

SPECTRANALYSIS (PTY) Ltd STANDARD TERMS AND CONDITIONS OF CONTRACT

This document contains the terms and conditions by which Spectranalysis (PTY) imports and sells hardware, firmware, software products and services ("Products") which may change from time to time and may be covered by a guarantee or warranty which is from suppliers and manufacturers.

It contains terms and conditions which appear in similar text style to this clause and which –

- A. May limit the risk or liability of Spectranalysis (PTY) Ltd or a third party; and/or
- B. May create risk or liability for the Purchaser; and/or
- C. May compel the Purchaser to indemnify Spectranalysis (PTY) Ltd or a third party; and/or
- D. Serves as an acknowledgement, by the Purchaser, of a fact.
- E. Nothing in these terms and conditions is intended to or must be understood to unlawfully restrict, limit or avoid any rights or obligations, as the case may be, created for either the Purchaser or Spectranalysis (PTY) Ltd.
- F. Spectranalysis (PTY) Ltd do not undertake SANAS accredited Annual calibration but do have full servicing facilities on site.

1 APPLICATION OF THIS DOCUMENT

1.1 This document, as amended by Spectranalysis (PTY) Ltd from time to time in accordance with any applicable legislation, is applicable to the provision and use of all Products sold by Spectranalysis (PTY) Ltd to Purchasers as per 1.6.

1.2 The Purchaser accepts and agrees that these terms and conditions become binding once Spectranalysis (PTY) Ltd has received the Purchaser's Order and agreed to provide the Products. Spectranalysis (PTY) Ltd will notify the Purchaser in writing if the Purchaser's Order is not accepted.

1.3 Each order for Products, and each instance in which Products are sold to the Purchaser under a separate order, shall constitute a separate Order contract between the Purchaser and Spectranalysis (PTY) Ltd and shall be governed by this document.

1.4 In the event of a conflict between these Terms and Conditions and the order contract then these Terms and Conditions shall take precedence.

1.5 The Parties may agree certain terms and conditions relating to a certain Product regarding the manner in which the Product may be used. In such an event, those specific terms will be recorded in writing in a separate document signed by both Parties ("Terms of Use Sheet"). The Terms of Use Sheet will be considered an annexure to these Terms and Conditions and shall be in addition to these Terms and Conditions and not in substitution thereof. In the event of a conflict between these Terms and Conditions and the Terms of Use sheet then the Terms of Use Sheet will take precedence.

1.6 Spectranalysis (PTY) Ltd reserves the right to amend these Terms and Conditions from time to time. Spectranalysis (PTY) Ltd will give written notice to each Purchaser of such amendments by placing the amended terms and conditions on the Spectranalysis (PTY) Ltd website (www.spectran.co.za)

2 ORDERS AND PRICE

All orders received for Products will be processed in accordance with Spectranalysis (PTY) Ltd normal business practice.

3 EXPORT ORDERS

3.1 All Orders received from outside of the Republic of South Africa for Products are subject to Spectranalysis (PTY) Ltd obtaining the necessary export licence and subject to exchange rate variations.

3.2 It is the Purchaser's responsibility to obtain the necessary import permit.

3.3 Any cost which Spectranalysis (PTY) Ltd may have incurred by the non-availability of the import permit to the Purchaser on the date by which the Products are ready for dispatch will be for the Purchaser's account.

4 PAYMENTS

4.1 Unless otherwise agreed upon in writing, any amount payable pursuant to this document shall be due no later than 30 (thirty) days from the date of issue of an Invoice by Spectranalysis (PTY) Ltd for the Products in question unless ordered from outside the South African borders, in which case pre-payment is required.

4.2 Notwithstanding the provisions of clause 4.1 above, the product remains the property of Spectranalysis (PTY) Ltd until payment is made in full.

