

## General terms and conditions of sales, 8 March 2021

### General Terms and Conditions

The General Terms and Conditions of Sales, applies , with exclusion of other General Terms for all sales parts and services performed by Rhosonics and/or on behalf of an official Rhosonics Representative. The sales conditions are published on our website and are updated from time to time. Valid is only the latest version marked by the most recent date.

#### 1. OVERVIEW OF AGREEMENT

- 1.1. Unless otherwise expressly agreed in writing, all Products are supplied on the following terms and conditions:
  - a. Each purchase order submitted by the Client and accepted by Rhosonics
  - b. The proposal or quote ("Quote") provided by Rhosonics;
  - c. these Terms and Conditions;
- 1.2. If there is any conflict or inconsistency between the above documents the documents will rank in order of precedence with the order in which they are listed in clause 1.1 above.
- 1.3. Each Order issued by the Client and accepted by Rhosonics will be accepted on these Terms and Conditions, to the exclusion of all other terms including any terms and conditions referenced or set forth on the face or reverse side of any Order or other document presented by the Client.
- 1.4. No amendment or variation of the Agreement is valid or binding on a Party unless made in writing and signed by both Parties.

#### 2. DEFINITIONS

The following capitalised terms will be defined as follows:

**Agreement** has the meaning given to that term in clause 1.1 of these Terms and Conditions.

**Company** means Rhosonics, supplier of the Products.

**Confidential Information** means any information of a confidential nature which relates to the business, affairs or activities of a Party including information comprised in Intellectual Property Rights of any Party, process or operational information, calculations or analysis, financial and business information and information of third parties which is required to be kept confidential.

**Client** means the party who Rhosonics will supply the Products, as specified in the Order.

**Delivery Date** has the meaning given to that term in clause 5 of these Terms and Conditions.

**Intellectual Property Rights** means all and any rights in issued patents and patent applications, rights to inventions, design rights, utility models, copyright and related rights, trademarks, service marks, trade,

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business and domain names, moral rights, rights in confidential information (including know-how and trade secrets).

**Order** means the Quote submitted by Rhosonics and the purchase order issued by the Client and accepted by Rhosonics in accordance with clause 1.3 of these Terms and Conditions.

**Party** means a party to the Agreement.

**Quote, (Quotation)** means a proposal or offer provided by Rhosonics relating to the Products, referred to in the Order.

**Products** means Rhosonics proprietary products, including any and all products manufactured or developed by Rhosonics, and services.

**Site** means the Client's site where the Products are to be delivered and or installed, or the services are to be performed, as specified in the Order.

**Specifications** means the drawings, specifications and/or plans for the Products as specified in the Order or as otherwise agreed by the Parties.

**Terms and Conditions** means these terms and conditions of Sale.

**Warranty Period means:** The period or time span that the Rhosonics warranty rules apply to all Rhosonics Products (excluding Software), accordance with clause 11.3 of these Terms and Conditions.

### 3. PRICING

Prices are in Euro's (EUR) including all applicable Dutch taxes. Prices of the Products shall be the price(s) as set out in the Company's Quotation or official price list.

### 4. QUOTATIONS

Quotations made by Rhosonics are valid for a period of 90 days from the date it was sent by Rhosonics. After this period no rights can be derived from the reinforced information reproduced in those Quotations. Rhosonics has the right to pull back the quote during the period of 90 days when circumstances necessitate this. Prices offered in Quotations may differ from our official price list prices for different reasons. Quotations are based on information which is provided to Rhosonics only by fully filled out official data sheets or original Rhosonics Questionnaire forms.

### 5. DELIVERY TIME

Within ten (10) work week days after receipt of the clients written purchase order, the client receives an order confirmation, wherein the expected date of delivery is specified. Generally, a lead time between 8 to 10 weeks must be expected. In the event of delay in delivery from the contractual delivery date of items Rhosonics cannot be held liable and/or is not responsible for any claim and/or compensation of the client.

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### 6. DELIVERY CONDITIONS

The goods are delivered *Ex-works\**, Putten, Netherlands. Goods must be picked up by a courier service company selected by the client (you) as a customer from Rhosonics. Opening hours: from Monday until Friday between 8.30 – 17.00 h.

If other delivery conditions are required these can be changed in consultation with Rhosonics and on costs of the client. The final delivery conditions will be confirmed in the sales order confirmation and are binding for the transaction.

