



*Confidential*  
**Extended Warranty**

---

**Before returning any Product, please consult the instructions below and contact bioMérieux, Inc., including its affiliate BioFire Diagnostics, LLC (“BFDX”) (collectively, “BMX”), Technical Support at either: (800) 735-6544, (801) 736-6354, or support@biofiredx.com. CUSTOMER AGREES TO ALL TERMS, CONDITIONS, AND OBLIGATIONS CONTAINED IN THIS EXTENDED WARRANTY.**

**1. DEFINITIONS.** “Pouch” means the clinical diagnostic thermal cycling oligonucleotide assays or primers, probes or reagents manufactured by BFDX. “Instrument(s)” means FilmArray® 1.5, FilmArray® 2.0, FilmArray® Torch, and/or BioFire® SpotFire® devices which are manufactured and/or distributed by BFDX or BMX. “Third-party Products” mean any Pouch, Instrument or ancillary product used with the Instruments that is manufactured by a party other than BFDX. “Product” means a Pouch, Instrument or parts or components thereof, and/or Software manufactured by BFDX. “Specifications” means the criteria established by BFDX in a user manual to measure, evaluate, or assess the operation or performance of the applicable Product subject to any updates or modifications by BFDX after receipt of the Product by Customer.

**2. EXTENDED WARRANTY PURCHASE.** This Extended Warranty can be purchased from BMX or BMX’s authorized distributor at the time of Customer’s original purchase or lease of the Instrument. Thereafter, Customer must apply for the Extended Warranty by contacting BMX’s authorized distributor or the BMX Technical Support Department. As a precondition to purchasing an Extended Warranty after the time of the original purchase or lease, BMX may require, in its sole discretion, that Customer: (a) ship the Instrument to BMX for repair and recalibration to original manufacturer specifications; (b) upgrade the Software to the most recent version or release that would have been provided to Customer if the Extended Warranty had been maintained in effect from and after the time of Customer’s original purchase or lease of the Instrument; and/or (c) the installation of any applicable bug fixes to the Software. If BMX requires Customer to comply with any of these options, such requirement(s) will be at Customer’s sole cost and expense (at BMX’s then current standard repair and replacement or Software upgrade/bug fix fees) and payable prior to purchasing this Extended Warranty.

**3. WARRANTY TERM.** THIS WARRANTY IS NEITHER AN ONGOING SERVICE NOR PREVENTATIVE MAINTENANCE AGREEMENT. This Extended Warranty begins on the date of expiration of the Standard Limited Warranty, and continues in effect for one year, or the period of time provided in the Sales Quote. Coverage is only effective upon payment by Customer. If Customer purchases an Extended Warranty after expiration of the Standard Limited Warranty, then the Extended Warranty Coverage begins once the Instrument has been checked and recalibrated by BMX and shipped back to Customer as per Paragraph 7. This Extended Warranty does not alter, modify or replace BMX’s Standard Limited Warranty, but rather extends additional benefits for an additional period thereafter. The coverage period can be extended for additional one (1) year coverage periods by delivering written notice of renewal to BMX’s Customer Support Department, together with the then-current renewal premium quoted by BMX’s Customer Support Department, provided that the notice and renewal premium must be received by BMX prior to the expiration of the then-current coverage period.

**4. BENEFITS OF THIS EXTENDED WARRANTY.** This Extended Warranty provides the original end-user customer (“Customer” or “You”) with rights under this Extended Warranty. The Customer’s rights and obligations under this Extended Warranty will bind and inure to the benefit of Customer’s respective successors, heirs, executors and administrators and permitted assigns and provides the following benefits to Customer:

- (i) **Standard Limited Warranty Extension:** BMX’s Standard Limited Warranty applicable to the



Instruments and Software will be extended for the Coverage Period of this Extended Warranty;

- (ii) **Instrument Repairs:** BMX will furnish labor, parts and/or replacement equipment necessary to repair operational or mechanical breakdowns of an Instrument;
- (iii) **Software Upgrades:** BMX will provide new versions, releases or upgrades of the Software, but only if and to the extent made generally available by BMX to its customers using comparable BMX-manufactured instruments during the Coverage Period of this Extended Warranty; provided, however, that BMX may require that Customer install and use a Software upgrade as a condition precedent to its continued services under this Extended Warranty;
- (iv) **Optional Instrument Recalibration and Quality Inspection:** No more than one (1) time during each yearly Coverage Period, Customer may return an Instrument for recalibration, maintenance and quality inspection;
- (v) **Telephone Support:** BMX currently offers twenty-four-hour telephone support by calling BMX's Customer Support Department subject to the terms, conditions and limitation of this Extended Warranty.
- (vi) **Remote Support:** Where applicable, Customer authorizes and grants permission to BMX to access the Instrument(s) through BMX's remote access tool as required to provide remote technical support. Customer shall provide a secure Internet connection and any reasonably requested information required to implement BMX's remote access solution.

