

GENERAL TERMS AND CONDITIONS OF SALE OF RADIOMETER SOUTH AFRICA PTY Ltd

I - GENERAL PROVISIONS

- 1.1 The object of these General Terms and Conditions of Sale (the “**Terms and Conditions**”) is to define the conditions under which the company Radiometer South Africa PTY Ltd a company registered in South Africa, having its offices at 19 Lanner Falcon Drive, Samrand, Centurion 0157 (hereinafter the “**Company**”) provides to the client, a professional buyer, (hereinafter the “**Client**” whose entity name and particulars are more fully defined in the Order Form, Quotation and/or Framework Agreement). The Client and the Company are referred to individually as the “**Party**” or collectively as the “**Parties**”.
- 1.2 Any order of Solutions implies unconditional acceptance by the Client and its full commitment to these General Terms and Conditions of Sale, which shall take precedence over any other document of the Client, including but not limited to all general terms and conditions of purchase, and any other purchase order terms and conditions. Should the Company sign or acknowledge receipt of any document received from the Client which contains (or refers to) terms and conditions, such signature or acknowledgement shall under no circumstances amount to any acceptance of the terms contained, or referred to, therein and these Terms and Conditions shall always prevail. No action by the Company shall entitle the Client to assert that the Client’s standard terms and conditions apply to any order placed with the Company.
- 1.3 The invalidity of a contractual clause shall not result in the invalidity of the Terms and Conditions.
- 1.4 The Company reserves the right to amend its General Terms and Conditions of Sale at any time.
- 1.5 The applicable General Terms and Conditions of Sale are those in effect on the date of the order placed by the Client.
- 1.6 The rule of construction that these Terms and Conditions shall be interpreted against the Party responsible for the drafting of these Terms and Conditions shall not apply.
- 1.7 The expiration or termination of these Terms and Conditions shall not affect such of the provisions as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

II - DEFINITION OF MARKETED SOLUTIONS

- 2.1 The term Solutions refers to all the Products, Equipment and Services marketed by the Company.
- 2.2 The term Products refers to all consumables, reagents.
- 2.3 The term Equipment refers to all the marketed instruments (analyzers, monitors, accessories), including Software required for the proper functioning of the Equipment, and which forms a part of the Equipment.
- 2.4 The term Service refers to all the training, hotline, and maintenance proposed by the Company.

III - CONTRACTUAL DOCUMENTS

- 3.1 The framework agreement constitutes the governing terms and conditions between the Company and the Client (the “**Framework Agreement**”) consists of the following elements:
 - (i) the specific sale agreement, operational agreement, rental agreement, master service agreement, or order form between the Parties (“**Special Conditions**”);
 - (ii) these Terms and Conditions.
- 3.2 In case of divergence or contradiction between the provisions of one or more contractual documents, the order of priority shall be (a) Special Conditions, (b) these Terms and Conditions; (c) any Ancillary or Allied Terms and Conditions.

IV - ORDERS

4.1 Final nature of the order

All orders must be sent exclusively via email to the following address: info@radiometer.co.za, or such other address designated by the Company from time to time. To the extent required, the Client agrees to register on the applicable procurement system(s) used by the Company for the purposes of customer management or order management or processing. The Company may, in the exercise of its sole discretion, accept any order at any time by sending a notice that effect in writing to the Client.

4.2 Cancellation policy

Once the orders are confirmed in writing via email, Client may not cancel the order for any reason whatsoever, unless due to willful breach of the Framework Agreement by the Company.

V - PRICE

5.1. Sale price

The sale price of the products is fixed in the Framework Agreement signed by the two Parties. The prices are understood net without discount, excluding VAT.

The shipping costs, excluding taxes, shall be invoiced at the applicable delivery cost specified in the special conditions.

Please note that the shipping costs shall be reviewed at minimum each year.

5.2. Change in price

Unless otherwise agreed between the Parties in the Framework Agreement, the Company may at minimum revise the prices annually. Written notice shall be provided to the Client of any such revisions at least 30 calendar days in advance from the date the revised prices are effective.

VI - PAYMENT OF PRICE

6.1. Due date

- (i) The terms of payment are fixed at 30 days from the invoice date.
- (ii) In addition to any other remedies available to the Company under applicable law and equity, the Company reserves the right to charge a penalty of prime +2%. In case of default, the Company is entitled to suspend delivery of the Solutions.
- (iii) The Client shall not be entitled to deduct any monies due or to become due to the Company from any monies owing, if any, to Client.

