

**SCIEX**  
**SOFTWARE LICENSE TERMS**  
**SCIEX OS Software V 4.0**  
**(including any Add-Ons)**

**ATTENTION:**  
**PLEASE READ THIS DOCUMENT CAREFULLY.**  
**THIS SOFTWARE IS LICENSED AND NOT SOLD.**

**THIS SOFTWARE MAY ENABLE YOU TO TRANSFER DATA TO THIRD PARTY SERVERS AND NETWORKS.**

**THE USE OF THE SOFTWARE IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS STATED HEREIN. BY INSTALLING OR USING THE SOFTWARE YOU ACKNOWLEDGE THAT YOU HAVE READ THIS DOCUMENT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS.**

**1. DEFINITIONS**

- 1.1. **“SCIEX,” or “Us”** as used in this EULA, means AB SCIEX Pte. Ltd. (acting through itself or its SCIEX affiliates).
- 1.2. **“Add-Ons”** means any additional processing software (including, but not limited to Molecule Profiler, MarkerView, Allotrope Data Conversion, Tuning Tools and Chemspider) which may be licensed by You.
- 1.3. **“Authorized Number”** means one unless: (a) otherwise specified in Your quote from SCIEX to You; or (b) the Software uses registration codes, in which case the number of licensed copies of Software is controlled by the registration codes.
- 1.4. **“Cloud”** means third party servers and networks.
- 1.5. **“Concurrent License”** means a license which, if granted to You pursuant to the terms set forth in this EULA (as indicated in the applicable SCIEX quote and your matching Purchase Order), enables any concurrent user to use and access the licensed Software, provided that only the concurrent license number of users may use and access the Software and underlying materials at any one time.
- 1.6. **“Confidential Information”** means this Software and all non-public and sensitive information and materials divulged by SCIEX to You whether in writing, oral, graphic, electronic, visual or any other form and whether or not so marked or described as confidential. Materials shall not be considered Confidential Information to the extent such information or materials can be shown, by written record prior or contemporaneous evidence by You to have been: (a) available to the public prior to the date of disclosure to You or to have become available to the public thereafter without any unauthorized act or omission by You, (b) rightfully in Your possession prior to the date of disclosure to You and not otherwise restricted as to disclosure, (c) independently developed by You as evidenced by written records without reference to Confidential Information of SCIEX by persons who did not see or observe Confidential Information of Ab Sciex, or (d) disclosed to You without restriction by a third party who had a legal right to disclose and was not otherwise under an obligation of confidence with respect to the information disclosed.
- 1.7. **“Data”** means all information, files, or data uploaded to, provided to, stored on, created within, or created as a result of use of this Software, including further analysis or processing conducted on such information.
- 1.8. **“EULA”** means this SCIEX Software License Terms including any and all Appendices.
- 1.9. **“Open-Source Material”** means Open Source Software that may be applicable to this EULA including but not limited to Ruby, MIT, BSD, the Apache License, version 2.0, GNU General Public License, version 2, and the Artistic License.

- 1.10. "Open Source Software"** means all software or other material that is distributed as "free software," "open source software" or under similar licensing or distribution terms.
- 1.11. "Instrument"** means the device provided by SCIEX to be used in conjunction with the Software.
- 1.12. "Software"** means the one or more computer programs in object form that accompany this EULA including any updates, Add-Ons, additions and copies, and related explanatory materials.
- 1.13. "Sharee"** means any entity or software that accesses or receives Data shared to the Cloud.
- 1.14. "Subscription License"** means a license which, if granted to You pursuant to the terms set forth in this EULA (as indicated in the applicable SCIEX quote and your matching Purchase Order), enables a number of Users to access the Software. You must not allow set Users in excess of the number of Subscriptions you have purchased. Subscriptions cannot be shared or used by more than one User, but a Subscription may be permanently reassigned to another User. You are responsible for the security and confidentiality of Subscriptions and any associated log-in details and are responsible for all acts and omissions of anyone who accesses the Services and Support through their use (regardless of whether they are authorised or undertaken by you) unless they are caused by Our breach of this EULA. You must notify Us promptly if you are aware of unauthorised use of a Subscription. If you wish to purchase additional Subscriptions, you may contact Us. The associated fees and Subscription Terms of these additional Subscriptions will be discussed with you at the time. You can only reduce the number of purchased Subscriptions by notifying Us before the 1st day of your next Renewal. Subscriptions cannot be reduced during a Subscription Period and no refunds will be made for any non-use or reduction of Users.
- 1.15. "Subscription Term"** means initial Subscription Term will commence and expire in accordance with the start date and end date set forth on our quote and Your matching purchase order, unless earlier terminated in accordance with this EULA or our quotation terms and conditions. Thereafter, the Subscription shall automatically renew for additional one (1) year periods (or for such longer period as may be set forth on a renewal Order Form executed by the parties) unless either party gives written notice to the other of its intention not to renew the Subscription at least thirty (30) days prior to the expiration of the then-current Subscription Term. The initial Subscription Term, plus any subsequent renewal Subscription Term shall be the "Subscription Term". For the avoidance of doubt, the term of this Agreement shall be coterminous with the Subscription Term.
- 1.16. "You"** means the licensee authorized by this EULA to use the Software through the SCIEX quotation and Your matching purchase order or other legally binding agreement.

