

GENERAL TERMS & CONDITIONS OF PURCHASE

Field of use: Data obtained from the Hygiena Equipment should not be used for human diagnostic or human treatment purposes. Equipment is not approved by the United States Food and Drug Administration or any other U.S or non-U.S. regulatory agency for use in human diagnostics or treatment. The Hygiena Equipment should not be used as the sole basis for assessing the safety of products for release to consumers. The information generated is only to be used in conjunction with the user's regular quality assurance program. Not approved for clinical diagnosis. Use for research and development, quality assurance and quality control under supervision of technically qualified persons. Read the Limitation of Warranty and Liability before using product.

1. Payments

Payment terms are net 30 days from date of invoice, pending credit approval, or as otherwise stated on the invoice. Checks should be made payable to the entity on the invoice and reference the invoice number. Remit payment to the entity on the invoice at the address on the invoice or contact Hygiena for instructions on wiring payment.

In the event Customer fails to fulfill the terms of payment, or in case Hygiena has any doubt at the time as to Customer's financial responsibility, Hygiena may decline to make further deliveries except upon receipt of cash or satisfactory security. All bills not paid at maturity will be subject to a late payment service charge.

2. Shipping

Shipments are made FOB Shipping Point prepay and add (U.S.), and FCA prepay and add (outside U.S.). EQUIPMENT cannot be returned to Hygiena without prior permission from Hygiena, and then according to the manner prescribed by Hygiena. These commodities, technology or software are exported from the U.S. in accordance with Hygiena and the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

3. Site preparation

Customer is responsible for providing, at its own cost, preparations for the Equipment, including but not limited to environmental, power and air supply requirements as described by Hygiena. Hygiena is responsible only for installing the Equipment in the Customer's laboratory, as needed. Hygiena is not obligated to incorporate any design, engineering or performance change after delivery of Equipment to the Customer.

Customer agrees that the Equipment will be operated only by its employees or other persons who are familiar with the Equipment operation and product labeling and literature, or who have completed training by Hygiena.

4. Consumables and Reagent kits

Hygiena Equipment is designed to operate only with Hygiena Consumables. All product claims, performance parameters, warranties and licenses are only valid when the Hygiena Equipment is operated with Hygiena Consumables.

5. Returns



Hygiena Consumables and other temperature-sensitive products are neither refundable nor exchangeable. Return of Equipment for service requires the prior consent of Hygiena. Upon approval, Hygiena will issue a Return Authorization form, which must accompany all returns of Equipment.

6. Replacement parts

Hygiena will replace any parts that have failed due to manufacturing defect for 12 months from date of installation. Replacement parts will be shipped to Customer as expeditiously as reasonably practicable. Customer agrees to return failed parts to Hygiena at the time of replacement but no later than thirty (30) days thereafter. Failure to return replaced parts shall result in Customer being liable for the list price of the replaced part(s).

7. Support

Technical support will be provided by telephone or e-mail. Representatives are available by telephone during normal business hours to assist with questions or problems regarding Equipment operation, specifications, Consumables, sample preparation and upgrades. Customer may be required to perform minimal troubleshooting tasks to resolve problems.

8. Credits

If Equipment results are lost due to some fault of the Equipment under warranty, Customer is entitled to a Hygiena Consumable credit, the amount of which will be based on the nature and cause of the fault as determined solely by Hygiena.

9. Software

In return for your use of Hygiena Software, Hygiena grants to Customer/end user a non-exclusive, non-transferable right to use one (1) copy of the Hygiena Software on one Hygiena Equipment System or its associated cpu at the end user's location. This license does not include the right to upgrades, updates or other enhancements to the Hygiena Software, except and unless provided by Hygiena. All title and copyrights in and to the Hygiena Software and the accompanying materials are owned by Hygiena and are protected by copyright laws and international laws and treaties. This License confers no title or ownership in the Hygiena Software, any associated source code or in any other intellectual property of Hygiena. Customer/user agrees not to disassemble, decompile, decrypt, or reverse engineer the Hygiena Software except, and only to the extent, where permitted by applicable law, which permission cannot be contractually waived. Hygiena Software may not be exported in violation of U.S. export restrictions Hygiena Software is delivered and licensed as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June, 1995) or as or as a "commercial item" as defined in FAR 2.101(a), "Restricted Computer Software" as defined in FAR 52.227-19 (June 1987) (or any equivalent agency regulation or contract clause), as appropriate. User agrees that it has only those rights provided for such Software by the applicable FAR or DFARS clause or the Hygiena Software terms in this Agreement. Limitations of Warranties and Liability shall continue in force even after any termination.

