

BIOMERIEUX SOUTH AFRICA (PTY) LIMITED

("we" or "us")

STANDARD TERMS AND CONDITIONS OF SALE 2018

("Conditions")

1. GENERAL

1.1 All quotations are made and all orders are accepted by us solely upon and subject to these Conditions and any other terms and conditions or warranties are excluded from the contract or any variation thereof, unless expressly accepted by us in writing.

1.2 All goods are sold by us in accordance with the standard specifications applicable to such goods, and subject to these Conditions. We provide no warranty whatsoever, whether express or implied that the goods supplied are suitable for the purpose for which they are bought.

1.3 Any advice or assistance given, whether concerning processing or application possibilities relating to our products, technical recommendation or similar indications, machinery or otherwise, is given in good faith but without obligation and subject specifically to the exclusion of any liability whatsoever on our part, or on the part of our staff for damages whether direct, consequential or otherwise.

1.4 The CUSTOMER must when communicating with us quote product number, invoice number, account number, CUSTOMER Purchase Order number and any relevant information so that any query may be answered by us without delay.

1.5 We reserve the right to decline any Purchase Order if the information referred to in clause 1.4 is not clearly identifiable in writing with clear reference to the Purchase Order.

2. ORDERS

2.1 All orders should be received by 14h00 for delivery the next day before 17h00 (this is bioMérieux's standard delivery terms)

2.2 A minimum order value of R8,500.00 applies per order (excl VAT). Orders below this value will incur a R850.00 freight charge per order (excl VAT) within the borders of RSA and R1,700.00 for Swaziland, Lesotho, Botswana and Namibia.

2.3 Urgent Orders (Same day & Dawn Delivery) will be levied R1500.00 Freight charge per order (excl VAT), refer to clause 5 (Delivery)

2.4 Consolidation of orders is a prerequisite, orders will only be delivered once a week to customers, all urgent orders will be levied delivery charge

2.5 Orders shall only be binding on us if made in writing (fax, e-mail, written document) or telephonically and accepted by us in writing, by phone, fax, email or by delivery of any goods so ordered and by submission of invoice.

2.6 The CUSTOMER'S delivery address must be clearly stated on every purchase order received.

2.7 Unless CUSTOMER's order specifies a date on or before which delivery is required and such date is accepted by us in writing, orders will be accepted for delivery as and when goods can be made available by us. We are entitled to execute orders by instalments.

2.8 Unless CUSTOMER's order specifies a specific shelf-life, orders will be accepted for delivery as and when goods can be made available by us.

2.9 We reserve the right to amend orders, so that the quantities sold conforms with our standard minimum quantities, or multiples thereof.

2.10 Product codes must be reflected on the order per the bioMérieux Product Catalogue. We shall not be responsible for incorrect products supplied should the Customer order a product simply on the basis of a description.

3. PAYMENT

Unless otherwise agreed by us beforehand in writing:-

3.1 Payment for goods ordered shall become due and payable without set off or deduction within 30 (thirty) days of the date of our statement on which the purchases are first invoiced. Interest at the rate of 2% (two percent) per annum above the prime overdraft rate ruling at the time quoted by Standard Bank Limited shall be payable on all overdue amounts.

3.2 Where orders are executed by instalments, payment for each part executed shall be due in terms of these Conditions from date of statement referring to the relevant part of the order.

3.3 If we have not expressly confirmed a definite price in writing for the execution of any order, our price list ruling at the date of delivery shall apply. Where delivery of an order is made in parts, the list price ruling at the date of each part delivery shall apply to each such part delivery.

3.4 Where a definite price has been expressly confirmed by us for the execution of an order or a contract, such price shall nevertheless at all times be subject to increase in the event of any increase in our list price ruling at the immediate time of

delivery or part delivery of the order or during the contract, but any such increase in price shall be notified to the CUSTOMER and shall entitle the CUSTOMER to terminate the order or contract within 14 (fourteen) days' notice in writing to us, without either party having any claim whatsoever or in consequence of such termination.

3.5 We shall have no obligation to supply for as long as the CUSTOMER is in arrears with any payments owing from whatever cause. Any credit facilities granted by us may be withdrawn or the terms altered by ourselves at our sole discretion without notice to the CUSTOMER.

3.6 In the event of any amount owing by the CUSTOMER falling into arrears, we shall have the right to appropriate any payments received towards interest, then costs and thereafter in reduction of the capital amount owing.

3.7 Should the CUSTOMER default in paying his account and should any negotiable instrument furnished by the applicant be dishonoured, we shall be entitled, but not compelled, to forthwith demand that the whole amount immediately become due and payable, notwithstanding the fact that a portion of the amount would not be due in accordance with the agreed terms of payment.

3.8 Any promissory note, bill of exchange or other negotiable instrument received by us from the CUSTOMER shall not constitute a novation of the debt for which it is given.

