
General Terms and Conditions for Support Agreements

1. DEFINITIONS

- (a) "Customer" means any person or entity placing an order with QIAGEN for maintenance of Equipment.
- (b) "QIAGEN" means QIAGEN Pty Ltd, 1894 Dandenong Road, Clayton, VIC, 3168, Australia.
- (c) "Equipment" means the molecular biology robotic workstations and/or any other instrumentation specified in the Support Agreement.
- (d) "Service" means maintenance and/or other service for the Equipment provided to Customer by QIAGEN as specified in the Support Agreement.
- (e) "Part(s)" means the goods sold or otherwise delivered to Customer by QIAGEN as part of the Service.
- (f) "Support Agreement" means the Service Support Agreement entered into by Customer and QIAGEN as documented by the related quotation signed by Customer.

2. TERMS AND CONDITIONS

- (a) The Support Agreement shall be subject to the quotation, if any, and these Terms and Conditions ("Terms"). All other terms or conditions of service, purchase, sales or otherwise shall be binding only with the specific written consent of QIAGEN. Any other terms, conditions or provisions whether proposed by Customer orally or in writing shall be of no effect and the sale of Part(s) or performance of Service by QIAGEN shall not constitute acceptance of such other terms, conditions or provisions. These Terms shall override and supersede any previous negotiations, agreement or arrangement between QIAGEN and Customer in relation to the supply of the Service and/or Part(s).
- (b) Unless specifically agreed in writing and signed by a director of QIAGEN, information and advice given orally or contained in QIAGEN's publicity material, advertisements and in catalogues and in correspondence between QIAGEN and Customer before the date of the Support Agreement is given gratuitously and without liability on the part of QIAGEN and shall not form part of the Support Agreement.
- (c) Unless stated in the Support Agreement or expressly agreed in writing and signed by a director of QIAGEN, no term, condition, warranty or representation (whether express or implied by statute, law, custom or usage) as to the nature, quality or fitness of Part(s) or their conformity with any description or sample is given by QIAGEN or shall form part of any contract between QIAGEN and Customer.

3. ELIGIBILITY

- (a) Equipment is eligible for inclusion under the Support Agreement, provided that it is covered by a valid QIAGEN warranty or sufficient QIAGEN Support Agreement immediately prior to the commencement date of the Service.

- (b) Equipment not falling within clause 3(a) shall be subject to inspection and approval by QIAGEN. Customer shall be charged QIAGEN's standard non-contract rates in effect at that time for all labour, Part(s) and expense incurred for this inspection and for any corrective maintenance required to restore the Equipment to serviceable condition. The Service shall be purchased within thirty (30) days of such approval, and the commencement date of the Service shall be designated at the day following such approval. If the purchase of the Service is not accomplished within such thirty (30) days, another inspection and approval shall be performed by QIAGEN at QIAGEN's standard non-contract rates.
- (c) Unless otherwise specifically agreed in writing by QIAGEN, the Support Agreement will not cover any equipment: (i) which has been misused, or subjected to unusual physical or electrical stress; (ii) which is modified by Customer without the prior consent of QIAGEN; (iii) which has been serviced, or had service attempted, by anyone other than QIAGEN; (iv) which has been purchased from a source other than QIAGEN; (v) which has been relocated without the prior consent of QIAGEN; (vi) which resides in a location where QIAGEN has insufficient resources to provide adequate support; or (vii) which has been used for more than seven (7) years from declaration by QIAGEN as obsolete. QIAGEN's standard contract rates do not apply to such equipment.

4. COMMENCEMENT AND TERM

- (a) Unless otherwise specified in writing by QIAGEN, any quotation for Service submitted to Customer by QIAGEN is firm for, and will expire, sixty (60) days after the date of its issuance. The Support Agreement will be effective (a) as of the date therein specified or (b) as of the date QIAGEN commences the Service or supplies Part(s), whichever is the earlier ("Start Date").
- (b) The Support Agreement shall be effective for an initial period of one (1) year from the Start Date subject to earlier termination as provided for in clause 16. On each anniversary of the Start Date, the Support Agreement shall automatically renew for a further period of one (1) year unless either party shall have given at least three (3) months' prior written notice of non-renewal to the other party.