10. Jurisdiction

This Agreement shall be interpreted and governed by the laws of the state of California USA and the courts of California shall have exclusive jurisdiction. Sale of Hygiena Equipment shall not be governed by the U.N. Convention on Contracts for the International Sale of Goods.

11. Transfer



Hygiena Agreements are not assignable or transferable by Customer, in whole or in part, except with the written consent of Hygiena.

12. Termination

Notwithstanding anything contained herein to the contrary, Hygiena may, without prejudice to any of its other rights and remedies, terminate Hygiena Agreements by giving a written notice to Customer with immediate effect, if there is a change of control of Customer or the Hygiena Equipment.

13. Not an insurer

By selling Hygiena products or services, Hygiena or its representatives do not become an insurer of Customer/User's business. Hygiena or its representatives do not and cannot know all of the potential consequences to Customer/User's business of a failure of the Hygiena Equipment to perform as expected. That is why Hygiena does not agree to be responsible for Customer/User's incidental or consequential business losses in the event the Hygiena Equipment fails to perform as expected. For the same reason, Hygiena has limited its liability to the cost of the product. For additional protection against the risk of loss, Customer/User should consult an insurance broker and buy insurance suitable to the risks of its particular business.

14. Amendments

These Terms and Conditions of Sale and Hygiena Limitation of Warranty and Liability embodies the entire understanding of the parties regarding this Purchase and there are no contracts or understandings express or implied, which are not merged herein. Representations or warranties made by any person, including dealers and representatives of Hygiena, which are inconsistent or in conflict with the Terms and Conditions of this Agreement or the Limitation of Warranty and Liability shall not be binding upon Hygiena unless reduced to writing, approved by Hygiena and signed by both parties.

15. Force Majeure

Hygiena shall not be liable to Customer for any delay in performing or failing to perform obligations, covenants or agreements under this Agreement if such failure or delay is caused by fire, explosions, accidents, the elements, weather disturbances, earthquake, flood, terrorism, public enemies, war, labor trouble or shortage, strike, inability to obtain suitable materials, equipment, fuel, power or transportation, act of God or other unforeseeable event or occurrence beyond the reasonable control of Hygiena.

LIMITATION OF WARRANTY AND LIABILITY

NOTICE: READ THIS LIMITATION OF WARRANTY AND LIABILITY BEFORE USING HYGIENA™ EQUIPMENT, AND/OR CONSUMABLES. If the terms are not acceptable, notify Hygiena immediately and arrangements will be made for return of the unused Equipment and/or Consumables, to Hygiena and for the refund of the purchase price, less shipping costs. USE OF HYGIENA EQUIPMENT AND/OR CONSUMABLES CONSTITUTES AN ACCEPTANCE OF ALL TERMS AND CONDITIONS OF THIS LIMITATION OF WARRANTY AND LIABILITY. Any additional or different terms in Buyer's purchase form(s) are material alterations and hereby rejected.

