

General Terms and Conditions of Business

1) DEFINITIONS

a) "ACL" means the Australian Consumer Law set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth), as amended from time to time;

b) "Customer" means the consumer/buyer of the Goods as defined in section 3 of the Australian Consumer Law;

c) "Goods" means the products and services offered by Eppendorf.

d) "Eppendorf" means Eppendorf South Pacific Pty. Ltd., Level 1, 97 Waterloo Road, Macquarie Park, NSW 2113;

e) "Terms" means these terms and conditions and any agreement entered into for the provision of Goods by Eppendorf to the Customer including but not limited to any credit application made by the Customer to Eppendorf.

2) BINDING AGREEMENT / TERMS OF SALE

Unless otherwise agreed in writing, the Customer will be bound by these Terms if the Customer places a purchase order with Eppendorf by any means (i.e., letter, fax, email, phone, or clicks the "Submit / Checkout" button on the Eppendorf eShop web site).

Eppendorf is not bound by any Terms contained in any document issued by the Customer, unless previously agreed to in writing.

Eppendorf's quotation, promotional offers, eShop prices and offers, and these Terms constitute the entire agreement between Eppendorf and the Customer for each order.

3) ACCEPTANCE & SUPPLY OF ORDERS

Eppendorf reserves the right to accept or reject any order for Goods and may withhold Goods contracted to be sold if there are reasonable grounds to doubt the solvency of the Customer. In such circumstances the Customer agrees that Eppendorf may withhold Goods without repudiating the contract and without incurring any liability whatsoever.

The supply of Goods is subject to availability. Eppendorf reserves the right to suspend or discontinue the supply of Goods or services to the Customer. If Eppendorf is unable to supply all of the Customer's order, these Terms continue to apply to any part of the order supplied.

Eppendorf accepts no responsibility whatsoever for errors in dimensions, quantities, specifications or otherwise where orders for any Goods are placed on Eppendorf by the Customer other than in writing.

4) ORDER CANCELLATIONS

Following receipt of a purchase order from the Customer, Eppendorf will issue an Order Confirmation. Such confirmed orders cannot be cancelled without prior written approval from Eppendorf.

5) PRICES & GST

a) Unless otherwise stated, all prices quoted are exclusive of GST.

b) Prices are recommended prices only at the date of quotation and may be subject to change without notice. They may also vary due to fluctuations in exchange rates, rates of freight, insurance, customs duties, shipping expenses, packing, sorting and stacking charges, cartage, installation, and cost of materials and production.

c) Any GST or similar tax imposed by law on the supply of the Goods or services will be recoverable from the Customer.

d) Eppendorf charges a fee of \$30 per order when the order value is \$150.00 or lower, excluding GST, unless otherwise agreed in writing, except for eShop orders which are not subject to a minimum order value.

6) DELIVERY

a) Unless otherwise agreed in writing by Eppendorf, delivery is at the Customer's premises.

b) The time of delivery in any quotation represents the time at which the Goods are to be ready for despatch from Eppendorf's distribution centres and further time is to be allowed to cover transit to points of delivery. If a delivery or installation date is specified Eppendorf will use its best endeavours to make delivery on the specified date. That date is an estimate only and the Eppendorf is not liable for any loss or damage sustained by the Customer or any person due to delay in delivery or installation.

b) Eppendorf will make all reasonable efforts to have the Goods delivered to the Customer on the date agreed between the parties as the delivery date. However, Eppendorf will not be liable for late or non-delivery or any loss, damage or delay occasioned to the Customer or its customers arising from late or non-delivery or late installation. The Customer acknowledges that delivery does not include unloading from the carrier upon arrival at the place of delivery, unless otherwise specified (e.g. in a quotation, contract or similar).

c) Eppendorf reserves the right to make a reasonable charge for storage if delivery instructions are not provided by the Customer within fourteen days of a request by Eppendorf, or if the Customer requires delivery to be postponed or is unable to receive the Goods for any reason. Eppendorf may store the Goods at its own or other premises at the Customer's risk.