If goods and/or equipment cannot be sent or collected on the agreed shipment date, this on request or caused by the client, Rhosonics can charge a storage and administration fee which can go up to a maximum of: € 500 / month for the time that the goods are in storage at Rhosonics

### 7. PAYMENT SCHEDULE

All payments or financial transaction must be paid in Euros (€). After confirmation of the order, Client shall - unless otherwise agreed - arrange to open a confirmed, irrevocable Letter of Credit (hereafter L/C) available by draft at sight in favour of the Company within the time stipulated in the relevant L/C. Client shall notify Rhosonics immediately after L/C is opened so that Rhosonics can get prepared for delivery. Payment by Client shall –unless otherwise agreed – be at full amount before shipment by Telegraphic Transfer (T/T) or by L/C at sight.

Further all possible costs arising out of problems or differences of opinion concerning payment schedule, will be passed on to the client. The uncontested (part of the) invoice must always be paid.

The ownership of the equipment is only transferred by Rhosonics when the total payment has been received and accepted in writing by Rhosonics. settlement of the invoice with any credits is not permitted unless otherwise agreed.

### 8. LANGUAGE

All correspondence, engineering data, drawings and instruction manuals are supplied in the English language – unless otherwise agreed.

### 9. MANUFACTURER'S TEST PROCEDURE AND INSPECTION

The systems / analysers are fully tested during a final test run at the factory, where test reports are issued. A functional test procedure is performed at the Company's premises in Putten – The Netherlands. Final testing can be witnessed by the clients representative if required (*FAT = Factory Acceptance Test*)\*\*, against costs listed in our price list.

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### 10. MAINTENANCE AND INSTRUMENT SET - UP

Maintenance and instrument set-up must be carried out by qualified personnel\*.

\*Qualified personnel have the ability to read manuals which are written in the English language and are able to understand and correctly operate the instrument according to its manual without any training given by Rhosonics personnel. Therefore, the instrument installation, operation and maintenance shall be managed and controlled by qualified personnel of the Client.

### 11. WARRANTY

11.1. The Company undertakes to remedy any defective operation of the products which originates from a defect in design, materials or workmanship, provided however that Company's obligation shall not apply if:

- a. the products have not been maintained according to Company's instructions, or absent said instructions, according to the most common practice in the relevant field, or
- b. defective operation results from improper storage conditions, or
- c. defective operation results from noncompliance with Company's instructions for installation or energizing.
- d. improper or incompetent use

11.2. The Client shall be responsible for accepting the products' material of construction, as the Company takes no responsibility for the compatibility of the wet parts to the client's process conditions, therefore the Company don't provide any warranty to damage arose from a wrong choice of materials.

#### 11.3. Term of the warranty

The warranty period will be in effect no longer than eighteen (18) months from date of shipment or twelve (12) months from date of start-up, whichever occurs first. Unless otherwise agreed in writing by the Parties. For all Services, a period of ninety (90) days from the date of delivery of the Services applies. During repair under warranty Rhosonics does not provide temporary sensors or analysers free of charge.

11.4. Terms and conditions for exercising the warranty Under this warranty, the Company remedies the noted defects, at its expense, as soon as reasonably possible and using the means which it deems fit. Replaced parts once again become the Company's property and shall be returned to it at its first request.

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- a. Upon Company's choice, the warranty is exercised either by providing the client with a replacement product free-of-charge, or by the product in question being repaired in the Company's workshops. To this end, the defective parts or products are returned to the Company at the client's expense within 30 calendar days as of the point in time the relevant product appears to be defective; the Company shall pay for the carriage of replacement products or those having been repaired. Failure by the client to return the alleged defaulting product within the above 30 day period would allow the Company to invoice the replacement product or the cost of the repair. Installation, disassembly and/or general maintenance costs on site at the customer are not covered by the Rhosonics warranty procedure.
- b. If, owing to the nature of the products, the repair work has to be carried-out on-site, the Company shall assume the labour expenses relating to such repair work (excluding waiting time and costs incurred due to the unavailability of the correct resources)

### 11.5. Client's obligations

In order to benefit from this warranty, the client shall inform the Company of the defects which it is attributing to the products as soon as the defective operation of the product manifests itself and provide all supporting documents in respect of such defective operation. The client shall provide the Company with every assistance in duly noting these defects and in order to remedy them; moreover, unless it has the Company's express agreement, it shall not carry out the repair work by itself or have such work carried out by a third party. the warranty expires if the client don't respect this last sentence.

### 11.6. Return Material Authorization

For each repair a *RMA (Return Material Authorization)* number is required. Rhosonics shall inspect the products and inform if they can or cannot be repaired under warranty, based on the clauses 11.1 to 11.6 (Warranty). Inspection is started when log files taken from the products are sent to Rhosonics by mail. After the inspection of the products, a decision about the warranty and repair is taken by the Company, based on the results of the inspection.