## **2. LICENSE.**

- 2.1. License Grant.** Subject to the terms and conditions of this EULA, SCIEX grants You (depending on the detailed SCIEX quotation) either a (i) a non-exclusive, non-transferrable, (except as related to the applicable Instrument designed to work with this Software), restricted license to use in conjunction with the applicable Instrument or the one applicable operating system, (ii) a Concurrent License, which is non-exclusive, non-transferrable (outside Your company) for the Authorized Number of computers and/or Authorized Number of networks per the SCIEX quote to you, or (iii) a Subscription License, which is non-exclusive, non-transferrable for the Authorized Number and specific individuals per the SCIEX quote to You.

You may make one copy of the Software in machine-readable form solely for backup or archival purposes. You must reproduce on any such copy all copyright notices and any other proprietary legends found on the original. You may not make any other copies of the Software.

- 2.2. Support; Upgrades.** This EULA entitles You to receive updates and upgrades, when and if released by SCIEX during the Warranty Period set forth in Section 16 herein. You are also entitled to limited phone and internet technical support related to the Software during the Warranty Period. You acknowledge this EULA does not entitle You to receive upgrades, updates or technical support related to the Software beyond the warranty period as set forth in Section 16.1. The aforementioned constitute additional services and may be purchased separately.

### **3. RESTRICTIONS.**

- 3.1. Ownership. You receive no title to or ownership of any copy or of the Software itself. You receive no rights to the Software except those explicitly stated in Section 2 of this EULA.
- 3.2. Instrument. If the Software is provided for use with the SCIEX instrument to You, You hereby agree to only use the Software in accordance with the operation and the manner that is described in the documentation provided by SCIEX. If such Software is for acquisition software on the Instrument, you agree to only use such Software on the Instrument in which it was installed.
- 3.3. You will not sublicense, copy, merge, modify, sell, resell, rent, lease, assign, transfer, publicly display, publicly perform, or distribute the Software, or create derivative works based on the Software, or any part thereof or any interest therein.
- 3.4. You will not attempt, cause, or permit others to reverse assemble, disassemble, decompile, modify, create any derivative works, or otherwise attempt, cause, or permit any reverse engineering of the Software or any part thereof, or attempt, cause, or permit any conversion of the Software into any human readable or perceivable form including deriving the Software's source code, or in any other way allow third parties to exploit the Software .
- 3.5. Intellectual Property. You will not remove any proprietary, copyright, trade secret, or warning legend from the Software.
- 3.6. Research use only; not for use in diagnostic procedures. You acknowledge and agree this Software is intended for and shall only be used by You for research use only and not for use in diagnostic procedures. This Software is not intended or designed by SCIEX, for any additional and/or alternative use that is not stated herein, including, but not limited to, the processing of personally identifiable information, or the direct care, diagnosing, or treatment of patients. You will assume the sole risk and liability for any use of this Software that is outside the scope or otherwise not permitted by this EULA and will indemnify and defend SCIEX for any use outside its intended use.