d) Packaging materials and method of consignment shall be at Eppendorf's discretion. A special charge may be made to meet the cost of the Customer's specific packaging or consignment requirements.

e) Unless otherwise stated in a quotation or contract/agreement, Eppendorf will charge at least \$45 (excl. GST) per order for deliveries to the Customer in Australia.

f) In the case of Goods which Eppendorf undertakes to install, it is the Customer's responsibility to provide any service utilities required, including electric power outlets, drains, water outlets, etc. Any hire costs for special handling equipment and any associated charges will be additional for the Customer's account. Installation will be made at the time specified in the order and the Goods will be at the Customer's risk.

7) PASSING OF RISK & TITLE

Goods supplied by Eppendorf to the Customer are at the Customer's risk and Customer retains title immediately on delivery to the Customer in accordance with clause 5. Title to any software incorporated within or forming part of the Goods shall at all times remain with Eppendorf or the licensor(s) thereof. The Customer must insure the Goods at its cost from delivery of the Goods until they are paid for in full against such risks as are usual or common to insure against in a business of a similar nature to the Customer.

8) PAYMENT

a) Unless agreed otherwise, if the Customer has an approved credit account, payment must be made in full within 30 days of the date of invoice.

b) Payments via credit card may attract an administration fee.

c) If any part of an invoice is in dispute, the balance will remain payable and must be paid when due. The Customer has no right to offset any claim against Eppendorf from monies owing to Eppendorf.

9) CUSTOMER DEFAULT

If the Customer does not make payment by the due date; or, exceeds its credit limit at any time; or, commits any other material breach of these Terms; or, an insolvency event in respect of the Customer arises or is reasonably suspected by Eppendorf, Eppendorf may (without limiting any other right or claim it may have against the Customer) do any or all of the following:

a) charge the Customer interest calculated on a daily basis on any portion of the Customer's account that is overdue at the RBA official cash rate plus 4.5% p.a. calculated from the date the payment was due until the date the payment is made;

b) vary or withdraw any approved credit limit and/or Terms of trade;

c) cancel or suspend any unfilled orders or cease providing the services;

d) terminate any orders or contracts between Eppendorf and the Customer and demand immediate payment of any monies due and outstanding under those orders or contracts;

f) cancel any rebate, discount or allowance due or payable by Eppendorf as at the date of the event;

g) enter (at any time) any premises in which Eppendorf's Goods (including any merchandising materials) are stored, to enable Eppendorf to inspect the Goods and to reclaim possession of the Goods without liability for the tort of trespass, negligence or payment of any compensation to the Customer whatsoever;

h) lodge a caveat or other similar instrument over any property of the Customer; or

i) institute any recovery process as Eppendorf in its discretion decides at the Customer's cost and expense.

10) FORCE MAJEURE

If Eppendorf is prevented from or delayed in performing any of its obligations under the contract by force majeure, including

but not limited to strikes, lock outs or other industrial action, whether or not caused by or involving employees of Eppendorf, then Eppendorf may give notice in writing to the Customer of the circumstances constituting force majeure and the obligation which is delayed or prevented from being performed and shall then be excused from compliance with such obligation for as long as force majeure continues.

11) LIABILITY

a) Except as specifically set out in these Terms or contained in any warranty statement provided with the Goods, any term, condition, warranty or consumer guarantee in respect of the Goods, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded to the maximum extent permitted by law.

b) Repair or replacement of the Goods, or part of the Goods or the re-supply of services or payment for the re-supply of services is the absolute limit of Eppendorf's liability howsoever arising under or in connection with the sale, use of, storage or any other dealings with the Goods by the Customer or any third party to the maximum extent permitted by law.

c) Eppendorf is not liable for:

i) any indirect or consequential losses or expenses suffered by the Customer or any third party, however caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party;

ii) any loss or damage suffered by the Customer or any third party where Eppendorf fails to meet any delivery date or cancels or suspends the supply of Goods; and

iii) any loss or damage suffered by the Customer in relation to any services provided by the Customer's servants or agents.

d) Nothing in the Terms is to be interpreted as excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of Goods which cannot be so excluded, restricted or modified.

e) The Customer acknowledges that it has the sole responsibility of satisfying itself that the Goods are suitable for the Customer's use or contemplated use.

f) Subject to the ACL.

