

EXHIBIT-A

**To Agreement by and between
Monterey County Health Department, hereinafter referred to as “County”
AND
Bruker Scientific, LLC, hereinafter referred to as “CONTRACTOR”**

Scope of Services / Payment Provisions**A. SCOPE OF SERVICES**

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

This Agreement between County of Monterey (“County”) and Bruker Scientific, LLC is for the purchase of MALDI Biotyper and three (3) one-year maintenance service agreements, as shown on Attachment No. 1 - Bruker Scientific, LLC Quote Number Q-29444-4.

B. PAYMENT PROVISIONS**B.1 COMPENSATION/ PAYMENT**

County shall pay an amount not to exceed \$320,204.00 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

Bruker Scientific, LLC					
Table of Activities - Products and Services					
Qty	Part No.	Description	List Price	Discount	Amount
1	1890232	MALDI Biotyper sirius one CA System	\$ 320,000.00	\$ 104,356.58	\$ 215,643.42
1	8604966	Reference Physiocare Pack Eppendorf	\$ 2,270.00	\$ 740.28	\$ 1,529.72
1	1850766	MBT Mycobacteria Library	\$ 10,400.00	\$ 3,391.59	\$ 7,008.41
1	1867813	MBT Filamentous Fungi Suite	\$ 10,400.00	\$ 3,391.59	\$ 7,008.41
1	1842250	MBT Subtyping Module	\$ 3,480.00	\$ 1,134.88	\$ 2,345.12
1	8254705	Database-CD BType2.0-Sec.Library 1.0	\$ 1,280.00	\$ 1,280.00	\$ -
3	DAL00279	LabScape Complete MALDI Biotyper-Bruker LabScape Complete Maintenance Service Agreement Three (3) 1-YEAR SERVICE AGREEMENTS	\$ 23,300.00	\$ 2,330.00	\$ 62,910.00
<i>Subtotal</i>					\$ 296,445.08
1	DAL05055	Freight costs systems (continental) Estimated Freight	\$ 2,930.00	955.51	\$ 1,974.49
<i>Taxable Amount</i>					\$ 235,509.57
<i>Tax Rate</i>					\$ 0.09
<i>Estimated Taxes</i>					\$ 21,784.64
Grand Total					\$ 320,204.00

EXHIBIT-A

Upon completion of activities submit invoices for the periods listed below as follows:

Upon execution – June 30, 2023= \$278,264

July 1, 2023 – March 1, 2024= \$41,940

There shall be no travel reimbursement allowed during this Agreement.

CONTRACTOR warrants that the cost charged for services under the terms of this contract are not in excess of those charged any other client for the same services performed by the same individuals.

B.2 CONTRACTORS BILLING PROCEDURES

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement.

County may, in its sole discretion, terminate the contract or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

Invoices shall be submitted in duplicate to:

Monterey County Health Department
Public Health Bureau – Accounts Payable
1270 Natividad Road
Salinas, CA. 93906
(831) 755-4500
412-PHFISCAL@co.monterey.ca.us

Monterey County Health Department
Emilio Saavedra, Management Analyst II
1270 Natividad Road
Salinas, CA. 93906
Telephone: (831) 755-4036
saavedrael@co.monterey.ca.us

Invoices shall:

- a. Be prepared on Contractor letterhead. An authorized official, employee, or agent certifying that the expenditures claimed represent services performed under this contract must sign invoices.
- b. Bear the Contractor's name as shown on the agreement.
- c. Invoices should be submitted on a monthly basis.
- d. Identify the billing and/or performance period covered by the invoice.
- e. Itemize costs for the billing period in the same detail as indicated in the scope of services in the agreement. Reimbursement may only be sought for those costs and/or cost categories expressly identified as allowable in this agreement and approved by the County of Monterey.



