



Service Contract

Cellix Limited

Cellix Limited Service Contract (the “Agreement”)

The following terms and conditions will apply to the supply of the Services (as defined below) by Cellix Limited (“Cellix”) to the XXXXX (the “Customer”).

1. Interpretation

1.1 In this Agreement

“Cellix Hardware” means the VenaFlux Pro and VenaFlux Elite products where

- VenaFlux Pro includes the following products as standard: Mirus Evo Pro including MultiFlow8, Microenvironmental Chamber; Carl Zeiss AxioVert A1 microscope; DC-VFP0.1 or Prime BSI Express digital camera; Dell PC, Image Pro cell analysis software.
- VenaFlux Elite includes the following products as standard: Mirus Evo Pro including MultiFlow8, Microenvironmental Chamber; Carl Zeiss Axio Observer7 microscope; DC-VFP0.1 or Prime BSI Express digital camera; Dell PC, Image Pro cell analysis software.

“Cellix Software” means the software known as VenaFluxAssay which controls the Mirus Evo Pro including MultiFlow8, and any updated versions thereof;

“Fee” means the annual fee charged by Cellix to the Customer in respect of the performance of the Services, further details of which are set out at Schedule 1;

“Documentation” means the technical specification documentation, instruction manuals, application notes and user guides concerning the Cellix Hardware and Cellix Software supplied by Cellix to the Customer;

“EULA” means the End User Licence Agreement between the Customer and Cellix under which Cellix licenses the Cellix Software to the Customer;

“Ireland” means the Republic of Ireland;

“Renewal Date” means the date which is the first anniversary of this Agreement and each subsequent anniversary thereof on which dates the term of the Agreement shall automatically be extended for a further period of twelve (12) months, unless terminated earlier in accordance with this Agreement;

“Services” means the services set out at Schedule 1 as may be amended from time to time on agreement between the parties.

“Term” shall have the meaning set out in clause 4.

1.2 Any reference in this Agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Basis of the Supply of Services

2.1 In consideration of prompt payment by the Customer of the Fee, Cellix shall supply the Services to the Customer for the duration of the Term in accordance with this Agreement.

2.2 The Services shall not include the diagnosis and rectification of any fault or query resulting from:

2.2.1 the Customer's failure to comply with the terms and conditions of the warranty including general maintenance and care of Cellix Hardware;

2.2.2 the Customer's failure to comply with the terms and conditions of the EULA;

2.2.3 failure by the Customer to implement Cellix's recommendations to the Customer (including new releases or versions of Cellix Software as appropriate) concerning solutions to faults;

2.2.4 the incorrect use or operation (including use other than in accordance with the Documentation) or any neglect of the Cellix Hardware and Cellix Software, including adjustments necessary because of any accident, neglect, misuse or cause resulting other than in the course of ordinary use;

2.2.5 use of software, accessories, attachments, machines, systems or devices not supplied by Cellix;

2.2.6 lost or corrupted data arising for any other reason than Cellix's negligence;

2.2.7 any problems not normally associated with the Cellix Software;

2.2.8 adjustments, repairs, alterations or modifications of the Cellix Hardware, and/or Cellix Software, by any person other than Cellix or Cellix personnel, agents or subcontractors;

2.2.9 using the Cellix Hardware and/or Cellix Software, for purposes other than the recommended purposes set out in the Documentation; or

2.2.10 the actions of inadequately or inappropriately trained Customer personnel and agents.

- 2.3 Cellix may at its sole discretion upon request by the Customer provide the Services notwithstanding that the fault results from any of the circumstances described in clause 2.2. In such circumstances, or where Cellix has provided the Services and it subsequently transpires that fault or query has resulted from any of the matters set out in clause 2.2, then Cellix shall be entitled to levy additional charges on the Customer at its then-current rates.
- 2.4 Cellix reserves the right to terminate this Agreement immediately where:
- 2.4.1 any support and maintenance works have been performed on the Cellix Hardware and/or Cellix Software, by any person other than Cellix technicians; or
- 2.4.2 the Customer makes any alteration to the Cellix Hardware and/or Cellix Software, without the prior consent of Cellix.
- 2.5 The benefit of the Services under this Agreement is personal to the Customer and may not be assigned by the Customer.

3. Fee

- 3.1 The Fee shall be due for payment by the Customer on the date of the Agreement and must be paid within thirty (30) days of such date; and, where the Agreement is extended in accordance with clause 4.1 the Fee shall be due for payment on the Renewal Date and must be paid within thirty (30) days of the Renewal Date. Cellix reserves the right to increase the amount of the Fee on the giving of thirty (30) days notice to the Customer in advance of each Renewal Date.
- 3.2 The Customer acknowledges that, in the event that this Agreement is terminated in accordance with its terms, it will not be entitled to any full or part refund of the Fee.
- 3.3 The Fee is exclusive of any applicable value added tax, and other sales tax which the Customer shall be additionally liable to pay to Cellix.

4. Term

- 4.1 The Agreement shall run for a period of twelve (12) months from the date hereof and, unless terminated earlier in accordance with its terms, shall run indefinitely from each Renewal Date to the next.
- 4.2 Either party shall be entitled to terminate the Agreement by the giving of thirty (30) days' notice to the other, such notice to expire on the Renewal Date. In the event that the Customer terminates this Agreement in accordance with this clause 4.2, the Customer shall not be entitled to any refund in respect of the Fee paid by the Customer in the relevant twelve month period of this Agreement. If the Customer subsequently

wishes to license the Cellix Software, then Customer shall be liable to Cellix for the aggregate amount of the Fees that but for termination of this Agreement in accordance with this clause 4.2 would otherwise have been payable to Cellix.

