



SERVICE AGREEMENT NO. 133865

MagNa Pure 24 Instrument

THIS **MagNa Pure 24 Instrument Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Roche Diagnostic Corporation ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide MagNa Pure 24 Instrument in response to Request for Bid/Proposal No. Sole Source-133865 ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. Scope. Contractor will provide MagNa Pure 24 Instrument ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.

2. Term.

The Term of this Agreement is one year beginning on the date provided in the Notice to Proceed from the Contract Administrator or the City's Procurement Division. The parties may mutually extend the term of this Agreement for up to zero additional zero-year periods ("Option Period(s)"), provided, the parties do so in writing prior to the expiration of the original term or the then-current Option Period.

3. Compensation and Payment. This Agreement is for an amount not to exceed \$57,286.40, subject to approved extensions and changes. Payment will be made for Services performed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. Any amount not expended during the initial term or any option period may, at the City's discretion, be allocated for use in the next Option Period.

Invoices must be mailed to the following address with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Angela Flores
Corpus Christi-Nueces County Public Health District
361-826-7218
angelaf@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event that a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

- 6. Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

7. Inspection and Acceptance. City may inspect all Services and products supplied before acceptance. Any Services or products that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. Warranty.

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

(C) Contractor warrants that all Services will be performed in accordance with the standard of care used by similarly situated contractors performing similar services.

9. Quality/Quantity Adjustments. Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

10. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

11. Independent Contractor. Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own

manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.

- 12. Subcontractors.** In performing the Services, the Contractor will not enter into subcontracts or utilize the services of subcontractors.
- 13. Amendments.** This Agreement may be amended or modified only in writing executed by authorized representatives of both parties.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Angela Flores
Laboratory Manager
1702 Horne Road, Corpus Christi, Texas 78416
Phone: 361-826-7218
Fax: 361-826-7217

IF TO CONTRACTOR:

Roche Diagnostic Corporation
Attn: Joe Liang
Instrument Sales Specialist
9115 Hague Road, PO Box 50414, Indianapolis, IN 46250-0414
Phone: 800-262-1640
Fax: 800-888-1902

17. INTENTIONALLY DELETED.

18. Termination.

(A) Either party may terminate this Agreement for the other party's failure to comply with any of the terms of this Agreement. The non-defaulting party must give the other party written notice of the breach and set out a reasonable

opportunity to cure. If the defect is not cured within the cure period, the non-defaulting party may terminate this Agreement immediately thereafter.

(B) Alternatively, the Agreement may be terminated in accordance with the Roche Purchasing Agreement terms included in Attachment D.

- 19. Owner's Manual and Preventative Maintenance.** Contractor agrees to provide a copy of the owner's manual and/or preventative maintenance guidelines or instructions if available for any equipment purchased by the City pursuant to this Agreement. Contractor must provide such documentation upon delivery of such equipment and prior to receipt of the final payment by the City.
- 20. Limitation of Liability.** The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.
- 21. Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:

 - A. this Agreement (excluding attachments and exhibits);
 - B. its attachments;
 - C. the bid solicitation document including any addenda (Exhibit 1); then,
 - D. the Contractor's bid response (Exhibit 2).
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws in the performance of this Agreement. The applicable law for any legal disputes

arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.

- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

- 27. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

CONTRACTOR

Signature: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF CORPUS CHRISTI

Josh Chronley
Assistant Director of Finance - Procurement

Date: _____

Approved as to Legal Form:

Assistant City Attorney Date

Attached and Incorporated by Reference:

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance and Bond Requirements
- Attachment D: Warranty Requirements

Incorporated by Reference Only:

- Exhibit 1: RFB/RFP No. Sole Source-133865
- Exhibit 2: Contractor's Bid/Proposal Response

Scope of Work:

- A. The Contractor will provide the needed instrument for testing and install the unit in the BSL-3 laboratory.
- B. The Contractor shall provide the following:
 - a. Necessary support and assistance during set-up of the instrument.
 - b. Field service representative will install MagNa Pure and Millisect instrument.
 - c. Training: Free of charge.
 - d. Installation and training will occur same day once instrument is delivered.
 - e. Warranty: complete coverage for parts and labor from defects for one year.
 - f. Extended Warranty: Coverage beyond the initial warranty (catalog number 07290519001).
- C. The Contractor shall provide: Technical assistance hotline for instrument hardware, software, and application chemistry.
- D. All work is to be completed during normal business hours which are Monday-Friday 8am -5 pm. Service is to be performed in the clinical laboratory at 1702 Horne Road, Corpus Christi, Tx, 78416.