### **4. SHARING OF DATA; DATA OWNERSHIP; DE-IDENTIFICATION OF DATA**

- 4.1. This Software may provide features that enable you to share Data to the Cloud and that others (Sharees) may have access to or receive this Data. Unless otherwise stated herein, You acknowledge that you have the authority to share Data to the Cloud. You acknowledge that SCIEX is not a party to any arrangement between you and any Sharee of Data. Subject to the terms in Sections 13, 14 and 15, of this EULA, you acknowledge that SCIEX has no liability arising out of your sharing of Data and has no obligation to assist you in resolving disputes arising from your sharing of Data.
- 4.2. When uploading, transmitting, or modifying Data that contains personally identifiable information, including without limitation, Data consisting of genomic information (whether whole genome sequences or portions), you agree that you will not, in connection with or through this Software, provide any personally identifying information or personal information or personal data as defined by applicable law (e.g, HIPAA, The General Data Protection Regulation (EU) 2016/679), Personal Data Protection Act 2012 (No. 26 of 2012)).

### **5. VERSION STATUS**

- 5.1. You understand and agree that in order to determine whether the Software version is up-to-date, this Software requires a constant connection to the internet. It uses https protocol, port 443. If your internet connection is disrupted, you will not be able to use the Update Feature.
- 5.2. In accepting the terms of this Agreement, you further agree that version data will be stored and processed anonymously at SCIEX or its vendors to improve Sciex products and services (though itself, its affiliates, distributors and its suppliers).

### **6. CONFIDENTIALITY**

- 6.1. You shall not use the Confidential Information of SCIEX except in the course of the activities permitted in this EULA. You shall maintain the confidentiality of the Confidential Information of SCIEX with at least the same degree of care you use to protect your own proprietary information of a similar nature or sensitivity, but with no less than reasonable care. Unless explicitly stated otherwise in this EULA You shall not disclose any Confidential Information to any third party without the written consent of SCIEX. You shall be responsible to SCIEX for the acts and omissions, and for compliance with the confidentiality and non-use obligations set forth in this Section 5 , of any person or entity to whom or to which SCIEX's Confidential Information was disclosed by Recipient.
- 6.2. In the event that You become legally required to disclose any such Confidential Information, You shall provide Ab Sciex with prompt notice so that SCIEX may seek a protective order or other appropriate remedy or waive compliance with the provisions of this EULA. In the event that such protective order or other remedy is not obtained, You shall furnish only that portion of the Confidential Information which is legally required to be furnished in the opinion of Your legal counsel. Disclosure pursuant to this Section shall not be deemed an exception under this EULA.
- 6.3. Remedies. You agree and acknowledges that an impending or existing violation of any provision of Section 6 (Confidentiality) will cause SCIEX irreparable harm and significant injury for which SCIEX may have no adequate remedy at law. You agree that in such event, SCIEX shall be entitled to immediate equitable relief, including injunctive relief and specific performance, in addition to any other remedies available to Ab Sciex.
- 6.4. The obligations of this Section shall survive termination of this EULA

## **7. THIRD PARTY SOFTWARE & RESTRICTIONS.**

- 7.1. This Software may include software products licensed by third party providers, including Open Source Software, as set forth in Appendix A. In addition, the Software may enable you to run multiple instances of third-party software and application programs. Such third party's software is provided "As Is" and use of such software shall be governed by the terms and conditions as set forth in Appendix A (Third Party Products Additional Licensing Terms & Conditions). In the event such terms and conditions are not provided in Appendix A, such third party's software are provided "As Is" without any warranty of any kind and the terms and conditions of this EULA shall apply to all such third party software providers and third party software as if they were SCIEX and the Software respectively. You will assume fully responsible for reviewing and complying with any licenses necessary to use any such third-party software. Such licenses may be included in your SCIEX installation package. You are responsible for complying with any third-party provider terms, including its privacy policy. SCIEX does not provide support or guarantee ongoing integration support for products that are not a native part of the SCIEX technology.
- 7.2. The Parties acknowledge that certain software provided under this EULA may include Open Source Software, and that any use or distribution of such software shall be subject to the terms and requirements of the license applicable to such Open Source Materials.

## **8. OWNERSHIP OF SOFTWARE.**

- 8.1. You acknowledge that the Software in human-readable/source code form, including its structure, sequence, and organization, is and remains the confidential trade secret of SCIEX. The Software, including its structure, organization, code, user interface and associated documentation, is a proprietary product of SCIEX or its suppliers, and is protected by international laws of copyright. The law provides for civil and criminal penalties for anyone in violation of the laws of copyright.
- 8.2. Title, ownership rights and intellectual property rights in and to the Software shall at all times remain with SCIEX or their respective owners. All rights not specifically granted by this EULA, including federal and international copyrights, are reserved by SCIEX or their respective owners.