#### 11.6.1. The ownership of the goods which are routed under the RMA procedure:

- a. The ownership of original equipment under RMA and covered by the Warranty, which will be replaced free of charge on cost of Rhosonics, shall be transferred to Rhosonics.
- b. For products that cannot be repaired and are not covered by Warranty, the client has to take one or more of the following decisions:

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- i. Buy a new product or part as a replacement for the failed product;
  - ii. Approve the Company to discard the failed product.
- c. The ownership of the product sent to Rhosonics under a particular RMA number shall be transferred back to the Client when the client wishes to retain its ownership. In that case, the Client shall bear all costs to have the product returned to its facility.
- d. In the event that ownership is waived, Rhosonics will destroy the product.
- e. From the date when the RMA report is sent by the Company, the client has up to thirty (30) days to take a decision about the actions to be taken by the Company over the products sent for inspection.

### 12. INTELLECTUAL PROPERTY

12.1 Except as in writing otherwise agreed all rights of intellectual property, including but not limited to our products and inventions, processes, know-how, software, data, manuals, logo, trademarks, is the exclusive property of Rhosonics analytical B.V. Its use without permission is not allowed. In case of unauthorized use Rhosonics will claim their legal rights. Besides a fine and the damage Rhosonics will add all costs and attorneys' fees for past, present, and future infringement.

### 13. SUSPENSION AND TERMINATION

13.1. If the Client fails to pay any sum by the due date, Rhosonics may by notice, in addition to any other rights it may have, suspend supplying the Products until all overdue amounts are paid. The Client will be liable to Rhosonics for all expenses, including reasonable legal fees, relating to the collection of overdue amounts.

13.2. Party may terminate the Agreement by providing notice to the other Party if any of the following events or circumstances occurs:

- a. The other Party goes into liquidation, has a receiver or receiver and manager appointed to it or any part of its assets, enters into a scheme of arrangement with creditors or suffers any other form of external administration (or the equivalent under the laws of another jurisdiction); or
- b. A Party fails to remedy any breach of an essential obligation under the Agreement within thirty (30) days after receipt of written notice from the other Party of details of the breach.

### 14. GENERAL LIABILITY

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- 14.1.** Rhosonics is not liable for any kind of losses or damage that is a result of a non-attributable shortcoming in not fulfilling a contractual or other obligation to late or insufficiently. Rhosonics cannot be held responsible for losses and/or damage to property.
- 14.2.** Rhosonics cannot be held responsible for death or personal injury, if these damages have been caused by intentional or grossly negligent behaviour of or by the client.
- 14.3.** Rhosonics is not liable to the other party under or in connection with the Agreement for:
- loss of actual or foreseeable profit;
  - losses caused by business interruption;
  - loss of goodwill or reputation;
  - indirect, special or additional costs, expenses, loss or damage, too if said costs, expenses, loss or damage were reasonably foreseeable or could reasonably have been taken into account by the parties, and regardless of whether they result from breach of contract, tort, negligence, breach of a legal obligation or otherwise.
- 14.4.** The client will not exclude or limit its liability for fraud or any other liability to the extent that it cannot legally be excluded or limited.
- 14.5.** The liability of Rhosonics is further limited to an amount equal to the total invoice value of the particular application and is limited to the amount that is paid out in the relevant case under the professional liability insurance policy(s) taken out by Rhosonics.

### 15. FORCE MAJEURE

The parties are not liable to each other for any non-fulfilment of their duties under this agreement to the extent the causes for such non-fulfilment are beyond the parties' influence and control ("force majeure"). Causes of force majeure specifically include but are not limited to war, civil war or unrest, labour struggles, loss of satellites, passage of laws or regulations, pandemic diseases and natural disaster since this has been proven.

### 16. INVALID PROVISION

If any provision of these Rules is or becomes invalid or unenforceable, whether in part or as a whole, the remaining provisions of these Rules shall remain unaffected. In such case, the affected provision will either be construed and modified to the minimum extent necessary to render it valid or repealed and replaced with a valid provision that best gives effect to the purpose of these Rules and enables them to remain in full force and effect to the extent permitted by law.

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### 17. GOVERNING LAW

This agreement and connecting orders/disputes are governed by Dutch law. Any disputes between the parties arising from this agreement that are directly or indirectly linked to it must be submitted to the competent Dutch court.

\* *Ex-works/ EXW (incoterms 2020): Company is responsible for packing the goods and preparing them for transport. The buyer is responsible for the goods from the moment they are picked up from the storage of the Company. Company will arrange the necessary document for transport, these costs are for the buyer.* \*\* *FAT: Factory Acceptance Test. Testing the equipment during and after the assembly process by verifying that it is build and operating according the design specifications. This test is performed at the factory, Rhosonics Analytical B.V. This test is carried out by Rhosonics staff under supervision of a person to witness those tests.* \*\*\* *RMA: Return Material Authorization. This RMA number is assigned by the service department of Rhosonics.*