5. SERVICE

- (a) To keep the Equipment in good operating condition, QIAGEN agrees to provide Customer with the Service under the Support Agreement. The Service includes preventive maintenance for the Equipment as described in the Support Agreement. Unless expressly stipulated in the Support Agreement, Service shall not include corrective maintenance in the event of interruption in the operation of the Equipment. It shall be at QIAGEN's option to utilize new or refurbished Part(s) to accomplish such maintenance. Any part replaced by QIAGEN during Service shall become the property of QIAGEN and Customer shall ensure that QIAGEN may take title to such part clear of any interest, claim, lien or encumbrance of any third party or shall in the alternative indemnify QIAGEN to the value of the replacement cost of such part.
- (b) All Service shall be performed during normal working hours being 09.00 hrs to 17.00 hrs Monday to Friday (except for public holidays) unless otherwise expressly agreed in writing by QIAGEN.
- (c) For chargeable situations, such as services performed outside the scope of the Support

Agreement, QIAGEN's standard non-contract rates and terms will apply.

- (d) QIAGEN may subcontract its duties hereunder to a third party without the consent of Customer.
- (e) Unless expressly stated in the Support Agreement, Service does not include (i) the supply of consumables and accessories (including, without limitation, lamps, glass parts, paper, filters, syringes, peristaltic pump tubings, air filters, diskettes, ink ribbons, lighting connections, columns, thermostatic plates, detectors, spacers and chemicals); (ii) the recovery of data in the event of loss of or damage to data carriers (including without limitation hard drives) and/or software; (iii) modification to or relocation of Equipment; or (iv) application assistance for protocol/method development or Customer training. Any of the foregoing if not covered by the Support Agreement can be quoted for and performed separately by QIAGEN.

6. CUSTOMER'S RESPONSIBILITIES

- (a) Customer shall maintain an appropriate environment for the Equipment, and perform the necessary preventive maintenance checks for the Equipment subject to the procedures specified by QIAGEN to prevent Equipment failure, including without limitation the leakage of lubricating fluids, hydraulic fluids and oils. "Appropriate environment" means, but is not limited to, the storage or operation of the Equipment on a level surface, free of impacts and shocks and in an ambient atmosphere the temperature, pressure and particle content of which have at all times been within the tolerances of the Equipment as specified by QIAGEN.
- (b) Customer shall promptly notify QIAGEN of Equipment failure and allow QIAGEN on request full and free access to the Equipment, will and will provide QIAGEN's technical service personnel with a security access badge, subject to such personnel signing the applicable site policies.
- (c) Customer shall provide the consumable supplies which are required for the Service, unless otherwise noted in the Support Agreement. Upon request by QIAGEN, Customer agrees to provide reasonable facilities, required for the Service, such as secure storage space, a designated work area with adequate heat and lighting, and a local telephone line.
- (d) Customer shall save a backup file of data, including, without limitation, parameter and performance data for the Equipment before the Service is provided by QIAGEN.
- (e) Customer shall confirm after the Service is provided by QIAGEN that the Equipment is in good operating condition and is functioning as intended.
- (f) Customer shall maintain an appropriate environment for QIAGEN's service personnel and provide them with any appropriate information for the measures to take in case of an emergency.
- (g) Customer shall designate a contact person who is suitably experienced with the Equipment.

7. DELIVERY AND PERFORMANCE

- (a) Dates and time given for completion of Service or delivery of Part(s) are given as estimates only and shall not constitute a term or condition of the Support Agreement. Time shall not be of the essence. While QIAGEN will use all reasonable endeavours to meet any time estimate, it reserves the right to amend any estimate without notification.