ATTACHMENT A: SCOPE OF WORK



June 6, 2023

City Of Corpus Christi
1702 Horne Rd
Corpus Christi, TX 78416-1902

Phone: (361)826-7214
Email: valerier@cctexas.com

Re: Proposal Number Q-00008345
Proposal is valid from 05-22-2023 to 12-31-2023

Dear Valerie Requenez,

Roche Sequencing & Life Science is pleased to offer the following pricing proposal for the sale of the following instrument(s):

- MagNA Pure 24 Instrument

In order to ensure the best performance of your instrument(s), be sure to use reagents and consumables from Roche Sequencing & Life Science. Learn more about our instrument Classic or Depot service plan options at RocheServiceCoverage.com.

Please note that this proposal does not serve as a Service Agreement. A fully executed Service Agreement detailing plan coverage and terms & conditions will be provided upon request.

If you have further questions or require additional information, please contact me at +1 619-517-6817. I can also be reached via email at joe.liang@roche.com.

Sincerely,

Joe Liang
Instrument Sales Specialist
Roche Sequencing & Life Science



Sequencing/Life Science Quotation

Product Code	Product Name	IRN	Qty	List Price	Disc%	Net Unit Price	Subtotal (Net Price)	Amount Savings
MagNA Pure 24 Instrument								
07290519001	MagNA Pure 24 Instrument		1	\$79,500.00	37%	\$50,000.00	\$50,000.00	\$29,500.00
08276056001	MagNA pure 24 Classic SVC		1	\$9,108.00	20%	\$7,286.40	\$7,286.40	\$1,821.60
Sub Total:							\$57,286.40	\$31,321.60

Freight Charge:

Quote Total (USD): \$57,286.40

Total Amount Savings: 35% \$31,321.60

Customer Comments:

Freight charge will be waived.



Delivery and Installation:

- Delivery will be at the earliest convenience.
- Roche Sequencing / Life Science agrees to provide necessary support and assistance during set-up of the instrument, if requested for LightCycler product line instrumentation.
- A Field Service Representative will install MagNAPure and Millisect instrument.
- Shipping charges additional. Estimated freight charges quoted are approximate and subject to change:

Item	Carrier	Estimated Cost
MagNA Pure 24 Instrument	As Appropriate	\$1,105.00

Training:

- Roche Sequencing / Life Science offers training, free of charge, if requested.

Instrument Warranty:

- Complete coverage for parts and labor to address any product defects for one year. Issues caused by inappropriate use of the instrument may not be covered.
- Technical assistance hotline for instrument hardware, software and application chemistry.

Available Extended Service Agreement:

- For coverage beyond the initial warranty period:

Item	Cat. No.	Cost/Year
MagNA pure 24 Classic SVC	07290519001	\$7,286.40

For more information about the Service Plans and Roche Terms and Conditions, please visit

<https://diagnostics.roche.com/us/en/support/service-contracts.html>

Ordering:

- To place your order, please email your purchase order and signed Equipment Purchase Agreement to indianapolis.lifescience-contracts@roche.com or fax to 800-888-1902.

Roche Diagnostics

9115 Hague Road, PO Box 50414

Indianapolis, IN 46250-0414

Attn: Life Science Contracts Dept

Fax: 800-888-1902 / Phone: 800-262-1640

Email: indianapolis.lifescience-contracts@roche.com

Our Tax Payer ID # is 13-2511923

ATTACHMENT C: INSURANCE AND BOND REQUIREMENTS

I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this agreement until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor Agency to commence work until all similar insurance required of any subcontractor Agency has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Contract Administer one (1) copy of Certificates of Insurance (COI) with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation is required on all applicable policies. **Endorsements** must be provided with COI. Project name and or number must be listed in Description Box of COI.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
Commercial General Liability Including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$500,000 Combined Single Limit
WORKERS' COMPENSATION	Statutory
EMPLOYER'S LIABILITY	\$500,000 /\$500,000 /\$500,000

- C. In the event of accidents of any kind related to this agreement, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Contractor will be promptly met.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Contractor shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Manager
P.O. Box 9277
Corpus Christi, TX 78469-9277

- D. **Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, volunteers, and elected representatives as additional insured by endorsement, as respects operations, completed operation and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation policy;
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and
 - Provide 30 calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than 10 calendar days advance written notice for nonpayment of premium.