4.3 All payments by the Purchaser and other amounts due shall be paid in full, without any deduction or set-off and without the costs of transfer of funds either in cash at the premises of Spectranalysis (PTY) Ltd or directly into the bank account of Spectranalysis (PTY) Ltd as indicated in the Invoice or such other bank account as Spectranalysis (PTY) Ltd may notify the Purchaser of in writing from time to time. Spectranalysis (PTY) Ltd do not have credit card facilities or accept cash.

4.4 Spectranalysis (PTY) Ltd shall be entitled to charge interest on any amount not paid on the due date for payment at the Prime Rate plus 2% (two per cent) calculated from the due date for payment until the date of payment, both days inclusive.

5 DELIVERIES, OWNERSHIP AND RISK

5.1 Ownership in the products shall pass to the Purchaser when the total purchase price in respect of the Products purchased have been paid in full and received by Spectranalysis (PTY) Ltd accordingly, ownership in and to these Products shall remain vested in Spectranalysis (PTY) Ltd until fully paid for, notwithstanding anything to the contrary herein contained or in any contract of carriage, insurance or finance.

5.2 Notwithstanding the provisions of clause 5.1 above, risk in the Products shall pass to the Purchaser on the date of delivery, including the risk of loss, theft, destruction or damage.

5.3 In the event Spectranalysis (PTY) Ltd supplies software or firmware, all risk passes on to the Purchaser including risk of loss, theft, destruction, damage or technological changes to computer hardware or software affecting compatibility with the Product/s.

5.4 Spectranalysis (PTY) Ltd shall deliver the Products to the Purchaser at the place stipulated on the relevant order and the Purchaser shall be obliged to take delivery of the Products when tendered.

5.5 Spectranalysis (PTY) Ltd will at all times endeavour to dispatch the Products for delivery to the Purchaser as soon as practicably possible after the order confirmation has been issued, however the Purchaser acknowledges that Spectranalysis (PTY) Ltd ability to supply the Products is dependent on its stock levels held locally or availability from its suppliers. The Purchaser shall not be entitled to rely on any indication given to the Purchaser, indicated prior to or at the time of placing the order or thereafter, of the time at which delivery shall take place, which shall merely be an estimate, and Spectranalysis (PTY) Ltd shall not be liable or accountable to the Purchaser for any claims, loss or damages suffered in relation thereto.

5.6 Delivery of the Products shall be deemed to be effected as follows –

5.6.1 In the case of Internet or cloud based Products, once Spectranalysis (PTY) Ltd has provided the Purchaser with a unique username and password, EULA or other activation code;

5.6.2 In the case of Products, when posted via registered mail or upon the signature of any employee or agent of the Purchaser, on Spectranalysis (PTY) Ltd official delivery note or waybill, or the delivery note of any authorised independent courier;

5.7 In the case of products provided that the Purchaser has paid the price in full, the Purchaser shall be entitled to receive any updates issued by Spectranalysis (PTY) Ltd or its suppliers to download updates or purchase updated products (hardware, firmware or software), for the duration of the validity period.

5.8 The Purchaser is required to inform Spectranalysis (PTY) Ltd of non-delivery / non receipt of products within one month of scheduled delivery date. Spectranalysis (PTY) Ltd will not supply customers with free replacement copies of any software or firmware if damaged, lost or non-compliance with operating systems for which they are not specifically intended.

5.9 Unless expressly agreed to and specified in the quotation, Spectranalysis (PTY) Ltd makes no guaranty for the suitability of the Products sold for any particular end use contemplated by the Purchaser. It is the sole responsibility of the Purchaser;

5.9.1 To ensure the suitability of the Products for the use contemplated by the Purchaser and/or any End-User, and

5.9.2 For the purchase, installation and subsequent maintenance or updating of computer hardware, software or any other components, systems including recommended internet browsers that may be required to access Spectranalysis (PTY) Ltd information or upgrades/downloads relating to electronic products.