9. **CLOUD SERVICES.** As applicable, You shall abide by any third-party terms and conditions that may be required for the use of any Cloud services that You may use in conjunction with the Software.

10. **TRIAL VERSIONS.** You acknowledge that any Software that is provided to You on a trial basis, may automatically cease functioning or be discontinued by SCIEX at the end of the trial period.

11. **EXPORT REQUIREMENTS.** If you export, re-export or import the Software, technology or technical data

licensed hereunder, you assume responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. You will not export, re-export or import, directly or indirectly, the Software into any country prohibited by the United States Export Administration Act and the regulations thereunder or other applicable United States law. SCIEX may terminate this EULA immediately if you are in violation of any applicable laws or regulations. Compliance with Laws. Each party will comply with all laws and regulations applicable to their respective obligations under this EULA. Cisco may restrict the availability of the Cisco Technology in any particular location or modify or discontinue features to comply with applicable laws and regulations.

**12.** If You use the Software in a location with local laws requiring a designated entity to be responsible for collection of data about individual end users and transfer of data outside of that jurisdiction (e.g. Russia and China), You acknowledge that You are the entity responsible for complying with such laws.

**13. U.S. GOVERNMENT END USERS.** The Software is a "commercial item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein.

**14. EUROPEAN UNION END USERS.** If this Software is used within a country of the European Union nothing in this EULA shall be construed as restricting any rights available under the European Union Computer Programs Directive including Directive 2009/24/EC.

**15. INDEMNIFICATION.** To the maximum extent permitted by law, You shall defend, indemnify and hold harmless Ab Sciex, its affiliates, and their respective directors, officers, employees, and agents from and against any and all claims, actions, suits or proceedings brought by a third party, and pay all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) arising out of or related to Your alleged or actual misuse of this Software for any purpose that is not explicitly stated herein. This includes, but is not limited to, claims related to unauthorized disclosure or exposure of personally identifiable information.

**16. LIMITED WARRANTY and LIMITATION OF REMEDIES.**

**16.1.** SCIEX warrants that for a period of three-hundred-sixty-five (365) days from the date of shipment to you by SCIEX or its authorized distributors of the media on which the Software is stored ("**Warranty Period**"), (a) such media will be free from defects in materials or workmanship and (b) the Software will comply substantially with the written specifications for the Software. If during the Warranty Period, the media on which Software is delivered proves to be defective, SCIEX will repair or replace such media, at SCIEX's option. If during the Warranty Period, the Software fails to comply substantially with its written specifications, SCIEX will repair or replace the Software to substantially comply with the written specifications, or, at SCIEX's option, refund the fees paid by You for the Software that exhibits such noncompliance. This shall be Your sole remedy and SCIEX's sole responsibility for any breach of warranty hereunder. You assume full responsibility for: (i) the selection of the Software; (ii) the proper installation and use of the Software; (iii) verifying the results obtained from the use of the Software; and (iv) taking appropriate measures to prevent loss of Data. Notwithstanding anything to the contrary in this EULA and without in any way limiting SCIEX's other disclaimers of warranties, SCIEX does not warrant that the quality or performance of the Software will meet your requirements or that you will be able to achieve any particular results from use of the Software or that the Software will operate free from error.

**16.2.** EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE SOFTWARE IS LICENSED TO YOU "AS IS" AB SCIEX MAKES NO OTHER WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY OR NON-INFRINGEMENT. ALL OTHER WARRANTIES ARE EXPRESSLY DISCLAIMED.

**17. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT ALLOWABLE BY APPLICABLE LAW, IN NO EVENT SHALL SCIEX BE RESPONSIBLE OR LIABLE IN CONTRACT, TORT, WARRANTY OR UNDER ANY STATUTE OR ON ANY OTHER BASIS FOR SPECIAL, INDIRECT, INCIDENTAL, MULTIPLE, PUNITIVE, OR CONSEQUENTIAL DAMAGES, EVEN IF SCIEX IS ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES ARISING FROM OR RELATED TO LOSS OF USE, LOSS OF DATA, DOWNTIME, OR FOR LOSS OF REVENUE, PROFITS, GOODWILL OR BUSINESS OR OTHER FINANCIAL LOSS. IN ANY CASE, THE ENTIRE LIABILITY OF SCIEX AND ITS AGENTS,

CONSULTANTS, CONTRACTORS AND SUPPLIERS UNDER THIS EULA, OR ARISING OUT OF THE USE OF THE SOFTWARE, SHALL NOT EXCEED THE AGGREGATE OF THE AMOUNT OF FEES PAID BY YOU TO SCIEX FOR THE SOFTWARE UNDER THIS EULA FOR THE PRECEEDING 12 MONTHS FROM THE DATE OF A CLAIM MADE BY YOU OR ON BEHALF OF YOU.