3.9 The CUSTOMER agrees that in the event of any portion of the invoiced indebtedness being disputed, the CUSTOMER will forthwith pay the undisputed portion of such indebtedness according to the agreed terms allowed by us, failing which any discount permitted in respect of the invoiced indebtedness will be forfeited and overdue interest will be charged, in accordance with the provisions of clause 3.1 above.

3.10 Payment by post is made at the risk of the CUSTOMER. Payment will only be deemed to have been received once the relevant payment has been deposited into our bank account and cleared by the CUSTOMER'S bankers.

4. OWNERSHIP OF GOODS SOLD

4.1 Ownership of goods sold shall remain vested in us and shall not pass to the CUSTOMER until the full balance of the purchase price, together with any accrued interest thereon, has been paid. This reservation of ownership does not in any way interfere with the right of the CUSTOMER to resell the goods, provided that the goods are sold in the normal course of business.

4.2 If the CUSTOMER fails to make payment on or before due date, we shall be entitled in our discretion and without prejudice to any rights available to us in law, either:-

4.2.2 to claim in full, amounts owing by the CUSTOMER at that date, whether or not such amounts are otherwise due and payable; and/or

4.2.3 to cancel the sale, repossess the goods, recover from the CUSTOMER all damages sustained by reason of the CUSTOMER'S default and to retain all amounts paid by the CUSTOMER to date on account of such damages.

5. DELIVERY

5.1 Delivery period is ex stock for reagents (where available) and approximately 4-8 weeks for instrumentation.

5.2 A longer lead time for delivery may be needed for products of a specific configuration, lot number and / or shelf-life.

5.3 No cold chain products are shipped on a Friday, or any working day preceding a public holiday, in order to maintain the cold chain integrity of the product.

5.4 Same day delivery requests within the borders of RSA will be levied at a surcharge, the amount of which we shall specify in a written quotation to the CUSTOMER, provided that the product and courier service is available.

5.5 Dawn delivery requests (following day before 9am) within Gauteng will be levied at a surcharge of R1500.00 (excl VAT) provided the product and courier service is available. Dawn delivery requests within the borders of RSA will be levied at a surcharge, the amount of which we shall specify in a written quotation to the CUSTOMER, provided that the product and courier service is available.

5.6 Time for delivery is given as accurately as possible, but is not guaranteed. The CUSTOMER shall have no right to damages or to cancel the order for failure for any cause to meet any delivery times stated as this is managed by a third party courier.

5.7 All goods will be delivered carriage paid via a carrier selected by us. Should we be given any special delivery instructions or should we be requested to make shipment by a more expensive method of transportation, the additional charges involved will be debited to the CUSTOMER'S account

and the interest rate shall apply to all disbursements from date of disbursement to date of repayment.

5.8 The date of delivery shall in every case be dependent upon prompt receipt of all necessary informational instructions or approvals from the CUSTOMER. Alterations by the CUSTOMER in product specifications or quantities required may result in delay in delivery.

5.9 We will endeavour to comply with reasonable requests by the CUSTOMER for postponement of delivery but shall be under no obligations to do so.

5.10 Failure by the CUSTOMER to make payment in respect of any one or more instalments in respect of goods delivered hereunder shall entitle us to treat the whole contract as repudiated by the CUSTOMER.

5.11 It is the CUSTOMER'S responsibility to check that goods delivered and signed for are in good condition upon arrival. Once the Proof of Delivery is signed by the CUSTOMER or its representative, we will not be held liable for any returns whatsoever.

6. CANCELLATION

6.1 Cancellation before delivery will only be agreed to by us on condition that all costs and expenses incurred by us, up to the time of cancellation and all loss of profits and other loss or damage resulting to us by reason of such cancellation will be reimbursed by the CUSTOMER to us forthwith.

7. PRICING

7.1 Prices are as officially quoted unless otherwise stated:

7.1.1 for South African sales exclusive of VAT

7.1.2 for export sales without VAT

7.2 The price payable by the CUSTOMER shall be the price quoted together with such sum as is sufficient to cover any increase to us after the date of the quotation in the cost of performance of the contract due directly to government action or to strikes or to fluctuations in the cost of labour, overheads, currency exchange rates, taxation, customs duties, demurrage charges, transport charges, shipping rates and insurance rates or to the imposition of surcharges on any of the three latter items or to any unforeseeable events. Such additional sum shall become part of the agreed contract price without the necessity for prior notice or further agreement by the CUSTOMER.

7.3 In the event of any suspension or interruption of the manufacture and supply of the goods due to circumstances set out in Clause 16 hereof or due to the CUSTOMER'S instructions or lack of instruction or in the event of any variations in or additions to the goods being required by the CUSTOMER a reasonable addition shall be made to the contract price and shall be paid for accordingly in accordance with the terms of the contract.