12) WARRANTY

a) Eppendorf offers a limited warranty for its Goods against defects and workmanship and materials, subject to the limitations and exclusions set out in this warranty which is given subject to and in addition to other rights and remedies the Customer has under any law in relation to the Goods to which this warranty relates, including but not limited to the rights provided by the ACL. This warranty does not limit or restrict the Customer's rights.

b) Where the ACL applies (Goods under \$40,000), the Goods come with guarantees that cannot be excluded under the ACL. The Customer is entitled to replacement or a refund for a major failure and for compensation for any other foreseeable loss or damage. Eppendorf may decide to repair, replace or refund products if the Goods are considered to have a minor failure.

c) Eppendorf warrants that, subject to the exclusions and limitations set out in these Terms, the Goods provided by Eppendorf will be free from defects in materials and workmanship under normal usage ("Warranty"), for the Goods' specified warranty period from the date of invoice ("Warranty Period").

d) To the maximum extent permitted by law, this Warranty does not cover:

i) products packaged or labelled by someone other than Eppendorf or its authorised dealers;

ii) products not used in compliance with the specifications or Goods not cared for or used, serviced or maintained in accordance with the product manuals, instructions or training provided by Eppendorf;

iii) defects due to misuse, alteration, unauthorised repair or negligent handling, or defects due to lack of care, neglect or accident by the Customer, or servant or agent of the Customer, including but not limited to storage or handling of the Goods;

iv) personal injury, property damage, consequential or economic loss, however caused;

v) modification, repair or alteration of the Goods by someone other than Eppendorf; or

vi) Goods that have been subject to abnormal conditions, whether of temperature, water, humidity, pressure, stress or similar.

e) To the maximum extent permitted by law and other than the Warranty stated above, Eppendorf makes no representations or warranties of any kind whatsoever express or implied in respect of the Goods.

f) All warranty claims must be made within the timeframe stipulated in this warranty for the Warranty to be honoured by Eppendorf.

g) If a defect appears in the Goods before the end of the Warranty Period and Eppendorf finds the Goods to be defective, Eppendorf will, in its sole discretion, either:

i) replace or repair the Goods or the defective part of the Goods free of charge;

ii) cause the Goods or the defective part of the Goods to be repaired or replaced free of charge; or

iii) refund the purchase price of the Goods to the Customer if the defect is considered major according to the ACL.

h) If a fault covered by this Warranty occurs in relation to Goods, the Customer must notify Eppendorf in writing to info@eppendorf.com.au or by telephone by calling (02) 9889 5000 to advise of the fault, including details of the nature of the warranty claim and the purchase order and invoice number as well as item, batch and/or serial number. Eppendorf will contact the Customer and, where possible, assess the claim over the telephone.

i) Provided that a claim is made within the Warranty Period and the Warranty applies, all direct costs associated with the replacement of the Goods will be borne by Eppendorf. Eppendorf may, in its sole discretion choose to have the Goods returned to Eppendorf for any warranty investigation or replacement or repair, with the costs of transport each way to be borne by Eppendorf for valid warranty claims.

j) Where a valid warranty claim is made by the Customer in accordance with these Terms, and it is accepted by Eppendorf, the cost of repaired or replaced Goods will be borne by Eppendorf.

k) Where Eppendorf incurs costs in investigating a warranty claim that is ultimately deemed by Eppendorf not to be valid, the Customer shall be liable to reimburse Eppendorf for all freight and other incidental costs incurred by Eppendorf in its investigations of the warranty claim by the Customer.

l) The Warranty is limited to defects in the materials or workmanship of the Goods and does not cover expendable or ancillary items, consumable items or the replacement of Goods due to fair wear and tear, abuse or misuse.

m) Subject to the ACL, Eppendorf is not liable for, and the Customer releases Eppendorf from, any claims in respect of faulty or defective design of any Goods supplied by Eppendorf where the Customer has provided the design of the Goods to Eppendorf. Eppendorf's liability under these circumstances is limited strictly to the replacement of defective parts in accordance with the Warranty in this clause 11.

n) This warranty is in addition to any statutory warranties available to the Customer that cannot be excluded.