Donna Ferguson
 Monterey County Public Health Laboratory
 1270 Natividad Rd.
 Salinas, California, 93906
 United States

Bruker Scientific, LLC
 40 Manning Road
 Billerica, MA 01821
 USA

Tel. +1 (978) 663-3660
 Fax. +1 (978) 667-5993

Quote

MBT Sirius One CA Monterey CoPH With 3 Year Service

Quote No.: Q-29444-5
 Our Contact: Deana Gebacz
 Quote Date: 10/3/2022
 Quote Expires: 12/30/2022

Prepared By:
 Deana Gebacz
 deana.gebacz@bruker.com
 Send Order to: Sales Representative

#	Part No.	Description	Unit List Price	Qty	Discount	Extended Price
1	1890232	MALDI Biotyper sirius one CA System	320,000.00	1	104,356.58	215,643.42

1890232: MALDI Biotyper sirius one CA System

A product family extension to the FDA-cleared MALDI Biotyper CA System:

The Bruker Daltonik GmbH MALDI Biotyper sirius one CA System, is an in vitro diagnostic system which analyzes protein fingerprint spectra (mainly ribosomal protein spectra) from isolated Gram negative, Gram positive and yeast bacterial colonies cultured from any patient specimen source suspected of bacterial in-fec-tion using MALDI-TOF (matrix assisted laser desorption ionization–time-of-flight) mass spectrometry technology.

The standard MALDI Biotyper sirius one CA System contains the following components:

- MALDI Biotyper sirius one CA, tested [P/N: 1890234] • MALDI Biotyper sirius CA System desktop computer running under Windows® 10 or better [P/N: 1863930] • MALDI Biotyper CA System software [P/N: 8604512] • MBT Biotarget 96 US IVD [P/N: 1840380], 1 box • MSP Adapter for MALDI Biotarget [P/N: 8267615], 2 pcs.
- US IVD 48 Spot Target [P/N: 8604532], 1 pce.
- US IVD BTS [P/N: 8604530] • US IVD HCCA portioned [P/N: 8604531] • Package Insert, MALDI Biotyper sirius CA System User Manual [P/N: 1869128] • Uninterruptible Power Supply (UPS) [P/N: 8605553] • Reference Physiocare Pack (P/N: 8604966)

2	DAL05055	Freight costs systems (continental)	2,930.00	1	955.51	1,974.49
3	8604966	Reference Physiocare Pack Eppendorf	2,270.00	1	740.28	1,529.72

Eppendorf Reference 2 in 3 pack option 1 as IVD version. Contains 3 pipettes (0.5 to 10 µl, 10 to 100 µl, 100 to 1000 µl) and 3 refillable epT.I.P.S.® boxes with 96 tips each.



#	Part No.	Description	Unit List Price	Qty	Discount	Extended Price
4	1850766	MBT Mycobacteria Library	10,400.00	1	3,391.59	7,008.41
		<p># 1850766: MBT Mycobacteria Library: The MALDI Biotyper (MBT) Mycobacteria Library contains 952 MSP reference spectra and covers 178 Mycobacterium species.</p> <p>Includes MBT Mycobacteria Library and license key for the MBT Mycobacteria Module for optimized data analysis of mycobacteria spectra.</p> <p>Pre-requisite for use of the MBT Mycobacteria Module is MBT Compass software (#1843241).</p> <p> For research use only. Not for use in diagnostic procedures. </p>				
5	1867813	MBT Filamentous Fungi Suite	10,400.00	1	3,391.59	7,008.41
		<p># 1867813 MBT Filamentous Fungi Suite The MALDI Biotyper (MBT) Filamentous Fungi Suite (MBT) consists of a Filamentous Fungi Library and a dedicated software module. The Filamentous Fungi Library contains 577 MSP reference spectra of exactly characterized Fungi strains from industrial, veterinary and clinical isolates provided by collaborating partners, round robin test strains and strains from isolates from accredited ISO 9001:2008 certified strain collections. The software module requires MBT Compass software (Build 4.1.100 or better) and allows adapted data acquisition and analysis to secure highest identification rates.</p> <p> For research use only. Not for use in clinical diagnostic procedures </p>				
6	1842250	MBT Subtyping Module	3,480.00	1	1,134.88	2,345.12
		<p># 1842250: MBT Subtyping Module The MBT Subtyping Module enables the automated detection of specific characteristics below species level for B. fragilis, K. pneumoniae and S. aureus. In addition the module allows differentiation of closely related Listeria species, Elisabethkingia species and of the M. chimaera/M. intracellulare complex.</p> <p>Pre-requisite for use of the MBT Subtyping Module is MBT Compass software (# 1843241).</p> <p> For research use only. Not for use in diagnostic procedures. </p>				
7	DAL00279	LabScape Complete MALDI Biotyper	23,300.00	3	2,330.00	62,910.00
		<p>Bruker LabScape Complete Maintenance Service Agreement is a maintenance service agreement, which provides complete service coverage. A detailed overview of the services covered can be found in the attached product description.</p>				
8	8254705	Database-CD BTyp2.0-Sec.Library 1.0	1,280.00	1	1,280.00	0.00
		<p>Database-CD MALDI Biotyper Security Library 1.0: The Security Library contains additional reference spectra of microorganisms of higher biological security levels, not included in the standard reference library. These reference spectra are related to the field clinical microbiology and homeland security . Reference spectra are generated using strains from well-defined strain collections supplemented by main spectra created from industrial, veterinary, and clinical isolates.</p>				