- E. Within 5 calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to remove the exhibit hereunder, and/or withhold any payment(s) if any, which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this agreement.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this agreement.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement.

Bond Requirements:

No bonds required for this Agreement.

2021 Insurance Requirements

Ins. Req. Exhibit **4-B**

Contracts for General Services – Services Performed Onsite

05/10/2021 Risk Management – Legal Dept.

ATTACHMENT D: WARRANTY REQUIREMENTS



Roche Service Plan Options

Roche Support Network offers flexible after warranty support options tailored to meet your needs. Roche's service commitment to our customers includes in-house and field support. Roche's in-house technical support, in-house customer service, and field support teams are all available to provide the most comprehensive support network in our industry. The following features are included with the selected plan:

Contract Features	Premium Service Plan	Classic Service Plan	Depot Plan	IT Products Plan
Unlimited service visits Monday through Friday from 8:00 a.m. to 5:00 p.m. (local time). Excludes Roche holidays	√	√		
Emergency service visits on Saturday, Sunday and Roche holidays from 8:00 a.m. to 5:00 p.m.	√			
Customer Support Center Specialists are available by phone 24 hours a day, 365 days a year to assist in troubleshooting.	√* see below	√* see below	√* see below	√****
All necessary warranted repair parts and the travel and labor to install parts.	√	√		√
Labor and preventive maintenance kits for preventative maintenance visit(s).	√	√		
Response for emergency repairs within 24 hours of request on weekends and Roche holidays.	√			
Response for emergency repairs within 24 hours of request Monday through Friday local time.	√	√		
Remote access connectivity for problem identification, training, and monitoring.	√** see below	√** see below		√
A maximum labor charge for each service visit outside of contract coverage hours.	√	√	N/A	

Contract Features	Premium Service Plan	Classic Service Plan	Depot Plan	IT Products Plan
Computer hardware repaired if purchased from Roche in conjunction with Roche Software Products.				√
System repaired at customer site.	√	√		
System repaired at Roche site.			√	
Software repaired via remote access.				√
Loaner system available.			√ see next page	
Preventative maintenance visits.	√	√		
98% Uptime Guarantee.	√*** see below			

Service coverage specifically excludes failures due to operator errors, lack of operator maintenance, abnormal or unapproved uses, and acts of third parties, faulty electrical connections, fluctuations or failures in air conditioning, water quality specifications, heating or cooling systems and electrical power failures, dust, dirt, liquids, computer viruses, force majeure conditions, or other causes beyond Roche's reasonable control. To the extent Customer requests that Roche provide repairs excluded from Service coverage, additional costs will apply. Services exclude any device used or associated with the Equipment which was not part of the Equipment as originally manufactured (e.g., external computers, external water supply, external uninterruptible power supply and external line conditioners). Roche may modify the Equipment in order to improve its use and reliability. Modifications required to meet use or reliability specifications will be performed as part of the warranty or the Services. If a Schedule provides for an allowance to acquire a product or service from a third party, Customer will be solely responsible for selecting the vendor and for any validation relating to that product or service.

* For Applied Science products only, the Roche Applied Science Customer Support Center is available Monday to Friday from 8 AM to 6 PM Eastern Time excluding Roche Holidays

** The following systems have remote capability: **cobas**® pro analyzer series, **cobas**® 6000 analyzer series, **cobas**® 8000 analyzer series, COBAS Integra 400 Plus , **cobas**®4800 analyzer , NAVIFY Tumor Board Solution, VIEWICS, p512/p612 Task Targeted Automation and **cobas** 8100 systems. Customer must grant Roche access to utilize remote service capabilities. Such access may be granted on a periodic or per instance basis as determined by Customer and Roche.