7.4 Prices quoted are for the total quantities shown and we shall not be obliged to accept any order for a portion only at the rates or prices quoted.

7.5 The cost of carriage and packaging and consular and legislation costs if required by the CUSTOMER shall unless otherwise stated be charged extra.

8. RISK

Subject to the provisions of clause 5 all risk in and to the goods shall pass to the CUSTOMER:

8.1 in the case of delivery by the supplier or third party or mail or rail, on delivery at the CUSTOMER'S premises;

8.2 in the case of delivery by any other means, on the goods leaving the supplier's warehouse, it being recorded that such carrier is the CUSTOMER's agent.

9. SPECIFICATIONS

9.1 We reserve the right to alter or change dimensions of the goods supplied within reasonable limits having regard to the nature of the goods. Dimensions specified by us are to be treated as approximate only unless the CUSTOMER specifically states in writing that compliance with exact measurements is required.

9.2 Illustrations, weights, measures, performance capabilities, application information and other data set out in our sales literature are statements of opinions and are provided for information only and do not constitute representations or form any part of the contracts.

10. MARKING AND INSTRUCTIONS

10.1 No name, mark, numbering, colouring, appearance or logo on the goods or packaging will be obscured, removed or concealed by the CUSTOMER. The CUSTOMER will not repackage or alter the presentation of the goods and it will not assist, cause or enable any other party to any of the said acts or deal in the goods or packaging, which have been subject to any of the said acts.

10.2 The CUSTOMER hereby acknowledges that is under a duty to pass on to its customers (where appropriate) all instructions, information and warnings supplied by us with the goods.

11. RETURN GOODS POLICY

11.1 In order to preserve product cold chain and quality, we have a strictly no return of goods policy, except in the event of any material error on our part as to the amount or type of goods delivered.

11.2 Return of goods for any other reason shall require our written consent PRIOR to return of any goods, which consent shall be at our absolute discretion. Consideration to requests for return may be given if:

11.2.1 of a bona fide nature;

11.2.2 made within 24 hours of actual delivery and in original packing;

11.2.3 related to unused and undamaged goods, and

11.2.4 in respect of goods specifically identified by Invoice Number.

11.3 All goods returned under this condition shall be accompanied by a return goods note quoting:

11.3.1 CUSTOMER name and address;

11.3.2 The quantity, description, size and our order number of the goods concerned;

11.3.3 The invoice number and order number, and

11.3.4 The reason for the return.

11.4 With reference to 11.2, the CUSTOMER will be liable for a handling fee and restocking charge of not less than 25% of the invoiced value of goods (excl VAT).

12. SHORTAGE AND DEFECTS APPARENT ON INSPECTION

12.1 The CUSTOMER shall have no right or claim for shortages or defects apparent on inspection unless:-

12.1.1 the CUSTOMER inspects the goods immediately on arrival at its premises and

12.1.2 a written complaint is made to us at infoza@biomerieux.com within 48 hours of receipt of the goods or such shorter period as the carrier's conditions (if applicable) require specifying the shortage or defect and

12.1.3 we are given an opportunity to inspect the goods and investigate any complaint before any use is made of the goods. If a complaint is not made to us as herein provided then the goods shall be deemed to be in all respects in accordance with the contract and the CUSTOMER shall be bound to pay accordingly.

12.2 Whether or not we arrange delivery, we shall not be responsible for defective or non-delivery of the goods, nor liable for claims for loss or damage in transit, which must be made by the CUSTOMER against the carrier in accordance with the carrier's conditions.

12.3 All allegations of total non-delivery for any consignment of the goods must be made by notice in writing by the CUSTOMER to the carrier and to us within 10 days of the date of our advice note or invoice or other notifications of the carrier. Failure by the CUSTOMER to give such notice, shall render the CUSTOMER liable for any temporary or permanent loss of the goods and all additional costs and expenses incurred by us in relation to such loss.

13. DEFECTS NOT APPARENT ON INSPECTION

13.1 The CUSTOMER shall have no claim in respect of defects not apparent on inspection at the time of delivery unless a written complaint is sent to us as soon as reasonably practicable after the defect is noticed and no use is made of, or alterations made to the goods thereafter before we are given an opportunity to inspect the goods in accordance with clause 13.4 below.

13.2 The CUSTOMER shall not be entitled to any claim in respect of repairs or alterations undertaken by the CUSTOMER without our prior specific written consent, nor in respect of any defect arising by reason of fair wear and tear or damage due to misuse.

13.3 We shall not be liable for loss or damage suffered by reason of use of the goods after the CUSTOMER becomes aware of a defect or after circumstances which should reasonably have indicated to the CUSTOMER the existence of a defect.