6.2. Retention of title clause

The transfer of ownership of our products is suspended until complete payment of the principal and other charges for them by the Client.

VII - DELIVERY

7.1. Definition

Delivery refers to the transfer to the Client of the physical possession and control of the goods or of the record of commissioning for the instruments upon signing.

7.2. Delivery deadline

The delivery deadlines scheduled when ordering are only given as an indication and any delays do not give the Client the right to cancel the sale, to refuse the goods or to claim damages.

7.3. Place of delivery

The products shall be delivered to the address indicated by the Client under the Special Conditions of the agreement.

7.4. Methods of delivery

The Company shall carry out the shipments.

No material can be sent back without the consent of the Company.

In addition, in order to allow us to assert our rights, both with regard to the carriers and the insurance companies:

- upon receiving the goods, any damage must be reported to us by email info@radiometer.co.za within 24 hours of the delivery;
- if the damage is apparent when the goods are received, any objections must be made immediately;
- if the damage concerns defective consumables, this must be reported within a maximum of 24 hours after generation of the error report.

If these provisions are not observed, any claim concerning the Solutions delivered will be rejected, the buyer thereby being presumed to have renounced any legal recourse.

Please note that on no account shall the Company be held liable for direct or indirect damage caused by a delay or by fault on the part of the carrier.

7.5. Commissioning

Commissioning shall only be performed at the request of the Client.

A pre-installation meeting will be organized with Company’s personnel in order to define all the prerequisites of each of the Parties.

The Company and the Client undertake to honor the points that are discussed.

In case of non-compliance with the prerequisites mentioned in the report, the Company reserves the right to defer installation of the Solution.

The Company will contact the Client to agree on a delivery date and commissioning of the Solution.

The Solution described in the Special Conditions will be delivered and installed by the Company at the address of the Client communicated in the Special Conditions.

The costs incurred for installation, commissioning, assembly of the Solution necessary for functioning of the equipment and in accordance with the cost estimate and/or the agreement signed by the Client will be borne by the Company.

In cases of provision or lease of instruments, the place and, if applicable, the premises inside which the equipment will be installed must have the necessary features to permit the operation, protection and maintenance of the Solution under proper conditions so that the Company is exempted from all responsibility with regard to third parties as the owner of the material. The

Client is not authorized to make any modification to the equipment nor to move it without prior written authorization from the Company

The Client undertakes to notify the Company of any plans for transfer or movement of the material to another establishment or within the same establishment.

Performance must be carried out by the Company and will be subject to a separate quote.

The date of acceptance should not be more than 5 (five) calendar days from the date of delivery.

VIII - ASSIGNMENT / TRANSFER OF THE AGREEMENT

The agreements concluded with the Company are "*intuitu personae*" and may not be subject to any assignment or transfer, whether in whole or in part, and whether or not in return for payment.

In case of the Client merging, absorption, division, partial transfer of assets in case of amendment governing bodies, assignment of the majority of voting rights in one of the companies party to this agreement, and in case of lease-management or any transfer of business capital from one of these companies, the Company will have the option to terminate this agreement automatically.

IX - SPECIAL PROVISION – PROVISION – LEASE AGREEMENT

9.1 Ownership of instruments

In case of provision or lease of the Equipment, the instruments are and shall remain the exclusive property of the Company for the entire duration of the agreement, no other right being conferred on the Client in this regard by virtue of these Terms and Conditions.

The Client waives irrevocably any lien or right to retain possession of anything or document of title belonging to the Company which lien or right the Client may have or acquire in the course of this Agreement.

The Client undertakes to take appropriate action to store, maintain, and protect any leased instruments in accordance with the Company's instructions.

9.2 Insurance

For the entire duration of the contract in case of leasing, the Client undertakes to assume all the risks relating to the equipment and in particular all risk of damages, total or partial loss, accident for whatever cause, including in case of unexpected circumstances, force majeure (among others, fires, floods, water damage, riots,...) as well as those relating to civil responsibility resulting from the possession or use of equipment in the presence of third parties.

To this end, the Client must insure the equipment at its own cost against all risk of loss for its total replacement value and must assume the entirety of the risks from loss or damages whatever the cause from the date of signing the agreement until its end, whether these risks are covered or not by the insurance taken out. The occurrence of a loss or some kind of damage to the equipment shall not release the Client from its obligations mentioned in this agreement.

In the insurance policies mentioned, the Company will be mentioned as a beneficiary of the compensation.