#	Part No.	Description	Unit List Price	Qty	Discount	Extended Price
---	----------	-------------	-----------------	-----	----------	----------------

Delivery is subject to export authorization!

This item can only be ordered via the Bremen factory!

[For research use only. Not for use in diagnostic procedures.]

Total: USD 298,419.57

List Price: USD 420,660.00

Total Discount: USD 122,240.43

Net Price: USD 298,419.57



TERMS AND CONDITIONS

Delivery

Approx. Lead Time (weeks):	8
Lead Time starts after:	Receipt of order
Freight Terms (Incoterms 2020):	DAP (Delivery At Place)
Freight Point:	Bremen

We reserve the right to make partial deliveries and acceptance if stand-alone systems are sold as part of package sales.

COVID-19 Regulations

Apart from, and beyond any other regulations in this offer regarding liability, we are not liable for any impossibility or delay(s) of deliveries or other performance to the extent they are due to, or related to the COVID-19 (Coronavirus SARS-CoV-2) epidemic. For the sake of clarity: the aforementioned instance constitutes an event of force majeure to the extent it causes an impossibility or delay, which then relieves us, at least temporarily, of our obligation to deliver/perform and our respective liability. If we become aware of such an occurrence, we will inform the customer without undue delay. Our delivery/performance deadlines or dates will be automatically extended/postponed by the duration of the occurrence, plus a reasonable start-up period after the end of the occurrence. If the occurrence makes it substantially more difficult or impossible for us to provide the delivery/performance and is not only of temporary duration, we are entitled to cancel the contract.

Terms of Payment

100% upon acceptance, Net 30

Prices

All prices do not include VAT, taxes, or import duty which are the responsibility of the customer.

Installation

Installation and familiarization are included.

Training

Training courses are provided at Bruker facilities. Onsite trainings are available but only provided if explicitly mentioned in the quotation and ordered.

General Terms and Conditions

This quote is subject to our attached General Terms and Conditions.

Compliance with Laws

The Buyer understands that export and re-export of Bruker products and any related parts, components, spare parts, consumables, accessories, software, technical data, service, or technical assistance (individually, an "Item" and, collectively, the "Items") are subject to U.S., the EU and other foreign trade controls, customs and economic sanctions laws, regulations, rules and orders (collectively, "Export Control Laws"). In addition to any other remedy it may have, Bruker, in its sole discretion, may suspend and/or cancel the export, transfer, delivery, provision, installation, and/or any maintenance, repair, replacement, or service of any Item without any liability whatsoever to Bruker or its affiliates, if (a) Bruker has not received all export-related documentation requested by Bruker, including end-user certificates, (b) Bruker has not received the governmental approvals that Bruker deems to be required, or (c) Bruker believes that such activity may violate any Export Control Laws or Bruker's own compliance policies. The Buyer shall only use the Items for non-military, peaceful purposes.



With best regards,
Bruker Scientific, LLC

A handwritten signature in black ink that reads "Diana Debaey". The signature is fluid and cursive, with a large initial 'D'.

Authorized signature

Bruker Scientific, LLC and Subsidiaries

Terms and Conditions of Sale

(U.S.)



