

Sony Biotechnology Product Terms and Conditions

1. **Only Agreement:** The following are the terms and conditions upon which Sony Biotechnology, Inc (SBT) accepts orders for goods and services and constitutes the entire agreement between the parties. Unless otherwise agreed to in writing, these terms and conditions supersede any agreement or document, including terms and conditions that are part of a purchase order or other document sent to SBT by the BUYER. By issuing a purchase order to SBT, BUYER is deemed to have accepted these terms.
2. **Pricing:** List prices can be obtained by visiting the SBT website www.sonybiotechnology.com (the "Website") or contacting Customer Service toll-free at (800) 275-5963. SBT reserves the right to change pricing without notice.
3. **Standard Orders:** No minimum order quantity is required, unless specifically noted on the Website. Orders cannot be revised or cancelled once SBT has confirmed acceptance. Additions to orders once an order has been confirmed must be entered on a separate order and may therefore be subject to additional shipping charges.
4. **Shipping:** Orders are typically shipped Monday through Friday. Orders for perishable items received on Friday or holidays are generally shipped the next business day. Products are shipped freight on board (FOB) destination, and actual or estimated freight or shipping and handling charges are prepaid and added to the invoice. SBT is not liable for any loss or damage during the course of shipment, including but not limited to: accidents; theft; vandalism; labor difficulties or disputes; weather extremes or other acts of nature; or other circumstances causing a delay in delivery.
5. **Packaging:** Most reagents are shipped by overnight courier at ambient temperature. Products shipped with dry ice or ice packs are shipped according to their appropriate shipping conditions. Upon receipt, product should be stored under the conditions indicated by the applicable technical data sheet.
6. **Delivery Acceptance:** Unless otherwise agreed to in writing, an instrument system will be delivered within 90 days of receipt of a purchase order. The BUYER is responsible for receiving the system, inspecting the shipping containers for any visible damage, and storing the system until it can be installed by a SBT representative. The BUYER must report any missing or damaged shipping containers to SBT immediately. Delivery will be deemed complete and accepted by the BUYER unless within 48 hours of delivery SBT is informed, in writing, of a problem.
7. **Shortages or Damaged Goods:** SBT must be notified of any claims for shortages or damaged products within 48 hours of receipt of the products or they shall be deemed accepted by you. For damaged products, at SBT's option, an authorization to return the goods may be issued or you may be asked to document the destruction of the goods at your site.
8. **Reagent Returns:** A return authorization must be requested from SBT Customer Service within 14 days after receipt of the product. Not all requests for return will be granted: for example, in the case of a BUYER's purchasing error or change in the order subsequent to initiation of the shipping process, authorization will not be granted. Special order and custom products, or products which cannot be resold, will not be authorized for return absent a defect. SBT may choose to verify any performance problems prior to authorizing return or replacement. All return shipping costs are to be paid by the BUYER. Please contact the Customer Service department toll free within the U.S. at (800) 275-5963 to request authorization to return, general information, or clarification of our policies.
9. **Installation Scheduling:** Upon acceptance of a purchase order for items which require installation, SBT will contact the BUYER to schedule the installation. Typically, SBT will commence installation in the BUYER'S facility within 15 days of delivery. In some cases, for example if the site is not yet ready, BUYER and SBT can agree to defer installation for up to ninety (90) days, thereafter the installation shall be deemed complete whether it has occurred or not. Any proposed change in the scheduled installation date must be accepted by both SBT and BUYER.

10. Installation Completion: Installation is included in the purchase price of a system and includes all costs for service technician travel, accommodation and other service technician personal incidental expenses. On-site installation will be performed by a SBT trained representative(s) and includes adjustments to factory specifications. As part of the installation, a system performance verification procedure will be completed by the SBT representative. At the conclusion of the installation, the BUYER will be presented with the system verification report. Installation shall be deemed complete and accepted by the BUYER unless within five (5) business days after the representative has concluded the installation effort, SBT is informed in writing of a problem, and specifically advised that completion is conditional on remediation of the problem. Once SBT advises the BUYER it has remedied the problem, BUYER will again have five (5) days to inform SBT of a problem, otherwise the system shall be deemed installed. SBT will provide the BUYER with free service and technical support until Installation Completion. The warranty period will commence upon Installation Completion.

11. Payment Terms: Unless otherwise agreed to in writing, full payment is due 30 days from shipment and is not dependent on Installation Completion. SBT shall have the right to delay shipment or suspend performance, if payment under any agreement or order between Buyer and SBT is not received when due or is rescinded. Buyer warrants that it has funds or approved funding for all payments to be required under any purchase order placed with SBT. If Buyer fails to pay any invoice when due, SBT may also charge Buyer a late payment charge equal to the lesser of one and one-half percent (1½%), or the maximum permissible rate under applicable law, per month on the outstanding balance. If you are a tax-exempt agency, please submit a copy of your tax exemption certificate with your purchase order or fax a copy to SBT, Attention: Customer Service at (408) 352-4130, or email to SBTcustomerservice@SonyBiotechnology.com. Do not email credit card or personal information.

12. Product Use Limitations: SBT sells products for Research Use Only (RUO) and products are not for use in diagnostic or therapeutic procedures. SBT is not liable for misuse of any product. All sales are to direct end users only and are not for resale.