13.4 The CUSTOMER shall in making its written complaint, allow us 30 days to inspect the goods and shall take such steps as are necessary to enable us to do so, including returning the goods to us at our works in the Republic of South Africa if requested.

14. LIABILITY

14.1 Save and except for any liability which may arise in terms of section 61 of the Consumer Protection Act No 68 of 2008:

14.1.1 we shall not be liable in respect of death or personal injury and under no circumstances whatsoever shall we be liable for consequential loss, loss of profits, damage to property,

wasted expenditure or cost of mitigation arising out of or occasioned by any fault or defect in the goods supplied hereunder;

14.1.2 our liability in respect of items not manufactured by us shall be limited to the enforceable liability of the supplier thereof to us.

15. CONFIDENTIALITY INFORMATION

All documents and other information supplied by us are supplied on the express understanding that copyright is reserved to us and that the CUSTOMER will not without our prior written consent either give away, loan, exhibit or sell any such documents or extracts there from or copies thereof or use them in any way except in connection with the goods for which they are issued.

16. INSOLVENCY

If the CUSTOMER shall become insolvent or compounds with creditors, or in the event of a resolution being passed or proceedings commenced to place the CUSTOMER under business rescue proceedings or liquidation (other than for a voluntary winding up for purpose of reconstruction or amalgamation) or if a Receiver or Liquidator is appointed of all or any part of its assets or undertaking we shall be entitled to cancel this contract in whole or in part by notice in writing without prejudice to any right or remedy accruing to us.

17. FORCE MAJEURE

We shall not be under any liability for any delay, loss or damage caused wholly or in part by an act of God, government restriction condition or control of laws rule or regulations of the country of origin of the goods, non-arrival of imported goods, inability to obtain transport or loading facilities or by reason or any act done or not done pursuant to a trade dispute whether such dispute involves our employees or not or by reason of any other act matter or thing beyond our reasonable control.

18. SUB-CONTRACTORS

We shall be entitled to appoint one or more sub-contractor(s) to carry out all or any of our obligations under the contract.

19. JURISDICTION

We shall be entitled in respect of any dispute or claim which we may have with or against the CUSTOMER to elect whether we wish such claim or dispute to be referred to arbitration in terms of the next succeeding clause hereof, or become the subject matter of proceedings in a Court of Law. In the latter event, the Courts of the Republic of South Africa shall be the only Courts having jurisdiction in regard to any claim or dispute between the parties. The laws of the Republic of South Africa shall be applicable and the parties consent to the jurisdiction of the South Gauteng High Court.

20. ARBITRATION

20.1 Save in respect of those provisions of the agreement, which provide for their own remedies, which would be incompatible with arbitration, a dispute that arises in regard to:

20.1.1 the interpretation of; or

20.1.2 the carrying into effect of; or

20.1.3 any of the parties' rights and obligations arising from; or

20.1.4 the termination of purported termination of or arising from the termination of; or

20.1.5 the rectification or proposed rectification of this agreement or out of or pursuant to this agreement or on any matter which in terms of this agreement required agreement by the parties, (other than where an interdict is sought or urgent relief may be obtained from a court of competent Jurisdiction), shall be submitted to and decided by arbitration.

20.2 That arbitration shall be held –

20.2.1 with only the parties and their representatives other than legal representatives, present thereat;

20.2.2 at Johannesburg, Gauteng

20.3 It is the intention the arbitration shall, where possible, be held and concluded within 21 (twenty-one) working days after it has been demanded. The parties shall use their best endeavours to procure the expeditious completion of the arbitration.

20.4 Save as expressly provided in this contract to the contrary, the arbitration should be subject to the arbitration legislation for the time being in force in the Republic of South Africa.

20.5 The arbitrator shall be an impartial practicing attorney of not less than 10 (ten) years standing appointment by the parties or, failing agreement by the parties within 14 (fourteen) days after the arbitration has been demanded at the request of either of the parties shall be nominated by the President for the time being of the Law Society of the Northern Provinces (or its successor in Gauteng). If that person fails or refuses to make the nomination, either party

may approach the South Gauteng High Court of South Africa to make such an appointment. To the extent necessary, the court is expressly empowered to do so.

20.6 The parties shall keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential unless otherwise contemplated herein.

20.7 The arbitrator shall be obligated to give his award in writing fully supported by reasons.

20.8 The provisions of this clause are severable from the rest of this agreement and shall remain in effect even if this agreement is terminated for any reason.

20.9 The arbitrator shall have the power to give default judgment if any party fails to make submissions on due date and/or fails to appear at the arbitration.

21. BANKING DETAILS

bioMérieux South Africa (Pty) Ltd

Registration No.: 2007/024149/07

VAT nbr : 4760242240

ZAR Account

Standard Bank

Sandton

Branch Code: 019205

Account no: 421069104