION'S* liability will apply regardless of the form of action, whether in contract or tort including negligence. Any action against *HAMAMATSU CORPORATION* must be brought within 18 months after the cause of action accrues.

HAMAMATSU CORPORATION shall not be liable for any delay in performance due to causes beyond the reasonable control of *HAMAMATSU CORPORATION*.

GENERAL

If either party fails to perform its obligations under this or any other agreement between the parties and such failure continues for a period of 20 days after written notice, the other party shall have the right to terminate agreement. The provisions of these terms are declared to be severable. Neither party may assign this agreement unless mutually agreed. In the event of a dispute, the laws of the New Jersey shall be the governing law. No provisions in these terms shall be deemed waived, amended, or modified by either party unless such waiver, amendment, or modification shall be in writing, signed by the party against whom it is sought to be enforced.

NO ASSIGNMENT

Customer will not assign, transfer, or subcontract the management of the equipment (to be serviced), or any of its rights or obligations, without the prior written approval of *HAMAMATSU CORPORATION*, and any attempt to do so will be voidable at *HAMAMATSU CORPORATION's* opinion.

RESPONSE TIME

HAMAMATSU CORPORATION will respond to requests for service after being contacted by an authorized Customer representative and make repairs as soon as reasonably practicable thereafter, provided that such a request is received during normal business hours 9:00 AM Eastern to 5:00PM Eastern Monday through Friday, excluding locally observed *HAMAMATSU CORPORATION* holidays; if the request is received at a time other than during normal business hours, *HAMAMATSU CORPORATION* will respond at the commencement of the next normal business day. Prior to any service call the customer will confirm the specific location of the equipment with *HAMAMATSU CORPORATION*.

If Customer requests service outside of a normal business day, *HAMAMATSU CORPORATION* shall bill and customer shall pay for labor at *HAMAMATSU CORPORATION'S* prevailing hourly overtime service labor rate (and for a minimum of four hours labor) (in addition to the charge described on the in our warranty or service contract agreements).

Access to premises and equipment: customer shall allow *HAMAMATSU CORPORATION* free access to its premises and equipment at all hours necessary and convenient to perform the services during a normal business day and otherwise.

The timeliness of performance by *HAMAMATSU CORPORATION* of the services or any other obligation under this agreement shall in every case be subject to and excused in the event of any delay or delays: (a) resulting from war, riot, sabotage, civil commotion or disturbance; fire, explosion, accident, or flood; inability to obtain materials; governmental or quasi-governmental law, regulation, or order; actions or inactions of the customer; inability of any subcontractor of *HAMAMATSU CORPORATION* to perform; or any other cause beyond the reasonable control of *HAMAMATSU CORPORATION*; or (b) labor, picketing, trouble, strikes, lock-out, or injunction, whether or not within the reasonable control of *HAMAMATSU CORPORATION*. In the event of any such delay, the period of time for performance of these services affected by such delay shall be extended by the amount of the delay. Such delay shall not in any way affect the validity of this agreement or the obligations of customer here, nor shall *HAMAMATSU CORPORATION* be liable for any damages, consequential, special, or otherwise, arising out of or in connection with such delay.