*** 98% Uptime Guarantee for Premium Plan: If a covered piece of Equipment is "Down" (see definition below) for more than 14 hours in any given month, Roche will issue Customer a credit certificate. The value of the credit certificate will depend upon the type of Equipment that is down. The credit will be applied to Customer's account and credited against future invoices for the purchase of reagents, supplies and consumables. The credit certificate is Customer's exclusive remedy for Equipment Downtime under this guarantee. Limitations, exclusions and conditions for the 98% Uptime Guarantee: 1) Only one credit certificate will be issued each month for a particular piece of Equipment that is Down; 2) It is strictly limited to electrical and mechanical hardware failures and specifically excludes operator-replaceable supplies and consumables that require a Roche Field Service Representative to be dispatched; 3) Downtime specifically excludes those failures caused by operator errors, site discrepancies, reagents, calibrators, controls, acts of God, or any environmental problem beyond Roche's control; 4) Customer must be located within a 100-mile radius of a metropolitan area; 5) Downtime will be measured from the time the Field Service Representative is dispatched (Malfunction Begin Time) until the time the repair has been completed and specifically excludes the time spent after the repair to observe the performance (certainty of the repair) of the Equipment; 6) Downtime will be calculated using 24 hours per day, 7 days per week, on a monthly basis; 7) The official documentation to determine Downtime will be the Field Service Representative's Service Order which Customer will review at the conclusion of each repair.

**** Customer Support Center Specialists are available for VIEWICS by phone 8:00am to 8:00pm Monday through Friday. Incoming calls outside of these times allow for messages to be left and received at the next available time during the VIEWICS support hours. VIEWICS utilizes 1st level remote support via a Roche entity which may reside outside of the United States. Notwithstanding, an offshore support team utilizes field-support staff located within the United States if needed.

"Down" or "Downtime" for each piece of covered Equipment will mean:

- COBAS Integra system, **cobas**® 6000 analyzer series, **cobas**® 8000 analyzer series, **cobas** pro analyzer series, **cobas** e 411 analyzer, **cobas** c 111 analyzer, **cobas** c 311 analyzer - Unable to report results due to mechanical, electrical or software failure.
- LIGHTCYCLER® instrument, MagNA Pure instrument, ROCHE OMNI Series, AmpliPrep system, TaqMan® 48 instrument, TaqMan® 96, **cobas**® 4800 analyzer and URISYS 2400 Urine analyzer - Unable to report results.
- HAMILTON DILUTOR - Unable to process dilutions.
- Cobas 8100 system and Cobas m 511 are specifically excluded from the 98% uptime guarantee

, AMPLIPREP, COBAS, COBAS C, COBAS E, COBAS INTEGRA, ELECYSYS, LIGHTCYCLER, MAGNA PURE, MODULAR, MODULAR PRE-ANALYTICS, TAQMAN, OMNI and URISYS 2400 are trademarks of Roche. The technology used for LightCycler is licensed from Idaho Technology, Inc. All other product names and trademarks are the property of their respective owner.

©2013 Roche Diagnostics. All rights reserved. 431—52671-0813

cobas® Liat Depot Replacement Service Coverage

For **cobas**® Liat service issues covered by warranty or Roche Depot Service that cannot be rectified through remote Roche technical support at 1-800-800-5973 (including any periodic preventative maintenance that must be completed at Roche facilities), Roche may elect to replace such **cobas**® Liat with a new or certified unit. All **cobas**® Liats come with an initial one year warranty and Customers are required to subscribe to service for the **cobas**® Liat thereafter as detailed in Customer's Product Schedule and executed by Roche and the Customer.

Roche Depot Service and Loaner System Details

Customer Obligations: Customer agrees to return Roche-owned Equipment loaned to Customer for use by Customer while Customer-owned Roche Equipment is being repaired ("Loaner Equipment") within fifteen (15) business days of the repaired Equipment being returned to Customer. If Customer fails to return the Loaner Equipment within this allotted time, Customer will automatically be billed, and agrees to pay, a monthly charge for each piece of Loaner Equipment as set forth in the table below.