1. GENERAL. Orders are accepted by Bruker Scientific, LLC and Subsidiaries ("Seller") subject to these terms and conditions. In case of a conflict, inconsistency or addition not expressly accepted in writing by Seller, the terms and conditions of sale provided herein shall be considered as superseding the conflicting, inconsistent or additional terms stated in Buyer's purchase order, order form, contract or otherwise. The acceptance of an order will supersede all prior communications and constitute a complete and binding contract between the party purchasing equipment hereunder ("Buyer") and Seller, which contract cannot be modified or canceled without the written agreement of both parties.

2. SHIPMENT. Seller shall attempt to comply with, but will not guarantee, shipping date and loading and routing instructions. Seller reserves the right to allow or prorate shipments against all orders whenever, in its judgment, an oversold condition exists as to any particular product manufactured or sold by it. In the event of a default by Buyer, Seller may decline to make further shipments without waiving any of its rights under such order. If, despite such default, Seller elects to continue to make shipment, its action shall not constitute a waiver regarding, or otherwise diminish, Seller's legal remedies with respect to such default or any future default.

3. TITLE AND DELIVERY. All sales are made FCA factory (ex works), Incoterms 2010 and Buyer shall pay all freight, duties, cartage and handling. Title and risk of loss or damage shall pass from Seller to Buyer upon Seller's putting the material purchased hereunder in good condition into the possession of a common carrier, such carrier acting as Buyer's agent. All claims for damages must be filed with the carrier.

4. PRICES. Irrespective of any prices quoted by Seller or listed on Buyer's order, an order is accepted only at the prices shown on Seller's written quotation (the "Quotation"). Installation of utilities required for equipment is not included in the specified price.

5. PAYMENT TERMS.

(a) Invoices are payable at the place set forth in the Quotation or the invoice no later than thirty (30) days after the date of the invoice. Any exchange charges, any charges for nonpar clearance of checks or collection charges (including reasonable attorneys' fees) will be paid by Buyer. Any amounts not paid when due will bear interest at a rate of 18% per annum or, if lower, the maximum rate permissible by law.

(b) All orders are subject to credit approval by Seller. The amount of any credit extended by Seller to Buyer may be changed, and such credit may be withdrawn by Seller. With respect to an order on which credit is not extended by Seller or, if extended, is subsequently withdrawn, shipment or delivery shall be made, at Seller's election, cash with order (in whole or in part), C.O.D., letter of credit or Sight Draft attached to Bill of Lading or other shipping documents, with all costs of collection (plus 18% interest on Sight Drafts not paid at maturity) for the account of Buyer. If, in the judgment of Seller, the financial condition of Buyer does not justify continuation of production or shipment on the terms of payment originally specified, Seller may require full or partial payment in advance. In the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled, in addition to any other remedies at law or in equity, to (i) stop or divert any shipment in transit, (ii) cancel any order then outstanding and/or (iii) receive reimbursement for its cancellation charges.

(c) Each shipment shall be considered a separate independent transaction, and payment therefor shall be made accordingly. If for any reason Buyer is not prepared to accept delivery of goods, Seller may store the goods at Buyer's expense and risk in the name of Buyer, and such storage shall constitute shipment and delivery to Buyer.

6. TAXES. Quoted prices do not include federal, state or local excise, sales, use or similar taxes. Accordingly, in addition to the prices specified on the Quotation, the amount of any applicable excise, sales, use and/or similar taxes will appear as separate items on the invoice and will be paid by Buyer unless prior to shipment Seller receives an appropriate tax exemption certificate from Buyer.

7. CUSTOMER SPECIFIC ACCEPTANCE ("CSA"). Except as provided in the Quotation, Seller's standard commercial factory acceptance test(s) performed at Seller's factory will comprise acceptance for the equipment sold by Seller. If the Quotation references CSA provisions, then Buyer will accept the purchased equipment in accordance with such CSA provisions. The parties will give priority to achieving CSA and the purchased equipment shall not be used by Buyer for material production, for development of new processes or for any purposes other than achieving CSA, prior to successful completion or waiver of the CSA provisions. Any such use of the equipment prior to successful completion of the CSA provisions shall be deemed to constitute CSA passage. It is the responsibility of the Buyer to ensure that all the required facilities are ready and site preparation is completed for successful commencement of CSA on delivery of the equipment. If CSA has not been commenced within 30 days after delivery and completed within 60 days after delivery (through no fault of Seller), the equipment shall be deemed accepted and as having achieved CSA.