5.10 No delay (whether occasioned by a delay in delivery of Products ordered by the Purchaser, to the Purchaser by the suppliers or couriers of Spectranalysis (PTY) Ltd or by other causes beyond Spectranalysis (PTY) Ltd reasonable control as contemplated in clause):

5.12) Shall give rise to a right or claim for loss, damages or cancellation of an order or this Agreement by the Purchaser.

5.11 The Purchaser shall be liable for all additional costs occasioned by –

5.11.1 The Purchaser's inability to accept delivery of the Products concerned; or

5.11.2 The Purchaser's specific request for delay or suspension of delivery.

5.12 Notwithstanding anything to the contrary herein contained, Spectranalysis (PTY) Ltd shall not be liable to the Purchaser in respect of the non-performance of any of the provisions of this Agreement in the event and to the extent that such non-performance is as a result of or has been caused by force majeure, which shall mean any event beyond the reasonable control of Spectranalysis (PTY) Ltd or which could not reasonably have been foreseen by it, and shall include, but not be limited to, –

5.12.1 Inability to secure or procure labour and/or Products (including due to a breach by any supplier of Products for an Order therefor), if applicable, despite Spectranalysis (PTY) Ltd having taken all reasonable steps to procure same; or

5.12.2 Any act of God, war, strike, lockout or other labour dispute, fire, flood, drought, rain, storm, hail, rough seas, wind or any existing or new legislation, general power failures, breakdown of telecommunication networks or computers, political intervention, imposition of sanctions, riot, insurrection embargoes, quarantine or any governmental barring directive or order.

6 INTELLECTUAL PROPERTY AND PERMITTED USE

6.1 Notwithstanding the sale and delivery of the Products to the Purchaser, all copyright, patent rights, trademarks, registered design or any application for registration of the same, database rights, design rights, rights in trade, business or domain names, rights in trade dress, rights in inventions, rights in confidential information or know-how, whether registered or unregistered, or any similar or equivalent rights in any part of the world and all other intellectual property rights in and to the content of the Products shall at all times remain vested in Spectranalysis (PTY) Ltd or its licensors. .

6.2 Spectranalysis (PTY) Ltd hereby grants to the Purchaser, who hereby accepts, a non-exclusive, non-transferable licence to use the Products in accordance with these Terms and Conditions (and the Terms of Use Sheet, if applicable). In respect of the Electronic Products, the aforesaid licence shall endure for the "validity period" indicated in the Spectranalysis (PTY) Ltd catalogues prevailing at the time of purchase, read with the applicable Invoice.

6.3 Unless otherwise stipulated in the Terms of the user manual or other document Sheet for the relevant Electronic Product;

6.3.1 The licence contemplated in clause 6.2 may only be used by the number of concurrent End-Users (EULA) defined by the number of licences purchased, read with the applicable Invoice.

6.3.2 E-Books may only be downloaded and may only be used on the Purchaser's own information and education and not for the purposes of re-sale or for any shared usage

6.4 Unless Spectranalysis (PTY) Ltd agrees otherwise in writing, the Purchaser may not display or distribute any part of the Electronic Products or company names on any electronic or public accessible network or on any form of printed, stored medium or any form that can be shared other than as permitted in these Terms and Conditions.

6.5 Products may include the option of upgrading software and firmware. If the Purchaser chooses not to upgrade as recommended, by the manufacturers or Spectranalysis (PTY) Ltd, then Spectranalysis (PTY) Ltd shall have no further obligations or liability to the Purchaser whatsoever. Backdates of upgrades are not offered

6.6 The Purchaser's is entitled to receive one copy of the Product and to install software on one computer or server unless specified or with multi-user or network licences being purchased for the designated System. The Products are designed for and may only be used for the designed purpose, unless otherwise agreed in writing by Spectranalysis (PTY) Ltd and some products or services may be intended to be used on an online system or platform.