13. Information Provided to Third Party Suppliers: SBT may provide your information to suppliers of reagents, suppliers of hardware and software included in its systems, or to integrators or other subcontractors whom SBT uses. This information would be limited to product, purchase date, BUYER name and address, product quality and regulatory/compliance related information, and is intended for third-party fulfillment, warranty claim, recall, compliance and other appropriate purposes.

14. Reagent and Consumables Warranties: SBT reagent and consumable products are warranted only to conform to the published specifications thereof at the time of delivery to the Buyer.

15. Proprietary Software License and Warranties: In consideration of the purchase price you pay for any system, SBT's proprietary application and system software and related documentation are licensed to you and warranted by SBT subject to the terms and conditions set forth at http://www.sonybiotechnology.com/terms_conditions_inst.php.

16. Third Party Product Terms or Warranty: Third party software, options, and accessories not developed by SBT, will be subject to the terms and warranty, if any, of the third party vendor (e.g. Baker, Microsoft, Verity Software House, etc.), and not of SBT.

17. System Warranty: SBT warrants that its flow cytometry systems will perform in accordance with the specifications published by SBT at the time of shipment. SBT does not warrant that the system will meet your requirements, or that the operation of the system will be uninterrupted or error-free. The warranty period for a system is 12 months and covers service during business hours, which are generally Monday through Friday 9:00 AM – 5:00 PM pacific time, excluding SBT holidays. The twelve month warranty will begin upon installation completion or ninety days after the date of shipment, whichever occurs first. Only the original BUYER of the system may enforce this warranty and this warranty applies only to systems purchased and installed by an authorized SBT representative or an approved distributor of SBT systems. Subject to the SBT Warranty and Service Agreement terms, SBT will replace or repair, at its option, free of charge, any system or part, excluding consumable items, as listed in the current SBT online catalog or Consumable

Price List (as the same may be modified from time to time), which does not meet specifications, provided that the system has been operated at all times in accordance with the instruction manual and user's guide by, or under the direct supervision of, a certified operator who has attended SBT training for the system. Only the unexpired original warranty period or Service Agreement on the system shall be in effect on any replacement parts, which may be new or reconditioned at the discretion of SBT. Products not manufactured by SBT are not covered by this warranty, but instead will carry a warranty, if any, direct from the manufacturer or supplier. Examples of such products are compressors, computer workstations and bio safety cabinets.

18. Options, Accessories, or Upgrade Warranties: Options, accessories, or upgrades purchased at the same time as the system are included in the system warranty. Options purchased after the initial system purchase will assume the remaining warranty or maintenance service agreement of the original system, unless the purchase occurs during the last three months of the system warranty or maintenance service agreement, or later, in which case it will be considered a standalone purchase and will receive a 90-day warranty from the date of installation or a 120-day warranty from the date of shipment, whichever occurs first.

19. Service Parts Warranties:

A. Installation by an authorized SBT service representative or distributor: Service parts are warranted for 90 days after installation or 120 days after shipment, whichever occurs first. If a service part fails within the warranty period it will be replaced at no charge. Labor and travel associated with the service visit is not covered and is considered billable.

B. Installation by Other Personnel: SBT does not provide a warranty on parts not installed by an authorized SBT service representative or distributor. No returns will be accepted or credits issued for material ordered via the Technical Support Center or Customer Service Department not installed by an authorized representative of SBT.

Disclaimer Applicable to All Warranties

THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. UNDER NO CIRCUMSTANCES WILL SBT OR ITS CONTRACTORS OR AGENTS BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, PROPERTY DAMAGE, LOST TIME, LOSS OF USE OF SYSTEM, SOFTWARE OR REAGENTS, LOSS OF PROFIT OR ANY OTHER DAMAGES RESULTING FROM THE BREAKDOWN OR FAILURE OF ANY SYSTEM, SOFTWARE OR REAGENTS, OR DELAYS IN SERVICES OR THE INABILITY TO SERVICE ANY SYSTEM.

20. LIMITATION OF LIABILITY: SBT'S LIABILITY IS LIMITED TO REPAIR OR REPLACEMENT OF THE PRODUCT, OR REFUND OF THE PURCHASE PRICE AT SBT'S OPTION. ADDITIONAL DISCLAIMERS MAY APPLY TO CUSTOM PRODUCTS AND SUCH DISCLAIMERS WILL APPEAR IN THE QUOTATION OR OTHER DOCUMENTATION PROVIDED WITH A CUSTOM ORDER. NO WARRANTIES OR OBLIGATIONS APPLY TO PRODUCTS THAT HAVE BEEN MISUSED, ALTERED, OR IMPROPERLY MAINTAINED.

21. Indemnification: BUYER acknowledges that it is fully responsible for its use of any SBT product and agrees to indemnify, defend, and hold harmless SBT and its affiliates, officers, directors, employees, suppliers and agents against any and all liabilities arising from such use.

22. Governing Law and Jurisdiction; Jury Waiver: Any order placed or contract made with SBT shall be governed by the laws of the State of New York and both parties hereby submit and waive all objections to the exclusive jurisdiction of the courts of New York and the federal courts located in New York City. The parties hereby waive trial by jury with respect to any dispute under or related to this Agreement.