Equipment	Monthly Fee
LightCycler 1.5	\$670
LightCycler 2.0	\$500
LightCycler 96	\$482
Cobas u411	\$225
Cobas 9180	\$65

Repair Terms: Prior to shipping Equipment requiring repair to Roche, Customer must accept, approve, and execute the flat rate repair quote and provide a Purchase Order number in the returned quote. The returned quote must be received by a Roche Representative. Roche may also elect, at Roche's option, to provide Customer with Loaner Equipment at the time of acceptance of the flat rate repair quote by the Customer. If no purchase order number is provided when accepting the repair quote, no Loaner Equipment will be provided. Roche will provide Customer with an appropriate shipping container for the Equipment in need of repair and then also to return the Loaner Equipment. Customer shall have thirty (30) days to approve or reject the repair quote provided by Roche. In the event that Customer fails to reply with a rejection or approval of the flat rate quote within thirty (30) days, the flat rate quote shall expire.

Customer will automatically be billed, and agrees to pay, a monthly charge for unreturned Loaner Equipment past the fifteen (15) day return policy stated above. This monthly charge will continue to be billed until the Loaner Equipment is returned to Roche.

Roche Diagnostics
9115 Hague Road
Indianapolis, IN 46256



Equipment Purchase Terms Conditions:

CustomerName: City Of Corpus Christi

Purchase of equipment ("Equipment") listed on the attached proposal (each proposal shall be referred to as a "Schedule") is expressly conditioned on Customer's assent and acceptance to these Roche Diagnostics Corporation ("Roche") Terms and Conditions and any acceptance of Roche's offer is expressly limited to acceptance of these Terms and Conditions. Roche expressly objects to any additional or different terms proposed by Customer. No Customer form shall modify these Terms and Conditions, nor shall any course of performance, course of dealing, or usage of trade operate as a modification or waiver of these Terms and Conditions. No waiver or modification to any term is valid unless it is in writing and signed by both parties.

1. EQUIPMENT AND PRICE

Customer agrees to purchase the Equipment identified on the Schedule(s), at the prices set forth in the Schedule(s). Title will transfer upon delivery.

2. BILLING AND PAYMENT TERMS

Roche will bill Customer for Equipment (the "Invoice Date") upon shipment, unless the Equipment requires Roche installation ("Roche-installed Equipment"). For Roche-installed Equipment, the Invoice Date will be when all Roche installation activities are complete. Payment terms shall be net thirty (30) days from Invoice Date. Payment by credit card is accepted at point of sale only. Failure to pay invoices when due may result in non-shipment of future orders of products and/or refusal to provide service and/or being notified by Roche that Customer is in Default. All applicable taxes will be added to invoices.

3. SHIPMENTS

Roche will ship Equipment to the facility designated in each Schedule. Customer will pay all freight, shipping, and special delivery charges, but Roche will select the carriers and be responsible for loss and damage of the Equipment until delivery to Customer's facility. Freight and handling charges will be included in the invoice Customer receives from Roche. Customer is liable for risk of loss and damage after delivery to Customer's facility. The Equipment will be deemed accepted by Customer unless, within 30 days after delivery, or installation if applicable, Customer provides Roche written notice that the Equipment is not in good working order.

4. TAXES

Customer will pay when due, directly or by reimbursing Roche, all sales, use, and personal property taxes, and any interest and penalties on such delinquent taxes related to this Equipment Purchase. Customer will not be invoiced for any sales or use taxes for which Customer is exempt as long as Customer maintains a valid exemption certificate and provides it to Roche.

5. TRAINING

Training to be provided by Roche, if any, will be identified in the applicable Schedule.

6. SERVICE

If Customer has purchased extended service ("Service"), the term and pricing of the Service is set forth in the Schedule(s). Any Service provided to Customer will be provided in accordance with the applicable terms and conditions identified in the Roche service options located at RocheServiceCoverage.com.

7. LIMITED WARRANTY

a) **Equipment.** Roche warrants that Equipment will be free from defects in materials and workmanship and will meet manufacturer's written specifications for a period of one year from the applicable Invoice Date. Roche warrants consumable items and equipment support products for a period of 90 days from delivery. Customer agrees that Roche makes no representation and provides no warranty for non-Roche products used on the Equipment.

(b) **Third-Party Products.** The sole and exclusive warranty for any product provided, directly or indirectly, by a third party will be the standard warranty provided by the third party, and Roche will have no responsibility or liability relating to such product. Customer will install only Roche-approved software on the Equipment. (c) **Service.** Roche warrants that Service will be free from defects in workmanship for a period of 30 days from the date of the Service.