8. FORCE MAJEURE. Seller shall not be liable for failure to perform occasioned by strikes, lockouts, labor difficulties, riots, inability or difficulty in obtaining or procuring supplies, labor or transportation, fires, storms, floods, earthquakes, explosions, accidents, acts of God, interference by civil or military authorities, whether legal or de facto, acts of the public enemy, war, rebellion, insurrection, sabotage, embargoes, orders given priority by any public authority or any other cause beyond the reasonable control of Seller.

9. PATENTS. If a third party claims that the purchased equipment infringes that party's patent or copyright, Seller will defend Buyer against that claim and will pay all costs, damages and attorneys' fees that a court finally awards, provided that Buyer: (a) promptly notifies Seller in writing of the claim, and (b) allows Seller to control, and cooperates with Seller in, the defense and any related settlement negotiations. If such a claim is made or appears likely, Seller, at its option, may obtain a license to enable Buyer to continue to use the product, may modify the product or may replace it with one that is functionally equivalent. If Seller determines that none of these alternatives is reasonably available, Buyer will return the product to Seller upon Seller's written request, in which case Seller will credit Buyer with an amount equal to the price paid for such product less a reasonable amount for depreciation. Seller's liability is limited to repair, replacement or adjustment as determined by Seller. Seller shall not be liable for any claim based on (i) anything Buyer provides which is incorporated into a product, (ii) Buyer's modification of a product or use thereof other than in its specified operating environment, or (iii) the combination, operation or use of a product with products provided by other manufacturers or other products not provided by Seller as a system. This is the exclusive warranty and liability of Seller with respect to intellectual property matters and is in lieu of all other warranties and remedies, express or implied. Sale of products or parts thereof does not confer on Buyer any license relating to (a) the structure of any devices to which the products or parts may be applied or (b) a process or machine in connection with which they may be used.

10. RESCHEDULING. If Buyer has any rescheduling rights, such rights shall be as set forth in [Exhibit A](#).

11. CANCELLATION. If Buyer has any cancellation rights, such rights shall be as set forth in [Exhibit A](#).

12. ASSIGNMENT. Buyer shall not assign this order or any portion thereof without the prior written consent of Seller.

13. WARRANTY.

Bruker Scientific, LLC and Subsidiaries

Terms and Conditions of Sale

(U.S.)



(a) Seller warrants to the Buyer that new equipment will be free of defects in material and workmanship for a period of one year commencing on final acceptance or ninety (90) days from shipping, whichever occurs first. This warranty covers the cost of parts and labor (including, where applicable, field service labor and travel required to restore the equipment to normal operation).

(b) Seller warrants to the Buyer that replacement parts will be new or of equal functional quality and warranted for the remaining portion of the original warranty or 90 days, whichever is longer.

(c) Seller warrants to the Buyer that software will perform in substantial compliance with the written materials accompanying the software. Seller does not warrant uninterrupted or error-free operation.

(d) Seller's obligation under these warranties is limited to repairing or replacing at Seller's option defective non-expendable parts or software. These services will be performed, at Seller's option, at either Seller's facility or Buyer's business location. For repairs performed at Seller's facility, Buyer must contact Seller in advance for authorization to return equipment and must follow Seller's shipping instructions. Freight charges and shipments to Seller are Buyer's responsibility. Seller will return the equipment to Buyer at Seller's expense. All parts used in making warranty repairs will be new or of equal functional quality.

(e) The warranty obligation of Seller shall not extend to defects that do not impair service or to provide warranty service beyond normal business hours, Monday through Friday (excluding Seller holidays). No claim will be allowed for any defect unless Seller shall have received notice of the defect within thirty (30) days following its discovery by Buyer. Also, no claim will be allowed for equipment damaged in shipment. Within thirty (30) days of Buyer's receipt of equipment, Seller must receive notice of any defect which Buyer could have discovered by prompt inspection.