- (b) QIAGEN will deliver Part(s) in such instalments as it considers expedient. Failure by QIAGEN to deliver one or more instalments shall not entitle Customer to claim compensation or to terminate or suspend the Support Agreement or reject those or subsequent deliveries.
- (c) Unless otherwise stipulated in the quotation, delivery of any Part(s) hereunder shall be made Ex Works (Incoterms 2000) QIAGEN's facility. Part(s) shall remain the property and in absolute ownership of QIAGEN until Customer has paid in full all amounts owed by Customer to QIAGEN (including VAT) in respect of such Part(s). Until such payment is made Customer holds Part(s) as QIAGEN's fiduciary agent and bailee and QIAGEN may at any time request the return of any of Part(s) which have not been paid for and which are in the possession or control of Customer.
- (d) Customer shall, until payment in full has been made, keep Part(s) in good merchantable condition and fully insure them on QIAGEN's behalf for not less than the price payable to QIAGEN and all the proceeds of such insurance shall be held automatically in favor of QIAGEN. Customer grants QIAGEN an irrevocable license to enter Customer's premises to recover any Part(s) or other materials which are QIAGEN's property.

8. PRICES

Customer shall pay for the Service and Part(s) purchased under the Support Agreement. The prices of the Service and Part(s) are specified in the Support Agreement. Unless otherwise specified in writing by QIAGEN, the prices of the Service and Part(s) are exclusive of transportation, insurance, license fees, customs duties, or sales, use, excise or other similar taxes. Customer shall pay all such duties or taxes except for the taxes imposed on QIAGEN's net income.

9. PAYMENT

The payment for the Service and Part(s) shall be made by Customer net (a) in accordance with the payment conditions set forth in the Support Agreement or, failing any such conditions being specified therein and in the case of services or part(s) being supplied outside the scope of the Support Agreement, (b) thirty (30) days after the invoice date. For the avoidance of doubt, Customer shall not be entitled to any discount specified in the Support Agreement in the event of an invoice being issued under the foregoing case (b).

10. WARRANTY

- (a) QIAGEN warrants that Part(s) meet applicable specifications as usual in QIAGEN's branch of industry under normal use and service for a period of three (3) months from the date of receipt by Customer. This warranty shall not cover consumable goods in normal use not those of limited life, and QIAGEN only warrants that, at the time of shipment, such goods meet applicable specifications furnished or approved by QIAGEN.
- (b) QIAGEN warrants that any Service or other work performed by it shall be carried out by specially trained and equipped QIAGEN personnel.
- (c) The foregoing warranties are exclusive and in lieu of all other warranties, whether expressed or implied, written or oral, statutory or otherwise, including, without limitation, any implied warranty of satisfactory quality or fitness for a particular purpose.

11. HEALTH AND SAFETY

- (a) Customer shall ensure that its employees, subcontractors and agents working in the immediate and adjacent areas where the Equipment is located are adequately trained in and comply with all relevant and applicable health and safety regulations. Customer will further ensure that an appropriately trained employee of Customer or third party authorized by Customer remains within visual range of QIAGEN's personnel during the performance of Service on the Equipment.
- (b) Without limiting the generality of the foregoing, Customer shall ensure that the Equipment is disinfected and decontaminated prior to the performance of Service thereon by QIAGEN's personnel.

12. LIMITATION OF LIABILITY

In no event shall QIAGEN be liable for any indirect, incidental, special or consequential damages, including, without limitation, loss of property, loss of profits or production damages, resulting from the equipment or part(s), or caused by installation, maintenance or other performance by QIAGEN under these terms and the support agreement, whether a claim for such damages is based upon warranty, contract or tort. Save in respect of personal injury or death, QIAGEN's total liability for loss or damage arising out of or in relation to the support agreement shall in no event exceed the amount paid by customer to QIAGEN with regard to the support agreement. Any claim from the customer shall be time barred one year after damage was caused.