13) INDEMNITY

The Customer shall comply with all instructions of Eppendorf in relation to the handling, storage, sale and use of the Goods. The Customer shall keep Eppendorf indemnified against all losses, claims, damages or liabilities of whatsoever nature including, without limitation, claims for death, personal injury, damage to property and consequential loss, which arise in connection with a breach of these conditions or negligence of the Customer or its employees, agents and duly authorised officers to the maximum extent permitted by law.

14) WAIVER

A failure by Eppendorf to insist upon strict performance of any Terms will not be deemed to be a waiver of its rights under this contract or a waiver of any subsequent breach by the Customer of any condition.

15) INDUSTRIAL PROPERTY RIGHTS

The Customer shall not alter, remove or in any way tamper with any of the trade or other marks or numbers of Eppendorf attached to or placed upon the Goods, their packaging or any promotional or marketing material.

16) CLAIMS / PRICE DISPUTES

In the event that any prices/charges made by Eppendorf are in dispute, the Customer must notify Eppendorf of such disputed prices/charges within 30 days from date of invoice. Claims disputing receipt of Goods must also be made within 30 days of date of invoice.

17) RETURNS AND DEFECTIVE GOODS

The Customer must inspect the Goods or services immediately following delivery or completion of the services (as the case may be). The Customer may only return Goods with the prior approval of Eppendorf; and then the following conditions apply:

a) A written claim must be received within seven (7) days after delivery of the Goods;

b) the original invoice number and date must be quoted;

c) on approval of the written claim Eppendorf will issue a Goods Returns Authorisation (GRA) which is to be attached to the Goods when returned in a manner that does not alter or damage the original packaging aesthetics. The GRA may include biohazard decontamination procedures and other product-specific handling instructions;

d) Goods must be returned within 14 days of date of despatch in their original and unmarked condition, complete with any instruction manuals supplied and unmarked original packaging (unless the return pertains to a warranty claim for the specific Goods);

e) outward and inward freight and transport charges are the responsibility of the Customer. If not pre-paid by the Customer, freight will be deducted from the amount of credit;

f) a re-stocking fee applies: the higher of \$100 or 30% of the value of the Goods; and

g) no responsibility will be accepted for any delays in passing credit caused by Goods being incorrectly branded or returned without adequate identification of both sender and Goods returned.

h) Eppendorf will not accept returns for credit for Goods that: are not held in stock by Eppendorf in Australia; are spare parts not able to be traced by serial or lot numbers; are specially made; purchased to a firm and irrevocable order; and any Goods altered or damaged by the Customer.

i) Any claim that the Goods or services are not in accordance with these Terms (including if they are defective, damaged during delivery, are short delivered or services not as per contract) must be made at the time of delivery/services provided or in writing to Eppendorf within seven (7) days after delivery of the Goods/completion of the services to the Customer. If the Customer fails to make a claim then, to the extent permitted by ACL, the Goods and/or services are deemed to have been accepted by the Customer and the Customer must pay for the Goods or services in accordance with these Terms.

