



Confidential
Standard Limited 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 STANDARD LIMITED 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, BMX, or through a third-party approved by BMX. “Software” means software developed and distributed by BMX. “Third-party Software” means software developed, sold, or licensed by a party other than 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. WARRANTY TERM.** This Limited Warranty begins when BMX gives Products to a carrier/shipper for delivery to Customer. The warranty is effective from that date for a period of twelve (12) months. Customer may purchase an extended warranty from BMX to cover Products beyond this initial twelve (12) month period. Instrument repairs and replacements are covered by this Standard Limited Warranty for (i) ninety (90) days after the date of repair or replacement or (ii) the remainder of the original warranty period, whichever is longer.
- 3. WARRANTY COVERAGE.** Subject to the terms and conditions herein, BMX warrants that:

 - (i) Instruments will be materially free from defects in material and workmanship, and will perform substantially in accordance with the Specifications in BFDX’s user manual;
 - (ii) Properly installed and executed software will operate substantially in accord with the Specifications when used with an Instrument sold by BMX or by a third-party approved by BMX;
 - (iii) Pouches will be materially free from defects in material and workmanship, and when properly stored and maintained by Customer in compliance with the user manual will be usable for at least the period of time stated on its label.
 - (iv) The original end-user customer (“You” “Your” or “Customer”) is the person with rights under this Limited Warranty. The Customer’s rights and obligations under this Limited Warranty will bind and inure to the benefit of Customer’s respective successors, heirs, executors and administrators and permitted assigns.
- 4. WARRANTY EXCLUSIONS.** This Limited Warranty excludes: (i) repairs or other services which are necessary because of any use that does not conform to the user manual; (ii) normal wear and tear other than an operational or mechanical breakdown; (iii) decontamination of an Instrument; (iv) theft or other loss; (v) damage that does not affect functionality; (vi) problems arising from or related to misuse, alteration, neglect, accident, or reckless, abusive, willful or intentional conduct; (vii) problems arising from or related to external electrical power sources; (viii) 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; (ix) problems arising from or related to Software on any device other than the device sold by BMX or through a third-party approved by BMX; (x) instruments, devices, consumables, or



accessories manufactured by any party other than BFDX, including assays, centrifuges, computers, monitors, printers or other peripheral accessories or devices, and Third-party software, including the device operating system or applications software (other than Software); and (xi) any cost incurred for additional equipment, parts, or accessories related to a Software upgrade or new version of the Software.

5. BENEFITS OF THIS LIMITED WARRANTY. This Limited Warranty provides the following benefits to Customer:

Loss or Damage During Shipping: In the event that Products are lost or damaged during shipping by a carrier, BMX will replace the Products upon notice from the Customer initiating a claim as provided by Section 7 below;

Instrument Repairs: BMX will furnish labor, parts and/or replacement equipment necessary to repair operational or mechanical breakdowns of an Instrument as provided by Section 3 above;

Software Upgrades: BMX will provide new versions, releases or upgrades of the Software as provided by Section 3 above, provided that BMX may require Customer install and use a Software upgrade as a condition precedent to continued services under this Limited Warranty;

Optional Instrument Recalibration and Quality Inspection: No more than one (1) time during the period of this Limited Warranty, Customer may return an Instrument for recalibration, maintenance and quality inspection; and

Telephone Support: BMX currently offers twenty-four-hour telephone customer support by calling BMX's Customer Support Department subject to the terms, conditions and limitations of this Limited Warranty.

6. ASSIGNMENT OF THIRD PARTY WARRANTIES. While BMX extends no warranty and has no liability or obligation with respect to Third Party Items, BMX assigns (to the extent permitted to do so) any applicable third party manufacturer warranties to Customer.

7. INITIATING WARRANTY CLAIMS AND SERVICE. In order to obtain warranty 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

8. CUSTOMER REQUIREMENTS 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.

- 9. WARRANTY RETURNS FROM OUTSIDE THE U.S.** If an ITAR-controlled Instrument is to be returned to BMX from outside the U.S., You must follow all steps set forth in Section 8. 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. Customers outside the U.S. may be required to seek further information from their authorized distributor.
- 10. 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 above, BMX will not be liable for any delay in providing services under this Limited Warranty.
- 11. BREACH.** In the event of any breach of this Limited Warranty: (i) as to Instruments, Your sole remedy will be for BMX to repair or replace the Instrument with new or refurbished parts, free of charge, at BMX's facility and (ii) as to Software or Pouches, Your sole remedy will be for BMX to repair, replace or correct such Software or Pouches (including, at BMX's election, replacement with a new version of the Software). This Limited Warranty specifically includes labor and materials. BMX will pay all costs associated with shipping and return shipping of Products only during the term of this Limited Warranty.
- 12. LIMITATIONS.** Except as expressly set forth above, BMX makes no further or additional representations or warranties of any kind or nature with respect to the Products. Any description of the Products contained on BMX's website or promotional materials is for the sole purpose of identifying them. No affirmation of fact or promise made by BMX, on its website or otherwise, will constitute a warranty that the Products will conform to the affirmation or promise. BMX DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, INTEROPERABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. BMX DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. The entire risk arising out of the use or performance of the Products remains with Customer. BMX will not be liable for loss of or damage to systems, programs, or data; cost of procurement of substitute goods, services, or technology; or any special, indirect, incidental, consequential, or exemplary damages including, but not limited to, damages for loss of business profits or business interruption, based upon principles of contract, warranty, negligence, strict liability or other tort, breach of any statutory duty, principles of indemnity or contribution, or any other theory of liability, even if BMX has been advised of the possibility of such damages. Notwithstanding anything to the contrary in this Limited 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 Limited Warranty exceed the actual amount received by BMX in connection with its sale or distribution of the applicable Product(s).
- 13. MISCELLANEOUS.**

 - (i) All Limited Warranty provisions and agreements will be binding upon and ensure to the benefit of the parties and their respective legal representatives, successors and assigns. BMX may assign its rights and delegate its duties under this Limited Warranty by written notice to Customer.
 - (ii) This Limited Warranty and the related 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.
 - (iii) Every provision of this Limited Warranty is intended to be severable. If any term or provision is



illegal or invalid for any reason whatsoever, such illegality or invalidity will not affect the validity of the remainder of this Limited Warranty.

- (iv) BMX and Customer agree that the validity, construction and performance of this Limited 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 Limited 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.
- (v) 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 Limited Warranty more than one (1) year after the expiration of the coverage period of this Limited Warranty.

14. U.S. GOVERNMENT-SPECIFIC PROVISIONS. BMX warrants to the U.S. Government that the Products delivered hereunder are merchantable and fit for use for the particular purpose described in the applicable contract. In the event that the terms of BMX's Limited Warranty conflict with the warranty terms contained in this clause, the terms of this clause will govern the contract, unless some other resolution is specified in the award document. Except as otherwise provided by an express warranty, BMX will not be liable to the United States Government, or any of its agencies, employees, or agents, in a breach of warranty action for consequential damages resulting from any defect or deficiencies in accepted items. In the event that the terms of BMX's Limited Warranty limitation of liability clause(s) place greater limits on BMX's liability than do the terms contained in this clause, the terms of this clause will govern the contract.

For more information regarding BMX's Limited or Extended Warranties, 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.