(f) Expendable items, including, but not limited to, filters, lamps, pilot lights, filaments, fuses, mechanical pump belts, probes, V-belts, wafer transport belts, pump fluids, O-rings and seals ARE SPECIFICALLY EXCLUDED FROM THE FOREGOING WARRANTIES AND ARE NOT WARRANTED.

(g) All used equipment, including demo equipment, is sold AS IS, WHERE IS, WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED. Regular maintenance is excluded from this warranty.

(h) Specifically excluded from this warranty is all standalone computer and data storage equipment not manufactured by Seller (such as computers, monitors, printers and printer buffers). Such equipment will carry only the original manufacturer warranty.

(i) Seller assumes no liability under the above warranties for equipment or system failures resulting from (a) abuse, misuse, modification or mishandling; (b) damage due to forces external to the machine including, but not limited to, acts of God, flooding, power surges, power failures, defective electrical work, transportation, foreign equipment/attachments or Buyer-supplied replacement parts or utilities or services such as gas; (c) improper operation or maintenance; or (d) failure to perform preventive maintenance in accordance with Seller's recommendations (including keeping an accurate log of preventive maintenance). In addition, this warranty does not apply if any equipment or part has been modified without the written permission of Seller or if any Seller serial number has been removed or defaced.

(j) No one is authorized to extend or alter these warranties on Seller's behalf without the written authorization of Seller.

(k) THE ABOVE WARRANTIES ARE EXPRESSLY IN LIEU OF ANY OTHER EXPRESS OR IMPLIED WARRANTIES (INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR

A PARTICULAR PURPOSE), AND OF ANY OTHER OBLIGATION ON THE PART OF SELLER. SELLER DOES NOT WARRANT THAT ANY EQUIPMENT OR SYSTEM CAN BE USED FOR ANY PARTICULAR PURPOSE OR WITH ANY PARTICULAR PROCESS OTHER THAN THAT COVERED BY THE APPLICABLE PUBLISHED SPECIFICATIONS.

14. NO CONSEQUENTIAL DAMAGES; LIMITATION OF LIABILITY.

Seller shall not be liable for consequential damages, for anticipated or lost profits, incidental, indirect, special or punitive damages, loss of time, loss of use, or other losses, even if advised of the possibility of such damages, incurred by Buyer or any third party in connection with the equipment or services provided by Seller. In no event will Seller's liability in connection with the equipment or services provided by Seller exceed the amounts paid to Seller by Buyer hereunder.

15. NONSOLICITATION. Buyer will not solicit the employment of any employee of Seller who has come into contact with Buyer in connection with the products or services provided to Buyer hereunder.

16. COMPLIANCE WITH LAWS.

(a) The performance of each party hereunder is subject to compliance with all applicable laws.

(b) Buyer understands that exports and re-exports of Seller's products and any related software, service, technical assistance, training and related technical data, and any media in which any of the foregoing is contained (the "Items") are subject to U.S. and foreign trade controls, customs, anti-boycott and economic sanctions laws, regulations, rules and orders (the "Export Laws"). In addition to any other remedy it may have, Seller may suspend or cancel the export, delivery, installation, or any maintenance or repair service of any Item if (a) Seller has not received all export-related documentation requested by Seller, including end-user certificates, (b) Seller has not received the governmental approvals that Seller deems to be required, or (c) Seller believes that such activity may violate any Export Laws or Seller's own compliance policies. Buyer shall only use the Items for non-military, peaceful purposes. Buyer shall not export, re-export or otherwise transfer or provide any Item in contravention of any Export Law or any end-user certificate provided by Buyer, including to an embargoed or otherwise sanctioned country, to anyone listed on any prohibited persons list published by the U.S., the UN, the EU or the OSCE, or for a prohibited end-use (such as research on or development of chemical, biological, or nuclear weapons, unmanned air vehicles or missiles, or nuclear explosive or fuel cycle activities). Buyer must notify Seller before providing any technical data to Seller that is controlled under any Export Law. Seller will not be liable to Buyer for any loss or expense if Buyer fails to comply with any Export Law.