**5. WARRANTY EXCLUSIONS.** This Extended Warranty excludes: (i) repairs which are not necessitated by operational or mechanical breakdown during normal use; (ii) normal wear and tear not resulting in operational or mechanical breakdown; decontamination required as a result of use and operation; (iii) theft, loss, or misplacement; cosmetic damage or other damage that does not affect functionality; (iv) problems arising from or related to misuse, neglect, accident, viruses or reckless, abusive, willful or intentional conduct; (v) problems arising from or related to external electrical power sources; improper maintenance, repair, or disassembly (including partial disassembly) by anyone other than BMX or its authorized representatives or using parts, accessories or supplies not provided by BMX; (vi) problems arising from or related to usage which is not in accordance with instructions in the user manual published by BMX for the Instrument or Software; (vii) problems arising from or related to failure to perform preventive maintenance as and when recommended by BMX in the user manual published by BMX for the Instrument; (viii) problems arising from or related to installation or execution of Software on any computer other than the computer sold by BMX with the Instrument or on any computer which contains or runs operating system or applications software other than software loaded or installed at the time of delivery of such computer by BMX; (ix) problems arising from any modification of the Instruments or Software without the prior written consent of BMX; (x) the cost of new or additional equipment, devices, parts or accessories (other than the Instrument or its component parts, to the extent covered under this Extended Warranty) or third party software (other than the Software) required as a condition of implementing any Software upgrade, new version, workaround; (xi) Third Party Items, except to the extent assignable or transferable, BMX assigns all manufacturer warranties of Third Party Items to its customers.

**6. INITIATING WARRANTY CLAIMS AND SERVICE.** In order to obtain service, contact Customer Support to evaluate the claim as directed above. Customer Support may ask Customer to report the issue in writing. BMX may attempt to resolve the problem over the telephone. If your problem cannot be resolved over the telephone, BMX will determine (in its sole discretion) the most practicable resolution, which may include one or more of the following: (i) shipment of new or reconditioned replacement parts on an exchange basis together with instructions for Customer to perform installation, (ii) shipment of a new or reconditioned replacement Instrument that is at least functionally equivalent to the original Instrument on an exchange basis, (iii) shipment of a new, in-service or reconditioned Instrument that is at least functionally equivalent to the original Instrument on a temporary "loan" basis, (iv) assistance from BMX's Field Support Specialists, or authorized distributors at Customer's location, or (v) issuance of a return material authorization (RMA) for Customer to return the Product for repair or replacement by BMX. If BMX elects to ship a replacement Product to Customer, the original Product becomes BMX property upon Customer's receipt of the



replacement. Customer must return the original Product to BMX within twenty (20) days after Customer's receipt of the replacement Product or pay BMX the retail value of the replacement Product.

**7. CUSTOMER REQUIREMENTS PRIOR TO RETURN FOR SERVICE.** If BMX elects to repair a defective Product in its facility, the defective Product must be received by BMX no later than thirty (30) days after the date BMX issued the RMA. Prior to shipping the defective Product to BMX, Customer must follow the return instructions specified by BMX including, without limitation, decontamination, data backup procedures, other procedures specified by BMX, and all shipping instructions. Failure to follow all instructions may result in delay of return of the Product. Customer is solely responsible for shipment of the Product to BMX free of any biological, chemical or organic materials, agents or toxins and otherwise in accordance with all applicable laws, rules and regulations, and BMX reserves the right to refuse delivery or return the product without service if Customer does not strictly comply with this requirement. Further, Customer is solely responsible for backing up any data to enable Customer to reconstruct or recover lost or altered data and for removing any confidential, proprietary or personal information. BMX disclaims responsibility for any lost, damaged or destroyed software program, data or other information stored on any data storage media or any part of any Product covered by this Limited Warranty, and BMX disclaims responsibility for deletion or alteration of the contents of any hard drive or data storage media which may occur during service of a Product. BMX is not responsible for the restoration or reinstallation of any programs or data other than software installed by BMX when the Instrument was originally manufactured. When making repairs, BMX reserves the right to use reconditioned or replacement items or parts that are at least functionally equivalent to original manufacturer specifications.

**8. WARRANTY SERVICE RESPONSE TIMES.** If a defective Product is sent to BMX under an RMA, BMX will repair or replace the Product and deliver it to a carrier for return shipment to Customer, as promptly as possible, and in most cases within ten (10) working days after BMX's receipt of the defective Product and all required RMA documentation. Except for incremental shipping costs as provided below, BMX will not be liable for any delay in providing services under this Extended Warranty.

**9. DOMESTIC SHIPPING AND INSURANCE COSTS.** BMX is responsible for all domestic costs of shipping, insurance and related costs of delivery of the BMX instrument (or defective component thereof).

