

CONDITIONS OF OFFER

1. These terms and conditions apply to any quotation given to the customer identified therein ("the Customer") by or on behalf of AB Sciex Australia Pty Ltd ACN 139 252 752752 ("SCIEX") in respect of the sale of equipment and/or the provision of services.
2. The Customer will be deemed to have agreed to these terms and conditions upon it placing an order pursuant to a quotation.
3. Any quotation given by SCIEX will not constitute an offer, but merely an invitation to treat on these terms and conditions, subject to which SCIEX will be prepared to consider an offer from the Customer. Such offer will take the form of an order pursuant to the quotation and, unless expressly accepted in writing, will be deemed to be accepted by SCIEX upon it taking steps to comply with the order. The acceptance of an order is subject to the issuance of an export license from the relevant country of manufacture.
4. No additions or modifications to these terms and conditions will be valid unless expressly agreed to in writing by both parties. These terms and conditions are subject to the laws of Victoria, Australia and both parties submit to the non-exclusive jurisdiction of the courts of that State.
5. Equipment delivery schedules are approximate only and are based on circumstances at the time of acceptance of an order. SCIEX will take all reasonable steps to ensure that delivery schedules are adhered to and it will not be liable for any loss or damage suffered by the Customer as a result of delay or inability to deliver which arises out of acts of God, fire, flood, wars, embargoes, labour disputes, acts of sabotage, riots, accidents, delays of carriers, governmental act, regulation or request, shortage of labour, materials or manufacturing facilities, or any other thing beyond SCIEX's reasonable control.
6. The Customer will inspect equipment immediately upon delivery and has 5 days from the date of delivery in which to notify SCIEX if the equipment does not conform with the order. If the Customer does not so notify SCIEX, the Customer will be deemed to have accepted delivery of the equipment and will be bound to pay the associated invoice.
7. Partial deliveries of equipment will be accepted by the Customer and paid for in accordance with the prices in the quotation upon the maturity of the associated invoice. The Customer will remain bound by the original order and SCIEX will complete same as soon as practicable.
8. If equipment is delivered which the Customer believes does not comply with an order, the Customer will remain bound by the original order. To the extent that SCIEX in its reasonable opinion agrees that any or all of the delivered equipment does not comply with the order, it will replace such non-compliant equipment as soon as practicable.
9. Equipment will be packed for shipment in the method chosen by SCIEX. Title to and risk of loss or damage to equipment will pass from SCIEX to the Customer or its nominated agent after delivery to the Customer's nominated place of destination.
10. Notwithstanding any other provision of these terms and conditions, SCIEX warrants that the equipment corresponds with all applicable specifications, is free from defects in material and workmanship, and will remain so for a period of 12 months from the date of delivery. Except as required by law, any parts not of SCIEX's own manufacture and incorporated into the equipment, or sold by SCIEX, carry their manufacturers' warranties, if any, only.
11. The Customer acknowledges that certain parts of equipment such as tubes, detectors, furnaces, heaters, sources, absorption cells and parts that come into contact with any liquid such as seals, filters and gaskets, by their nature may not function for the basic 12 month warranty period. If such parts fail to properly function for a reasonable period of time, as determined in SCIEX's reasonable opinion, SCIEX will repair or replace them at no charge to the Customer. Otherwise, such parts will be repaired or replaced at SCIEX's then prevailing rates for service.
12. Any warranty claim by the Customer must be in writing, contain full particulars, and be submitted to SCIEX within 15 days of when the cause of the claim first came to the Customer's attention. The relevant equipment must be held intact by the Customer so as to be available for inspection by SCIEX.
13. Equipment returned to SCIEX subject to a warranty claim will be accepted on the condition that should SCIEX in its reasonable opinion reject the claim, all costs directly incurred by SCIEX (including the cost of transport to and from the premises of SCIEX and inspection) will be paid by the Customer.
14. The decision to repair or replace any parts of the equipment will be made by SCIEX on the basis of which approach will provide the Customer with the best service. Parts replaced or otherwise utilised in the repair of the equipment may be either new or refurbished at the discretion of SCIEX.
15. To the full extent permitted by law, all conditions, warranties and representations implied by statute, common law or otherwise, in relation to the equipment or services provided by SCIEX to the Customer are hereby excluded.
16. The liability of SCIEX for a breach of any express warranty in these terms and conditions, or any implied warranty, condition or representation that is not permitted by law to be excluded, is limited to (the choice of which is at the discretion of SCIEX):
 - (a) in the case of equipment:
 - (i) replace the equipment or supply equivalent equipment;
 - (ii) repair the equipment;
 - (iii) pay to the Customer the cost of replacing the equipment or acquiring equivalent equipment; or
 - (iv) pay to the Customer the cost of having the equipment repaired; and
 - (b) in the case of services:
 - (i) provide the services again; or