18) GOODS ON LOAN

In the event that Eppendorf approves Goods to be loaned to the Customer then the Customer must:

a) only use the loan Goods for normal daily use and for evaluation purposes and in the manner which Eppendorf directs;

b) exercise the utmost care and diligence in relation to the loan Goods;

c) not sell, hire, re-loan, demonstrate to a third party or use in a commercial manner the loan Goods or otherwise charge, pledge or part with possession of the loan Goods;

d) not alter, modify, tamper or make any other adjustments to the loan Goods;

e) return loan Goods in their original and unmarked condition, complete with any instruction manuals supplied.

f) warrant that it has the necessary skill and expertise to enable the loan Goods to be sufficiently evaluated so as not to cause loss or damage to the loan Goods.

g) comply with Eppendorf's requests for the return of the loan Goods (which Eppendorf is entitled to do prior to the loan period ending, without giving any reason or prior notice), or the loan period ends without the Customer buying the loan Goods, the Customer must either return the loan Goods to Eppendorf promptly at the Customer's expense or allow Eppendorf to enter its premises for the purpose of taking possession of the loan Goods.

h) if, on return to the Eppendorf, the loan Goods require repair to restore them to their condition at the time of the initial loan (other than reasonable wear and tear), Eppendorf will be entitled to recover from the Customer the reasonable cost of repairing or replacing the loan Goods. If the loan Goods are used with bio-hazardous materials, the loan Goods must be decontaminated at the Customer's expense prior to return.

i) obtain the prior written consent of Eppendorf to extend the loan period.

j) insure the loan Goods, which remain the property of Eppendorf from the time of delivery until return to Eppendorf, with a recognised and reputable insurance company against any loss to the loan Goods, damage to real and personal property or injury to or death of, any person caused by the use of the loan Goods by the Customer.

k) notify Eppendorf promptly if any of the loan Goods fail to perform to specified standards.

19) TECHNICAL MAINTENANCE SERVICES

a) The Customer may order technical maintenance services from Eppendorf for Goods for a period specified in the order and agrees that such orders continue automatically for additional 12 month periods unless terminated by either party at least 30 days prior to the commencement of a new 12 month period.

b) Maintenance services will be performed by a service technician who will make the specified number of routine calls during the service period as per the order.

c) Where the nature of the repair work required is such that the value of parts to be supplied or the work to be performed would necessitate an additional charge being made, such work will only be done on the authority of an authorised officer from the Customer.

d) Maintenance services does not include repair damage due to fire, water, accident, abuse, negligence wilful act or default by the Customer. Abuse includes any damage resulting from the operation of the serviced equipment other than in accordance with the operating instructions provided by Eppendorf or its authorised representatives.

e) The Customer must notify Eppendorf of any change to the location of the equipment which forms part of the order for maintenance services. Eppendorf reserves the right to terminate this order or to increase the service charges if additional costs are, or would be incurred by reason of such change in location.

20) HEALTH, SAFETY & OTHER REGULATIONS

a) It is the Customer's responsibility to observe all applicable health, safety and other regulations and to take appropriate steps in relation to the storage, handling, sale and use of the Goods. Where information is supplied to the Customer about potential hazards relating to the Goods, the Customer must bring such information to the attention of its employees, agents, sub-contractors, visitors and customers.

b) If Eppendorf's employees or authorised representatives attend any premises as directed by the Customer to install or apply any Goods or perform any services, the Customer will ensure appropriate policies and procedures are in place and followed and generally implement good industry practice (including occupational health and safety policies and risk assessments for any dangerous or potentially dangerous activities) and act consistently with Eppendorf's policies as notified to the Customer.

21) PRIVACY

By accessing Eppendorf South Pacific's website, you accept our privacy policy. You also accept that the use of our website may be monitored, tracked and recorded.

Any information given on Eppendorf South Pacific's website is for information purposes only. It is believed to be reliable and is subject to change without any prior notice. Products and services described may differ from time to time.

Eppendorf reserves the right to change without notice the data submitted by Eppendorf as a result of general changes to the products or generally for technical reasons, provided that the subject of sale is not adversely affected whether generally or in any respect which is important for the use and maintenance of the product.

22) SEVERABILITY

If any provision of these Terms is unenforceable, illegal or void, that provision is severed and the other provisions of these Terms remain in force.

23) VARIATIONS

Eppendorf may amend or vary these Terms by notifying the Customer in writing of the amendment or variation.

24) APPLICABLE LAW

This contract is made in New South Wales, being the place from which this document is issued, and the parties agree that all disputes between them shall be governed by the laws of New South Wales, Australia.