13. SOFTWARE LICENCE

The Software contained in the Equipment or Part(s) ("Software"), if any, shall be disclosed to Customer in confidence and shall be licensed to Customer for Customer's internal use only and for the life of the Equipment or Part(s). Customer agrees that the Software is the intellectual and proprietary property of QIAGEN or its licensor and that the title to, ownership of and the copyright of the Software shall remain with QIAGEN or its licensor. Customer agrees not to copy, reproduce or modify the Software and shall not make the Software available to any other parties by means of sale, lease, rental, license or otherwise, without the prior written consent of QIAGEN. Customer further agrees not to alter or remove any copyright, trade secret, patent, proprietary and/or other legal notices contained in the Software.

14. CONFIDENTIALITY

Customer agrees to hold in confidence any and all information of a confidential nature regarding QIAGEN's business or affairs, including, without limitation, data provided by QIAGEN regarding the design, structure, manufacturing methods of the Equipment and Part(s), and not to disclose the same to any person, firm or corporation. The foregoing confidential obligation of Customer shall not be applicable, if Customer can demonstrate by an appropriate document that: (i) information is already generally available to the public; (ii) information hereafter becomes generally available to the public, through no fault of Customer; (iii) information was already known to Customer prior to the disclosure thereof by QIAGEN; or (iv) information lawfully becomes known to Customer through a third party.

15. FORCE MAJEURE

Neither party hereto shall be liable for default of any obligation hereunder if such default results from the force majeure which includes, without limitation, governmental acts or directives; strikes; acts of God; war; insurrection, riot or civil commotion; fires, flooding or water damage; explosions, embargoes, delays in delivery, or failure to obtain or withdrawal of any export or import license, whether of the kind herein enumerated or otherwise, which are not within the reasonable control of the party affected.

16. TERMINATION

- (a) Either party may terminate the Support Agreement if (1) the other party defaults in its obligation thereunder, provided that such default is not cured within thirty (30) days upon written notice; or (2) the other party becomes insolvent or institutes or permits to be instituted against it any proceedings seeking receivership, trusteeship, bankruptcy, reorganization, assignment for benefit of creditors or other similar proceedings.
- (b) Except as permitted by clause 16(a), Customer shall not terminate the Support Agreement without the prior written consent of QIAGEN. In such event, Customer shall pay QIAGEN a termination charge determined to cover reasonable costs or otherwise.
- (c) An termination hereunder shall not affect any rights or obligations of either party which have accrued prior to termination. In the event of a termination by QIAGEN pursuant to clause 16 (a) Customer shall remain obliged to pay any outstanding remuneration as agreed in the Support Agreement for the current contract year.
- (d) Articles 10 through 15 hereof shall survive the termination of the Support Agreement.

17. MISCELLANEOUS

- (a) Governing Law: These Terms and the Support Agreement shall be governed by and construed in accordance with the laws of Victoria, and all disputes hereunder shall be submitted to the competent courts in the State of Victoria. Any legal fees and expenses (including lawyers' fees) in connection with a lawsuit hereunder shall be borne by the party against whom the court rules or, to the extent a party is only partially successful, on a pro-rata- basis in proportion to the amount awarded by the court compared to the total amount of the claim.
- (b) Assignment: The Support Agreement is not assignable or transferable by either party, in whole or in part, without the written consent of the other party, provided that QIAGEN may assign the Support Agreement to an affiliated company.
- (c) Waiver: The failure of either party to enforce any of the terms or conditions hereof shall not be deemed a waiver of such party's right to enforce these Terms.
- (d) Modification: These Terms shall not be modified or amended except in a written agreement signed by an authorized representative of each party.
- (e) Severability: The invalidity or unenforceability of any provision of these Terms shall not affect the validity or enforceability of any other provision of the Terms, which shall remain in full force and effect.
- (f) Prevailing Language. In the event that these Terms and Conditions are translated in another language, the English version shall prevail.