The Company may request the Client to produce a certificate of insurance indicating that the insurance premiums relating to the insurance taken out have been paid. The Client is required to request reimbursement of the damages that must be paid by the insurance company, if applicable, in accordance with the insurance ceiling mentioned in the policy and taking into account any exclusions of risks.

If the equipment, the object of the Framework Agreement suffers an accident, the Client is obliged to inform the Company within a maximum period of seven (7) days, as well as the insurance company within the deadlines indicated in the policy and must exempt the Company from all responsibility resulting from the aforementioned accident.

9.3 Contract duration

The duration of the contract, renewal and extension terms for lease is set in the Special Conditions.

9.4 Confidentiality

Pricing offered by the Company is based on confidential pricing parameters unique to the nature of business of the Client. The Client cannot use or divulge any information of a financial, statistical, technical, or commercial nature or relating to its own tariffs, or any of the Company's products that it may acquire from the Company without the prior written agreement of Company.

9.5 Return of the material at the end of the lease term

At the end of the lease or provision of Equipment by Radiometer, the Client is obliged to ensure that the components of the Equipment have not undergone any modification or removal and are in a state of normal wear. If components are lacking, or Equipment are tampered with, then Radiometer reserves the right to invoice them to the Client at the rate in effect at the time of return.

IX – FORCE MAJEURE

Except for payment obligation hereunder, neither Party shall be liable for any delay or failure to perform under the Agreement due to causes beyond a Party's reasonable control, such as but not limited to acts of God, war or other hostility, acts of terrorism, civil disorder, the elements, flood, fire, pandemics or epidemics, shortage of supplies, infrastructures or transportation, power failure, equipment failure, industrial or labor dispute, embargo, law, rule, regulation or action by any governmental authority, national, regional or global emergency. In the event of any such delay or failure to perform, the Company shall have additional time within which to perform the Company's obligations under the Agreement as may be reasonably necessary under the circumstances. Despite anything to the contrary in the Agreement, the Company may apportion Product subject to a shortage in any manner the Company considers equitable.

X – WARRANTY

10.1 Subject to the below exceptions and conditions, Company warrants to the Client, for a period of 12 months from date of delivery, that the Equipment provided under the Agreement shall (i) be free from defects in material and workmanship, (ii) conform in all material respects with published applicable specifications and (iii) are free of liens and encumbrances when shipped.

10.2 The warranty on Products is valid until the date of expiry stipulated on the Product or in the documentation. The warranty is restricted to replacement or repair of parts, all other forms of compensation are formally excluded. Replacements under the warranty do not extend the original duration of the warranty.

10.3 Company does not warrant any defects in any Equipment caused by: (a) improper use, unauthorized re-installation, removal, or testing; (b) Client's failure to provide a suitable operating environment for the Equipment; (c) use of the Equipment for purposes other than that for which they were designed; (d) unusual physical or electrical stress; (e) modifications or repairs performed by anyone other than Company or a Company authorized service provider; or (f) any other abuse, misuse, or neglect of the Equipment; (g) any Force Majeure Event. It is Client's responsibility to determine, and Client shall assume the risk for the suitability of Solutions for Client's use of the Solutions in compliance with all applicable laws, rules, regulations, regulatory guidance, and industry codes, including, without limitation, any Social Security regulation and abuse laws (collectively, "Applicable Law"), the Products' labeling, inserts, and manuals, and other Product-related information and materials published by Company or any regulatory authority.

10.4 This warranty extends to Client only, and not to any other third party. Except as expressly set forth in these Terms, Products are sold "AS IS." THE WARRANTY IN THIS SECTION IS PROVIDED IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ARE THE CLIENT EXCLUSIVE REMEDIES RELATING TO PERFORMANCE OF THE PRODUCTS. COMPANY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY WARRANTY ABOUT THE MERCHANTABILITY OF THE PRODUCTS, INFRINGEMENT OR THEIR FITNESS FOR A PARTICULAR PURPOSE

XI - LIABILITY

The Client must defend and hold the Company harmless from all liability for any complaint, expense (including lawyers' costs and fees), damage and liability resulting from the use or improper use of the equipment by the Client, and in particular from complaints/claims (relating to personal injuries, death, damages or otherwise) resulting from a fault, negligence, serious misconduct, omission or violation of the Terms and Conditions and/or Special Conditions. The Company cannot be held liable for any damage suffered by the Client or by a third party resulting directly or indirectly from non-compliance by the Client with any of its obligations, from negligence, from using the Product for purposes other than those intended, from use made in its role as a professional, from information contained in the Solutions and interpretations that it makes, from the results that it obtains and from actions that are completed under the sole responsibility of the Client.