(c) Buyer will comply with all applicable import laws or other restrictions or conditions respecting the import of Items that are now in effect or are hereafter imposed by any government or other applicable jurisdiction. Buyer shall be responsible for obtaining any necessary import permit, license or authorization at its sole cost and expense. Buyer shall immediately notify Seller if an import permit, license or other authorization is required in connection with any such import.

17. APPLICABLE LAW. The contract created hereby shall be interpreted and construed under the laws of the State of Delaware, without regard to the choice of law provisions thereof and not including the U.N. Convention on Contracts for the International Sale of Goods, if otherwise applicable. The exclusive venue for any disputes arising out of or in connection with such contract shall be in the state and federal courts of the State of Delaware.

Bruker Scientific, LLC and Subsidiaries Terms and Conditions of Sale (U.S.)



EXHIBIT A

ADDITIONAL PROVISIONS

1. Rescheduling: Not Applicable.
2. Cancellation: Not Applicable.



Maintenance Service Agreements – Specific Terms for Bruker Scientific, LLC

1. Unless otherwise mutually agreed, the following provisions shall apply for all types of Maintenance Service Agreements (MSA):
 - 1.1 Each item of equipment must be placed in good operating condition at Customer's expense prior to coverage under the MSA.
 - 1.2 Subject to the exclusions set forth in Section 1.7, and during the period the MSA is in force, we will provide the following services: (i) corrective maintenance of covered equipment that has ceased to function; (ii) the number of preventive maintenance service calls (consisting of inspection, cleaning, and lubrication of the covered equipment and replacement of marginal parts and components) per contract year specified in the MSA, if any; and (iii) such additional services as are specified in the MSA.
 - 1.3 Our original system parts, or replacement parts provided by us, only, are covered by the MSA unless otherwise specified.
 - 1.4 All services shall be provided during normal working hours (8:00 a.m. to 5:00 p.m.) Monday through Friday, Bruker holidays excluded) at times mutually agreed.
 - 1.5 Parts may be repaired or replaced with new or reconditioned parts at our discretion and any replaced parts shall become our property. We reserve the right to determine conclusively what corrective work on the covered equipment shall be performed.
 - 1.6 Replacement parts provided by us under MSA will consist of refurbished or new parts, at our sole discretion and are warranted up to ending date of the contract.
 - 1.7 This MSA does not cover, and we shall have no obligation to provide services with respect to, (i) equipment, components, software or accessories not supplied or licensed by us; (ii) contamination, however caused; (iii) consumables; (iv) any components that directly contact any sample; (v) elements, including but not limited to photomultiplier tubes, mirrors, lenses, windows, gratings, optical filters, or electron multipliers; (vi) maintenance and parts needed due to applications or method development; (vii) equipment out of production for more than seven (7) years for which parts are no longer available; (viii) equipment not yet eligible for coverage as set forth in Section 1.1; (ix) equipment which has been moved from its original location; (x) equipment which has been abused, altered, misused, operated or maintained improperly, used in an unsuitable physical environment, or used with inadequate facilities or utilities; (xi) software installation or modification of hardware to make it software compatible; (xii) computer processing units; or (xiii) any condition which is defined as a Customer responsibility under Section 1.8 below or which results from Customer's failure to fulfill such a responsibility.
 - 1.8 Customer shall: (i) perform routine operation and maintenance procedures as outlined in the instruction manual(s) and the MSA; (ii) maintain any gas line filters; (iii) ensure that the recommended grade of gas is used with the covered equipment; (iv) comply with all laws and regulations applicable to the covered equipment and any workspace accessed by us, including but not limited to those pertaining to worker safety and to the handling, packaging, transport and disposal of hazardous material; (v) provide us with a safe environment in which to work and inform us of any hazardous materials in use and/or hazardous conditions affecting the area which we are working; (vi) replace and dispose of any roughing pump oil used with the covered equipment; (vii) ensure all air used with air compressors has passed through a filter and oil and water trap.
 - 1.9 All service contracts will become null and void at the discretion of the seller if the instrument is moved from its current location (at start of contract) during the contract period unless the move has been authorized and supervised by a Bruker employee. All moves are not covered under a service contract or standard warranty period and can be quoted separately on an as needed basis.