(ii) pay to the Customer the cost of having the services provided again

17. To the full extent permitted by law, SCIEX will not be liable for any defects in the equipment which are the result of:

- (a) improper use or mismanagement of the equipment by the Customer;
- (b) operation of the equipment other than in accordance with the operating manual supplied by SCIEX;
- (c) use of the equipment in a manner which is not reasonably contemplated by SCIEX;
- (d) use of the equipment with parts or reagents which have not been approved by SCIEX;
- (e) modification of the equipment not authorised by SCIEX;
- (f) subjection of the equipment to unusual or unrecommended physical, environmental or electrical stress;
- (g) reinstallation or moving of the equipment by a person other than SCIEX;
- (h) the Customer's failure to comply with any of these terms and conditions; or
- (i) the Customer's failure or refusal to install engineering changes or enhancements recommended by SCIEX.

18. Notwithstanding any other provision of these terms and conditions, to the full extent permitted by law, SCIEX will not be liable to the Customer for any indirect, consequential, incidental, punitive or special loss (including, without limitation, loss of profits, business, interest or anticipated savings) howsoever arising and whether or not caused by the negligence of SCIEX, its employees, agents or contractors.

19. SCIEX retains ownership of all dies, tools and fixtures, whether mechanical, electrical, electronic or optical in nature, which are created for the purposes of providing equipment or services to the Customer. Further, SCIEX retains ownership of all intellectual property rights in such dies, tools and fixtures and any equipment provided to the Customer which is of SCIEX's own manufacture.

20. The Customer hereby indemnifies SCIEX from and against all loss or damage suffered by it as a result of any claim for infringement of third party intellectual property rights in equipment manufactured, either in whole or part, by SCIEX to the Customer's specifications.

21. In providing services to the Customer, SCIEX will take all reasonable steps in the circumstances to provide those services as soon as practicable. The provision of services will be scheduled at a time mutually agreed upon by SCIEX and the Customer. Unless otherwise agreed, services will be provided during normal business hours (ie. 9:00am to 5:00pm, Monday to Friday excluding public holidays).

22. After installation, repair or servicing of the equipment as the case may be, any realignment, readjustment, recleaning or recalibration of the equipment which does not relate to a proven defect in material or workmanship will be carried out at the Customer's expense at SCIEX's then prevailing rates for service.

23. Responsibility for warranty, installation, commissioning, training and technical support for designated third party-supplied equipment listed on a quotation will be undertaken solely by the supplier of such equipment. Under no circumstances will SCIEX be responsible for warranty, installation, commissioning, training or technical support for such designated third party-supplied equipment.

24. Where a quotation for the provision of services specifies a fixed period of time during which such services will be provided, either party may terminate the provision of those services before the expiry of the fixed period by giving at least 30 days written notice. Such termination will be effective 30 days after the receipt of such notice, or at a later date if one is so specified in the notice ("Termination Date"). Termination cannot be made effective prior to 30 days after the notice is received. SCIEX will cease performance of the relevant services on the Termination Date unless the Customer specifies an alternative earlier date in writing ("Cessation Date"). In that event, SCIEX will cease performance on the Cessation Date.

25. In the event of termination under clause 24, SCIEX will calculate, in its reasonable opinion, the total price of services actually performed and expenses actually and reasonably incurred in providing the relevant services up to the Termination Date.

The Customer's total payment obligation to SCIEX will equal:

- (a) the amount so calculated; or
- (b) the prorated price of providing the services up to the Termination Date, whichever is greater.

26. Any payments made by the Customer to SCIEX in excess of the amount derived under clause 25 shall be credited to the Customer's account within 30 days of the Termination Date or Cessation Date as the case may be. Any unpaid portion of this amount will be immediately due upon the Customer's receipt of an invoice from SCIEX.

27. The Customer is responsible for the ultimate payment of all taxes which may be assessed or levied on or on account of any equipment or services provided to the Customer. Prices are subject to change due to any Federal or State laws taxing raw or processed materials or governing the working hours or compensation of labour.

28. Unless otherwise agreed, quoted equipment prices include installation. The price for itemised equipment parts will be SCIEX's list price prevailing at the date of shipping unless otherwise specified in the quotation.

29. Delivery of equipment is Freight Pre-paid to the Customer's nominated place of destination. SCIEX will arrange appropriate shipping, the cost of which will be included in the SCIEX invoice. Where the delivery destination is outside Australia, the Customer will also be responsible for the payment of any applicable taxes, customs or import duty and other charges imposed in the country of destination.

30. The Customer will pay SCIEX's invoices within 30 days of the invoice date. There is no cash discount.

31. These terms and conditions are governed by the laws of the State of Victoria, Australia and the parties irrevocably agree to submit to the non-exclusive jurisdiction of the courts thereof.