1. Hygiena Equipment should only be used with Hygiena Consumables.
2. When used with Hygiena Consumables, the Hygiena Equipment is warranted to be free of defects in materials, workmanship and design that may appear under normal and proper use within twelve (12) months from purchase. Hygiena Consumables are warranted to conform to the Consumable instructions for use under the conditions of use specified in the user documentation to the expiration date stamped on the label. HYGIENA MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AGAINST INFRINGEMENT, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. User assumes all risk and liability resulting from use of the Hygiena™ Equipment, Consumables and Software.
3. Hygiena Software: Hygiena warrants that for a period of 60 days from the date of first date of use by the Customer/end user, Hygiena software will be free from defect in materials and workmanship and that the Hygiena software will substantially perform in accordance with the accompanying Hygiena software documentation. EXCEPT FOR THE EXPRESS WARRANTY ABOVE, HYGIENA MAKES NO OTHER WARRANTY, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AGAINST INFRINGEMENT, ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING BY LAW, STATUTE, USAGE OF TRADE, OR COURSE OF DEALING. User assumes all risk and liability resulting from use of the Hygiena software, whether used singly or in combination with other products.
4. The accuracy of Hygiena Equipment can be affected by factors over which Hygiena has no control, including, without limitation, the use of the Equipment and/or Consumables in a manner that is contrary to the conditions of use, the procedures or the instructions specified by Hygiena. Because of the large number of factors over which Hygiena has no control, Hygiena makes no promise or guarantee of the accuracy of or results obtained from the use of the Hygiena Equipment if not used per the instructions for use. In particular, Hygiena disclaims any warranty or liability and assumes no responsibility whatever for the failure of the Equipment due, in whole or in part, to user's failure to: (a) properly maintain Equipment, (b) maintain specified operating or storage conditions, (c) follow the specified instructions, or (d) use the proper techniques consistent with the standard of care accepted in the industry for the proper collection, storage, handling, and preparation of the sample.
5. Externally caused failures, such as improper sample preparation, improper storage or loading of Consumables, electrical outages, or out-of-specification environmental conditions are not covered under this warranty. Equipment failures caused by spills, abuse, misuse, negligence, or improper operation are not covered by this warranty. Modifications, service or repairs by parties other than Hygiena-authorized providers are not covered by this warranty and, in fact, void this warranty. Circumstances beyond the

reasonable control of Hygiena, including fire, explosions, accidents, flood, labor trouble or shortage, war, act of or authorized by any government, inability to obtain suitable material, Equipment, fuel, power or transportation, or acts of God are not covered under this warranty.

6. Hygiena Equipment and Consumables are designed to test only for the presence of the target specified in the particular assay. Hygiena Equipment and Consumables have been tested against many, but not all, strains or variants of the target within the many, but not all, sample types specified in the user documentation. Hygiena, therefore, cannot and does not make any representation or warranty that the Hygiena Equipment and Consumables are capable of detecting every target in any sample source. Accordingly, Hygiena Equipment and Consumables should not be used as the sole test for the release of user's products, nor should it be used as the sole basis for determining the safety of user's products.
7. CUSTOMER/USER ASSUMES ALL RISKS IN USING THE HYGIENA EQUIPMENT AND HYGIENA OR ITS AFFILIATES, DISTRIBUTORS, ITS LICENSORS OR REPRESENTATIVES SHALL HAVE NO LIABILITY TO CUSTOMER/USER OR TO ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR PROFIT, LOST OR DAMAGED DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS EVEN IF CAUSED BY THE NEGLIGENCE OF HYGIENA OR ITS REPRESENTATIVES AND/OR IF HYGIENA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND/OR IF THEY ARE FORESEEABLE.
8. THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER/USER, AND THE SOLE AND EXCLUSIVE LIABILITY OF HYGIENA, ITS AFFILIATES, DISTRIBUTORS, LICENSORS OR REPRESENTATIVES FOR ANY AND ALL CLAIMS, INCLUDING BREACH OF WARRANTY, TORT, CONTRACT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE SHALL BE LIMITED TO THE FOLLOWING: Should Equipment fail to conform with the Paragraph 2 warranty, Hygiena shall, at its option: repair or replace the non-conforming Equipment with new or refurbished (repaired or rebuilt) functionally equivalent Equipment or Consumables or refund the purchase price. In all cases, user is responsible for the repackaging and return of non-conforming Equipment, along with the reinstallation of new or refurbished Equipment; and (e) Equipment or Consumables shall not be returned without prior written permission from Hygiena, and then only in the manner prescribed by Hygiena. The maximum liability of Hygiena, its affiliates, distributors and licensors, and whether or not based on negligence, shall not exceed in the aggregate the amount equal to the purchase price of the Equipment or Consumables for which damages are claimed. Customer shall notify Hygiena of any claim within thirty (30) days thereof and shall commence any action against Hygiena within one (1) year of the cause of action or otherwise be barred from any remedy. Hygiena shall not be responsible for cost, loss or liability that arise from customer/user's operation of its business, and customer/user agrees to indemnify, defend and hold Hygiena and its representatives harmless from such cost, loss or liability.