(d) **Limitations.** The sole and exclusive remedy for the breach of any warranty is to refund, replace, or repair (including shipment of replacement parts) the affected Equipment, at Roche's sole discretion. THE LIMITED WARRANTY SET FORTH IN THIS SECTION WILL BE IN LIEU OF, AND ROCHE EXPRESSLY DISCLAIMS, ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. DEFAULT

A party is in "Default" under these Terms and Conditions if the party does not perform any of its obligations under the Terms and Conditions and this failure continues for 30 days after written notification of that failure, with the exception that Customer is in Default if Customer fails to fulfill any payment obligation within 15 days of the invoice due date. Customer is in Default if it offers Equipment for resale, directly or through an affiliate.

9. REMEDIES

(a) **Default by Customer.** In the event of a Default by Customer, Roche may (1) terminate any Schedule(s); (2) require Customer to return the Equipment to Roche at Customer's cost; (3) collect all amounts owed or that become due under the Purchase Terms and Conditions, including a late payment charge of 1.5% per month or the highest permitted by law; (4) cease providing service to Customer with respect to any service agreements relating to the Equipment; and (5) exercise other remedies available at law or in equity. Remedies are cumulative and may be exercised in any order. (b) **Default by Roche.** In the event of a Default by Roche, Customer may (1) terminate the applicable Schedule(s), and (2) exercise other remedies available at law or in equity. Customer will remain obligated to pay all sums owed to Roche prior to the date of Customer's termination. The defaulting party will reimburse the non-defaulting party for costs, expenses and damages, including reasonable attorney's fees and other expenses of collection incurred by the non-defaulting party.

10. LIMITATION OF LIABILITY

Neither party shall be liable to the other party for incidental, indirect, special or consequential damages. To the extent permitted by law, each party will indemnify the other party from all third-party liabilities arising from the indemnifying party's negligence or willful misconduct or failure to perform its duties or obligations as set forth in these Purchase Terms and Conditions, except to the extent caused by (a) the negligence or willful misconduct of the party seeking indemnification, or (b) a party's use of Equipment other than in accordance with its labeling, or (c) a party's use of non-Roche products on the Equipment.

11. MISCELLANEOUS

(a) **Governing Law.** The laws of the State of Texas will govern these Terms and Conditions. Both parties waive the right to a jury trial. (b) **For Research Use Only Labeling.** Some Roche products are labeled "For Research Use Only". Roche is required to inform Customer, and Customer acknowledges, that this labeling means the products are intended by Roche solely for use in basic or applied laboratory research and are not intended to be used in diagnostic, prognostic, or therapeutic indications. Customer's acknowledgment is not intended to limit the rights and obligations of Customer under the Clinical Laboratory Improvement Amendments (CLIA) of 1988 and its subsequent amendments, as well as any other state and local requirements.