6.7 Internet products can be accessed by;

6.7.1 Systems designed to be web or cloud based requiring an IP address will be supported where possible only with the original service provider. Further changes to a commissioned system will not be the responsibility of

Spectranalysis (PTY) Ltd. The Purchaser must notify Spectranalysis (PTY) Ltd of any changes to such IP addresses or change in service providers.

6.7.2 When using a Using username and password for communication, the username must be an active email address.

6.8 Spectranalysis (PTY) Ltd may make use of cookies when verifying the End-user's IP address.

7 DISCLAIMERS

7.1 Whilst Spectranalysis (PTY) Ltd takes reasonable precautions to comply with warranties, these warranties are issued by our suppliers and Spectranalysis (PTY) Ltd cannot be held responsible by any changes in supplier's guaranty, warranties or any other changes from supplier's conditions whatsoever.

7.2 In addition to the provisions of clause 7.1, Spectranalysis (PTY) Ltd disclaims all warranties or representations, whether express or implied, that the information or files available on the Electronic Products are free of viruses, spyware, malware, trojans, destructive materials or any other data or code which may corrupt, destroy, compromise or jeopardise the operation, stability, security functionality or content of the Purchaser's Designated System, computer network, hardware or software in any way. Spectranalysis (PTY) Ltd: Standard Terms and Conditions of Sale and Use

8 LIMITATION OF LIABILITY

8.1 In addition to any other specific exclusions of liability contained herein and unless otherwise expressly stated herein, the Parties agree that the Purchaser shall have no claim against Spectranalysis (PTY) Ltd for any loss or damage, of any nature, occasioned by any defect in any Products supplied, or any failure to provide adequate instructions in respect of any hazards that might arise from the use or incorrect use of the Products and provided that nothing in these Terms and Conditions must be construed as in any way limiting the rights of the Purchaser to raise such defences as may be available to it at common law or in terms of any statute.

8.2 Notwithstanding the provisions set out in clause 7.1 above, in the event that Spectranalysis (PTY) Ltd provides advice regarding the application of Spectranalysis (PTY) Ltd Products, the liability of Spectranalysis (PTY) Ltd in respect of the non-suitability of the Products for the purpose for which they are used will be limited to the selling price of those Products.

8.3 Spectranalysis (PTY) Ltd accepts no liability for damage to Products caused by inadequate storage, tampering by parties not authorised by Spectranalysis (PTY) Ltd, negligence of the Purchaser or End-User, or use of the Products by the Purchaser in applications for which they are not recommended (including use in a manner not authorised in the Terms of manual and operator's manual or any other instructional information which may accompany the Product).

8.4 Spectranalysis (PTY) Ltd has no control over third party content and features which can be accessed through the use of the Products and does not examine or edit such content and features or act as an agent for third parties accessible through the Products. As such and to the fullest possible extent permissible under law Spectranalysis (PTY) Ltd disclaims any liability whatsoever to users for any loss or damage arising from the use of third party websites contents and features.

8.5 Spectranalysis (PTY) Ltd its officers, employees, suppliers, internet service providers, partners, affiliates and agents, shall not be liable for any direct damage, loss or liability, howsoever arising, incurred by End-Users or any other persons and resulting from the use or inability to use the Products, unless such damage was caused by the gross negligence of Spectranalysis (PTY) Ltd any or a combination of the foregoing persons.

9 DEFAULT EVENTS

9.1 The Purchaser shall be in default of its obligations in terms of the order contract if it –

9.1.1 Fails to pay punctually any amount due and payable to Spectranalysis (PTY) Ltd and fails to remedy the non-payment within a period of 10 (ten) Business Days from the date of written notification to that effect from Spectranalysis (PTY) Ltd or

9.1.2 Commits any other breach of any of the terms of the Agreement and fails to remedy same within a period of 10 (ten) business days from the date of written notification to that effect from Spectranalysis (PTY) Ltd or

9.1.3 Allows any judgments against it to remain unsatisfied for a period of 5 (five) business days; or

9.1.4 Compromise or attempts to compromise any debt with any of its creditors; or

9.1.5 Is provisionally or finally sequestrated, liquidated, wound-up or placed under business rescue or curatorship; or

9.1.6 Permits any lien, hypothec, notarial bond, pledge, other security, or interest to be created over the Products, or abandons the Products or relinquishes possession of the Products, or allows the Products to be seized under any legal process issued against the Purchaser prior to the discharging all of its obligations arising from the Order contract.