The Client is notified when it acquires its Solution that this is directed at professionals and that it is in no way intended to supersede its judgment nor to assume its responsibilities.

The Client alone is responsible for the choice of Solution, having received the advice and information necessary and sufficient about its conditions of use, its capacities and performance limits, and for the use and/or interpretations that it makes from the documents and data that it consults, the results that it obtains, deduces and/or issues.

IN NO CIRCUMSTANCE OR EVENT SHALL COMPANY BE LIABLE TO THE CLIENT OR TO ANY THIRD PARTY FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF USE, DATA, SOFTWARE, WASTED MANAGEMENT, OPERATIONAL OTHER TIME, BUSINESS, PROFIT, REVENUE, PRODUCTION, GOODWILL, REPUTATION, OPPORTUNITY, ANTICIPATED SAVING OR MARGIN, WHETHER DIRECT OR INDIRECT) ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY OTHER RELATED CONTRACT OR THE USE OF OR INABILITY TO USE THE EQUIPMENT OR FOR ANY ERROR OR DEFECT IN THE EQUIPMENT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED

UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, UNDER AN INDEMNITY OR OTHERWISE, AND WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THE PARTIES HAVE AGREED THAT THESE LIMITATIONS SHALL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THE AGREEMENT IS FOUND TO HAVE NOT MET ITS ESSENTIAL PURPOSE.

IN NO EVENT SHALL COMPANY'S LIABILITY TO THE CLIENT ARISING OUT OF, RELATING TO, OR IN CONNECTION WITH THE AGREEMENT, FROM ALL CAUSES OF ACTION AND UNDER ALL TYPES OF LIABILITY, EXCEED THE ACTUAL AMOUNT PAID BY THE CLIENT TO COMPANY UNDER THE AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE DATE THAT THE CLAIM FIRST ACCRUED. THIS LIABILITY LIMIT IS CUMULATIVE AND ALL DAMAGES PAID TO THE CUSTOMER UNDER THE AGREEMENT SHALL BE AGGREGATED IN CALCULATING THE SATISFACTION OF COMPANY'S LIABILITY LIMIT.

The exclusions and limitations set forth herein shall be considered severally and in alignment with applicable law. Nothing herein shall limit of severe obligations due by either party under applicable law.

The Company will not be liable for any delay or failure to perform its obligations under this Agreement owing to a Force Majeure Event.

XII - PROCESSING OF PERSONAL DATA

The information gathered on the Client are subject to computer processing implemented by Company and are essential to the processing of its order. The Parties agree to comply with applicable laws including but not limited to the Protection of Personal Information Act in processing such data.

This information and personal data are also kept for security purposes in order to fulfill legal and regulatory obligations. They will be kept for as long as necessary for the managing of orders and guarantees that may apply.

The controller of the data is the company Radiometer, whose contact details are in the header of these Terms and Conditions.

Access to the personal data will be strictly limited to employees responsible for processing and authorized to process them by virtue of their positions. The information gathered may be communicated to third parties contracted by the company to execute subcontracted tasks without requiring authorization from the Client.

The Client has the right of access, to rectification, to erasure, to portability of the data concerning it, as well as the right to object to processing for just cause, rights that it can exercise by contacting the controller at the postal address or email mentioned above, attaching supporting evidence of valid identification.

The Client hereby agrees to the cross-border transfer of information, and transmission of information outside of South Africa to the extent required for the fulfilment of obligations under this Agreement, and in accordance with the provisions of the applicable law. The Client hereby consents to such transfer.

For more information on how personal data is handled, privacy policy is available on <https://www.radiometer.co.za/en-za/about-radiometer/legal/legal-notice>, or contact us on privacy@radiometer.dk

XIII - WAIVER

If the Company does not make use of any of the clauses in this document at a given moment, this does not constitute a waiver of subsequent enforcement of these same clauses.

XIV – DISPUTE RESOLUTION

If a dispute arises in relation to the Agreement the Parties shall first attempt to settle the matter by negotiation. If the Parties are unable to settle the dispute within fourteen (14) days after written notice of the dispute has been sent by either Party to the other Party, the dispute shall be settled by the competent Courts in and for Gauteng, South Africa and the Parties agree to submit to the personal and exclusive jurisdiction and venue of these court.

XV - JURISDICTION

This Agreement shall be governed by the applicable laws of the Republic of South Africa, and the Parties agree to the exclusive jurisdiction of the Courts in and for Gauteng, South Africa.