- 18. TERM.** This EULA will remain in effect for (i) perpetuity in the event you have purchased a perpetual license or (ii) an explicit amount of time as stated in SCIEX's Quote to you unless (in either case) such EULA license is terminated as specifically authorized herein.

**19. TERMINATION.**

**19.1. Convenience.** You may terminate this EULA for convenience by providing thirty (30) days written notice to SCIEX discontinuing use of the Software, removing any and all copies from your computers and storage media, and returning the Software, any related documentation, and all copies thereof, to SCIEX. If terminating at installation of new perpetually licensed Software within 30 days of installation by SCIEX, You may terminate this EULA by discontinuing use of the Software, removing all copies from your computers and storage media, and returning the Software, and all copies thereof, to SCIEX.

**19.2. Breach.** SCIEX may terminate this EULA for breach if You fail to comply with any of its terms or the applicable terms of Your Quote.

**19.3. Effects of Termination.** Upon termination of this EULA You will discontinue using the Software, remove all copies from your computers and storage media, and return the Software, and all copies thereof, to SCIEX. In no event shall SCIEX have an obligation to repay license fees received by You in the event of Termination.

- 20. JURISDICTION.** This EULA shall be governed by laws of the Commonwealth of Massachusetts, U.S.A., exclusive of its conflict of law's provisions. This EULA shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods

- 21. SOFTWARE IMPROVEMENTS.** You acknowledge and agree that SCIEX may collect, process, and use technical information and that is gathered as part of any feedback, maintenance, and support services provided to You, for Software improvement and business use, provided that such information is de-identified.

- 22. END OF LIFE.** If, during the term of this EULA, SCIEX discontinues the Software then SCIEX shall provide You notice of such discontinuation on SCIEX.com as soon as reasonably practicable and may, in its sole discretion, either (i) substitute the discontinued Software with one of comparable quality and effectiveness; or (ii) terminate the discontinued Software.

- 23. FORCE MAJEURE.** No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of this EULA to the extent the aforementioned are caused by acts of war, terrorism, hurricanes, tornados, earthquakes, pandemics, or other acts of God, or by nature, strikes or other labor disputes, riots or other acts of civil disobedience, embargos, or other cause beyond either parties' reasonable control.

**24. GENERAL**

- 24.1. Entire Agreement.** This EULA constitutes the complete agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements or understandings, whether oral or written.
- 24.2. Severability.** If a court of competent jurisdiction holds any provision of this EULA invalid or unenforceable for any reason, that provision will be enforced to the maximum extent permissible, and the remaining provisions of this EULA will remain in full force and effect.
- 24.3. Language.** The controlling language of this EULA, and any proceedings relating to this EULA, shall be English. You agree to bear any, and all costs related to translation, if necessary.
- 24.4. Headings.** The headings to the sections of this EULA are used for convenience only and shall have no substantive meaning.
- 24.5. Contact.** All questions concerning this EULA shall be directed to: SCIEX, 250 Forest Street, Marlborough, MA, 01752, U.S.A., Attention: Legal Department.

## **APPENDIX A**

### **THIRD PARTY SOFTWARE**

This software may use third party software components from several sources including open source. Portions of these software components may be copyrighted and licensed by their respective owners as indicated below. Various licenses require distribution of source code or if a link is used to point the end-user to a source-code repository, and the source code is not available at such site, the distributor must, for a time determined by license, offer to provide source code. References to such licenses and notices may be found in this appendix.

---

### **SELECTION (BUT NOT ALL) THIRD PARTY PRODUCTS ADDITIONAL LICENSING TERMS & CONDITIONS THAT MAY BE APPLICABLE**

The following is a non-exhaustive list of all third party software, including free and open source software as well as proprietary third party code, that is delivered with or as part of the Software. Please note Microsoft licenses are governed by the following terms and conditions depending on the software:

<https://www.microsoft.com/en-us/licensing/product-licensing/products.aspx>

Cloud Services:

AWS CLI

Amazon hosting services: <https://aws.amazon.com/legal/service-level-agreements/>