Internal reference: Q-00008345

1. **ROCHE REMOTE ACCESS SERVICE:** Remote access by Roche is for the purpose of installation, troubleshooting, software updates, and support. Customer shall provide and secure an Internet enabled connection with specific access to the Roche remote diagnostic IP addresses and shall host Roche remote diagnostic software on the Roche systems. Customer shall be responsible for approving or gating remote connections to the systems. For Customer provided systems Customer shall provide Roche with a vendor or generic login having local administrative rights, not tied to a specific Roche employee for the purpose of installation and support. Identification of the specific Roche individual accessing the system will be documented and retained in the Roche CRM package. Roche will provide such documentation upon Customer request. Trending data (e.g., error log files, voltages, equipment diagnostics checks, and system information which may include aggregated tests ran, results and trending dates), which can be used for service and support analytics, as well as supply and allocation assessments. Trending data may be routinely collected by Roche, utilizing Roche remote diagnostics. The collected data does not contain directly identifiable patient information. Roche will have no obligation to alert or notify Customer of any issues or problems arising in connection with any Equipment which are or would have been discernable from a study or review of any data obtained from the Equipment. If Customer does not meet its obligations under this section, Roche reserves the right to bill Customer for all on-site installation, troubleshooting, or reinstallation of software services at Roche's standard rates for service/repairs, including travel expenses.
2. **BILLING AND PAYMENT:** Roche will bill Customer for Service at the beginning of each service period. Payment terms shall be net thirty (30) days from date of invoice. Failure to pay invoices when due may result in refusal to provide Services, cash in advance payment terms and/or being notified by Roche that Customer is in Default. All applicable taxes will be added to invoices.
3. **LIMITED WARRANTY:** Roche warrants that the Services provided will be free from defects in workmanship for a period of 30 days from the date of the Services. **THE LIMITED WARRANTY SET FORTH IN THIS SECTION WILL BE IN LIEU OF, AND ROCHE EXPRESSLY DISCLAIMS, ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL ROCHE BE LIABLE FOR INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES.**
4. **EARLY TERMINATION:** Customer may terminate this Agreement at any time by giving Roche at least ninety (90) days' advance written notice aAll of Customer's obligations must be current to terminate this Agreement prior to completion of the Term.
5. **DEFAULT:** A party is in default under this Agreement if: (a) such party does not perform any of its obligations under this Agreement and this failure continues for 15 days after written notification of such failure;(b) such party notifies the other party that it does not intend to perform its obligations under this Agreement; (c) such party becomes insolvent, dissolves or is dissolved, assigns its assets for the benefit of creditors or enters (voluntarily or involuntarily) into any bankruptcy or reorganization proceeding or admits in writing its inability to pay its debts.
6. **REMEDIES:**
 - a. **Roche Default:** If Roche defaults, Customer may (i) terminate this Agreement, with Roche remaining liable for all obligations which have not yet been met under this Agreement and (ii) exercise any and all other remedies available at law or in equity. Customer will remain obligated to pay all sums owed to Roche prior to the date of Customer's termination.
 - b. **Customer Default:** If Customer defaults, Roche may (1) require Customer to pay the sum of any remaining payments for Services; (2) terminate this Agreement and collect all amounts owing under this Agreement (the "Outstanding Balance"); and (3) exercise any and all other remedies available at law or in equity. In the event Roche exercises its right to terminate this Agreement and begins collection efforts against Customer, Roche may include a late payment charge of 1.5% per month or the highest rate permitted by law, whichever is less, on the Outstanding Balance.
 - c. **Cumulative Remedies:** All of the remedies available are cumulative and may be exercised in any order.

d. Other Expenses: The defaulting party agrees to reimburse the non-defaulting party for all costs, expenses and damages, including reasonable attorney's fees and all other expenses of collection incurred by the non-defaulting party.

7. **ENTIRE AGREEMENT:** Customer agrees that the terms and conditions in this Agreement make up the entire agreement between Customer and Roche with respect to the subject matter contained herein unless expressly agreed to by the parties. In the event of a conflict between this Agreement and other agreements (including a purchase order) this Agreement will control; provided however, to the extent Customer had previous service coverage on the Equipment, in the event of a conflict between this Agreement and the agreement pursuant to which that coverage was provided, the prior agreement will control.
8. **GOVERNING LAW/JURY WAIVER:** Both parties agree that the laws of the State of Texas will govern this Agreement. Each party expressly waives its rights to trial by jury.
9. **NOTICES:** Notices shall be sent via one of the following means and will be effective (a) on the date of delivery, when delivered in person or by nationally recognized overnight courier service (costs prepaid); (b) on the date of receipt, if sent by a PDF image sent by email or other electronic transmission (with delivery confirmed); or (c) on the date received or rejected by the addressee, if sent by first class certified mail, return receipt requested (or its equivalent). All notices will be addressed to the party receiving the notice at its address shown on the face of this Agreement and marked Attn: Law Department.
10. **ASSIGNMENT:** Customer may not assign, sell or transfer Customer's interest in this Agreement without Roche's prior written consent which will not be unreasonably withheld. Roche may, with written notice to Customer, sell assign or transfer this Agreement.
11. **SURVIVAL:** Each party's rights will survive the term of this Agreement.
12. **FORCE MAJEURE:** Either party's obligations under this Agreement will be suspended in the event that a party is hindered or prevented from complying with its obligations (other than the obligation to pay money) because of labor disputes, hurricanes, earthquakes, floods, or other acts of God, war, terrorism or any other condition beyond the party's reasonable control.
13. **WAIVER:** If either party delays or fails to enforce any of its rights under this Agreement, such party will be able to enforce its rights at a later time.