**10. INTERNATIONAL SHIPPING AND INSURANCE COSTS AND ADDITIONAL REQUIREMENTS.** If an ITAR-controlled Instrument is to be returned to BMX from outside the U.S., Customer must first contact BMX's Customer Support Department for an RMA. Customer must follow all shipping instructions provided by BMX's Customer Support Department, including using BMX's designated shipper (if any). Failure to follow all instructions can result in a U.S. export violation, potentially necessitating acquiring a further export license. Further, shipping non-compliance may result in a several-week delay of the Instrument's return shipment to Customer. Customer will be charged a one-time flat handling fee of \$250.00 (Two Hundred Fifty United States Dollars) to offset shipment and return shipment costs, and BMX will pay all other international (OCONUS) costs of shipping, in transit insurance, duty, taxes and related costs, except that Customer bears all risk of loss or damage during transit. BMX will make all shipments in a commercially reasonable manner without obligation to incur any overnight, expedited or other special handling charges. However, when repair or replacement is covered under this Extended Warranty, if and to the extent BMX is unable to repair or replace the BMX instrument and deliver the BMX instrument to a common carrier for return shipment to Customer within ten (10) business days after the later of (i) its receipt by BMX or (ii) receipt by BMX of all required RMA documents or information from Customer, BMX will pay any incremental costs incurred for expedited delivery service to Customer. Except for such incremental shipping costs, BMX will not be liable for any delay in providing services under this Extended Warranty.

**11. ADDITIONAL CHARGES.** If BMX repairs or refurbishes an Instrument at Customer's request, in circumstances where such repair or refurbishment is not covered by this Extended Warranty, Customer will pay for such repair or refurbishment at BMX's then current standard repair and replacement fees, plus applicable taxes, shipping and insurance costs. Payment will be due and payable within thirty (30) days following the date of BMX's invoice. Payments are deemed made when received by BMX. Interest will



accrue on any unpaid balances at a rate of 1.5% per month (or the maximum legal interest rate allowed by applicable law, if less) from and after the due date.

**12. LIMITATIONS.** Except as expressly set forth above, BMX warrants only that its services under the Extended Warranty will be performed in a professional and workmanlike manner, consistent with its standard of care in the state and county in which its principal place of business is located. **BMX disclaims all other warranties, express or implied, regarding the services, including the implied warranties of merchantability and fitness for a particular purpose.** Some state laws do not allow the exclusion of implied warranties. Any implied warranties that may be imposed by law are limited in duration to the term of this Extended Warranty. Notwithstanding anything to the contrary in this Extended Warranty, in no event will the liability of BMX (whether arising from a claim based on contract, warranty, tort or otherwise), if any, to Customer under this Extended Warranty exceed the actual amount received by BMX in connection with its sale or distribution of the applicable Product(s). This limitation will apply regardless of the form of legal action. In the event BMX replaces an Instrument with a new or reconditioned Instrument that is at least functionally equivalent to original Instrument or reimburses Customer for the original purchase price, minus the cost of prior repairs of the Instrument (calculated at BMX's normal service labor and materials rates), BMX will have satisfied all of its obligations under this Extended Warranty. Repair or replacement of the Instrument, cure of the Software or refund of the Extended Warranty price, minus the cost of prior repairs, are Customer's exclusive remedies for breach of this Extended Warranty. To the maximum extent permitted by law, BMX will not be liable to Customer for indirect, special, incidental, or consequential damages arising from the services provided under this Extended Warranty, delay in furnishing services, or failure to furnish services, including without limitation, loss of data or software, loss of use or lost profits, whether based in contract, tort or otherwise, even if BMX has been advised of the possibility of such damages. Some states do not allow the limitation or exclusion of incidental or consequential damages, so the above limitations and exclusions may not apply to a particular Customer.

**13. MISCELLANEOUS.** The obligations of BMX under this Extended Warranty are backed by the full faith and credit of BMX. BMX is the Extended Warranty seller and provider. Each of the provisions and agreements herein contained will be binding upon and ensure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. BMX may assign its rights and delegate its duties under this Extended Warranty by written notice to Customer. This Extended Warranty and the Certificate of Coverage constitute the entire understanding of the parties with respect to the subject matter hereof. No amendment, modification, rescission or alteration of these terms will be binding unless made in writing, and signed by BMX. Every provision of this Extended Warranty is intended to be severable. If any term or provision is found illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Extended Warranty. BMX and Customer agree that the validity, construction and performance of this Extended Warranty will be governed by the laws of the State of Utah, USA (excluding any of its conflict of laws principles). Venue for any dispute or proceeding arising from or related to this Extended Warranty will be exclusively vested in any state or federal court located in Salt Lake County, State of Utah, USA, and each party irrevocably and unconditionally consents to the jurisdiction of such courts and irrevocably and unconditionally waives (i) any right to trial by jury and (ii) any claims, defenses or objections, whether substantive or procedural, based upon lack of personal jurisdiction, inconvenient venue or the like. Except to the extent expressly prohibited by applicable law, BMX and Customer will be prohibited, and hereby irrevocably and unconditionally waives any right to bring any claim, demand or cause of action arising from or related to this Extended Warranty more than one (1) year after the expiration of the Coverage Period of this Extended Warranty.

**For more information regarding BMX's Extended Warranty, or to receive a quote for coverage on your Instrument, please contact us at 1-800-735-6544. Be sure to have the serial number of your Instrument when requesting a quote.**