5. Warranties and Liability

- 5.1 Subject to the conditions set out in clause 5.2 below, Cellix warrants that it shall endeavour to perform the Services with reasonable skill and care and in a timely and professional manner (the “Warranty”).
- 5.2 The Warranty is given by Cellix subject to the following conditions:
- 5.2.1 Cellix shall be under no liability under the Warranty (or any other warranty, condition or guarantee) if the Fee has not been paid within thirty (30) days of falling due; and
- 5.2.2 the Warranty does not extend to any parts, materials, software or equipment not manufactured by Cellix, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee (if any) as is given by the manufacturer to Cellix.
- 5.3 Subject as expressly provided in this Agreement, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 5.4 Neither party’s liability to the other party for fraud or for death or personal injury resulting from its own or its employees, agents or subcontractors negligence shall be limited.
- 5.5 Cellix accepts no responsibility and shall not be liable in contract, tort, breach of statutory duty or otherwise for the loss of profit, loss of data, business, revenue, goodwill anticipated savings, any direct loss or for any indirect or consequential loss that may be suffered by the Customer or by any other person or company under or in connection with this Agreement.
- 5.6 The entire liability of Cellix under or in connection with this Agreement shall not exceed the Fee paid or payable by the Customer in the relevant twelve month period of this Agreement.
- 5.7 Cellix shall not be liable to the Customer or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of Cellix’ obligations in relation to the Services, if the delay or failure was due to any cause beyond Cellix’ reasonable control.

6. Termination

- 6.1 Cellix shall be entitled to terminate this Agreement by notice in writing to the Customer if the Customer is unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of a bona fide reconstruction or amalgamation), or compounds with or convenes a meeting of its creditors or has a receiver or manager, or administrative receiver or an administrator or examiner appointed over its assets, or ceases for any reason to carry on business.
- 6.2 Either party may terminate this Agreement if the other breaches any of the terms of this Agreement and (if capable of remedy) fails to remedy such breach within thirty (30) days of receipt of written notice from the non-breaching party.
- 6.3 The termination of this Agreement pursuant to this Clause 6 shall be without prejudice to any rights or remedies Cellix may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party, or the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

7. General

- 7.1 Any notice required or permitted to be given by either party to the other under this Agreement shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 7.2 No waiver by Cellix of any breach of this Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 7.3 Cellix will not be liable for delay in performing its obligations under this Agreement if the delay or failure results from or anything beyond that party's control, including, without limitation, any act of God, governmental act, fire, explosion, accident, industrial dispute, impossibility of obtaining materials. In these circumstances, the performance of the delaying party's obligations, to the extent affected by the delay, shall be suspended during the period that the cause persists.
- 7.4 If any provision of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.
- 7.5 The Customer shall not assign or otherwise transfer this Agreement or any of its rights or obligations hereunder whether in whole or in part without the prior written consent of Cellix. Cellix may assign the benefit of this Agreement to any third party without the requirement to obtain the Customer's consent.

- 7.6 This Agreement comprises the whole of the Agreement between the Customer and Cellix in relation to the performance of the Services. No variation to this Agreement shall be binding unless agreed in writing between the authorised representatives of the Customer and Cellix.
- 7.7 This Agreement may be executed by the parties on separate counterparts each of which when executed and delivered shall constitute an original and all such counterparts together shall constitute but one and the same instrument.
- 7.8 The Agreement shall be governed by the laws of Ireland, and the Customer agrees to submit to the exclusive jurisdiction of the Irish courts.

SCHEDULE 1

Services

I. Front-line support: For customer queries, technical queries and trouble-shooting, contact Cellix at

- Website: [Technical Support](#)
- Telephone: +353-1-4500-155
- Email: info@wearecellix.com

II. Deliverables: Cellix's deliverables under this agreement include:

- One on-site service visit per 12 month period of maintenance cover; travel costs included. Servicing includes:
 - Mirus Evo Pump: firmware updates where required; general operation and replacement of valves and syringes if required. Costs for replacement of one syringe and connecting tubing will be covered by this contract.
 - Microenvironmental chamber: check for operation of temperature control. Costs for replacement of one thermocouple if required will be covered by this contract.
 - Microscope: check for operation of bulbs, shutters, alignment fluorescence, phase contrast; cleaning of objectives lenses and optical path. Motorized stage (where applicable): check for general operation.
 - Digital camera: cleaning of optical path and check for general operation.
 - Providing updates to software and firmware if the Customer wishes so.
 - One day's training for new users.
- Where required (see point II below), on-site service to correct product failures; travel costs not included.
- Non-conforming parts repaired or replaced when required; parts costs not included.

- Discretionary performance reviews and coaching/training on the variations of Cellix's end-user protocols.

III. In the event of product failure: In the event of a product failure, contact Cellix at:

- Website: [Technical Support](#)
- Telephone: +353-1-4500-155
- Email: info@wearecellix.com

Cellix's technical support staff will endeavour to resolve the technical fault remotely. If the failure is a result of a hardware failure, the failing component will be identified. If the component is easily replaceable, a replacement will be shipped as soon as possible for replacement under the direction of Cellix's technical support staff. Shipping costs for such replacement items will be borne by Cellix.

If the failure is due to hardware and cannot be resolved remotely, Cellix's technical support staff will make arrangements to travel on-site in order to carry out repairs. Transportation and lodging will be billed at actual cost. Cost of replacement parts not included.

Cellix aims to resolve routine service requests within one (1) week and emergency service requests within forty-eight (48) hours.

SCHEDULE 2

Fees

€X (Euro) payable in accordance with clause 3.

SIGNED by

SIGNED by

[PRINT NAME]

an authorised signatory of Cellix

[PRINT NAME]

an authorised signatory of Customer