9.2 Upon the Purchaser being in default, or should Spectranalysis (PTY) Ltd be otherwise entitled in law, Spectranalysis (PTY) Ltd shall, without prejudice to any other rights that it may have at law or in terms of the Order contract be entitled to –

9.2.1 Suspend any and all supply of or access to Products until such time as payment of all amounts owed is received in the case of a default in terms of clause 9.1.1; or

9.2.2 Cancel this Agreement on written notice to the Purchaser or to claim specific performance in terms of this Agreement for any obligation owed by the Purchaser to Spectranalysis (PTY) Ltd and

9.2.3 Claim damages from the Purchaser.

9.3 Without derogating from the provisions of 4.4, if the Purchaser cancels or purports to cancel this contract then, notwithstanding anything to the contrary herein, the outstanding amount shall immediately be due and payable by the Purchaser to Spectranalysis (PTY) Ltd.

10 DOMICILIUM & INFORMATION

10.1 The Purchaser hereby chooses as its domicilium citandi et executandi for all purposes under or arising from the order, its street address provided to Spectranalysis (PTY) Ltd in the order.

10.2 Any notices sent by electronic communication including email shall be deemed to have been received on the date of transmission provided that the transmission or receipt report does not indicate otherwise and if posted by registered or secured mail, on the 10th (tenth) day after posting.

10.3 The Purchaser shall notify Spectranalysis (PTY) Ltd in writing of any changes in the information provided to Spectranalysis (PTY) Ltd in the order. Spectranalysis (PTY) Ltd shall not be liable for any damages, loss or expenses suffered or incurred by the Purchaser as a result of the non-compliance by the Purchaser with this clause 9.3.

11 LEGAL COSTS

In the event of a default by the Purchaser under the order contract, the Purchaser will be liable for all legal and related costs.

12 APPLICABLE LAW AND JURISDICTION

12.1 The Order contract will in all respects be governed by and construed under the laws of South Africa.

12.2 The Parties consent and submit to the jurisdiction of the High Court of South Africa in Johannesburg, Randburg Courts, Gauteng or any other court which may be more convenient for Spectranalysis (PTY) Ltd in respect of any dispute between them in relation to or arising from the Order contract.

13 CREDIT INFORMATION

The Purchaser agrees that Spectranalysis (PTY) Ltd may –

13.1 Make inquiries to confirm any information provided by the Purchaser in the order;

13.2 Seek information from any credit bureau when assessing the Purchaser's credit rating and at any time during the existence of the Order contract; and

13.3 Disclose the existence of the Purchaser's account to any credit bureau, share positive and negative information about the Purchaser and its compliance with the Order contract with any such credit bureau.

14 GENERAL

14.1 If any provisions of the Order contract are found to be unlawful, unenforceable or invalid, it shall be deemed to be separate and severable from the remaining provisions of the Agreement and to the extent that same is unlawful, unenforceable or invalid, be deemed to be pro non scripto.

14.2 No extension of time or other indulgences granted by Spectranalysis (PTY) Ltd to the Purchaser in respect of its obligations will constitute a waiver or novation of or otherwise affect any of credit provider's rights to enforce strict compliance with the terms of the Order contract.

14.3 Spectranalysis (PTY) Ltd reserves the right to amend these terms and conditions without notification to third parties.

14.4 The Order contract together with these terms and conditions constitutes the whole agreement between the Parties and no Party shall be bound by any undertakings, representations, warranties and promises or the like not recorded therein.