



General Purchase Conditions

These GPC¹ have been deposited with the Court of First Instance of St. Maarten, and are also available on the website of the St. Maarten Medical Center Foundation www.smmc.sx.

Article 1. Definitions and abbreviations

Within these General Purchase Conditions, capitalized terms have the meanings attributed to them in this Article 1.

Agreement: every agreement entered into between Client and Supplier concerning the delivery by Supplier to Client of a Performance, as well as every amendment or addition thereto including all (legal) acts required for entering into or performing the Agreement, as stipulated in Article 217 of Book 6 of the St. Maarten Civil Code (hereinafter CC).

Associated Agreement: an agreement that would not have come into existence without the Agreement.

Auxiliary Materials: supporting tools, drawings, models, software, and other aids (including but not limited to e-learning modules) for the purpose of the Product, not being Medical Devices.

Average Service Life: The service life of a Product as expected by Client based on, for example, a Life Time table or the documentation, website, or communication provided by Supplier to Client.

Call-off contract: an agreement under which a pre-agreed amount can be ordered (called off) by Client with Supplier at its discretion, at pre-agreed prices and conditions, according to its needs (in Dutch “afroepcontract”).

Circularity: closing loops wherein products and materials are reused, and resources maintain their value for as long as possible.

Client: SMMC.

Consignment: A Written agreement for a period under which a Product is put in the care of Client by Supplier at no cost, with ownership transferring from Supplier to Client upon use (in Dutch “consignatie”).

Deficiency: A malfunction or failure of the Performance to meet the agreed specifications, or improper functioning of the Performance, or otherwise the Performance not being suitable for normal use by Client.

Demonstration shipment / placement: a type of procurement aimed at evaluating the Product without deploying it in patient care and/or the organization.

Documentation: Technical documentation, user manuals, warranty certificates, specifications, inspection regulations, instructions, and safety sheets.

GPC: these General Purchase Conditions.

Loan agreement: An Agreement under which Supplier provides a Product to Client without charge, provided that Client returns the Product after use or after the agreed usage period has expired (in Dutch “overeenkomst van bruikleen”).

Medical Device: any instrument, device, apparatus, software, substance, or other article, whether used alone or in combination, including any accessory or software necessary for its proper functioning, specifically intended by the manufacturer to be used for diagnostic or therapeutic purposes, and intended by the manufacturer to be used in human beings for i. diagnosis, prevention, monitoring, treatment, or alleviation of disease, ii. diagnosis, monitoring, treatment, alleviation, or compensation for an injury or disability, iii. investigation, replacement, or modification of anatomy or a physiological process, iv. control of conception, where the principal intended action in or on the human

¹ These General Purchase Conditions (GPC) are derived from the General Purchase Conditions Healthcare of the Dutch Hospital Association (NVZ), Association of the Care for People with Disabilities in the Netherlands (VGN), ActiZ, organization of healthcare entrepreneurs, Dutch Mental Health Care (GGZ), Dutch Procurement Association (Nevi), Intrakoop, the healthcare purchase cooperative, Purchase Alliance Hospitals (IAZ), Santeon, Purchase Cooperation Friesian Hospitals (IFZ), mProve, and Zorgservice XL and are adjusted, among other things, to comply with St. Maarten's conditions and legislation.



body is not achieved by pharmacological, immunological, or metabolic means, but may be assisted in its action by such means, not being a pharmaceutical product;

Parties: Client and Supplier and also each separately.

Parts: components of a Product.

Performance: the agreed Products, rights of use and other property rights to be supplied and delivered by Supplier to Client, the services to be rendered by Supplier for the benefit of Client, as well as the creation and delivery of a material work and the works to be provided by Supplier for the benefit of Client.

Product: a good to be provided as part of the Performance.

Purchasing Association: the collaboration between a number of organizations aimed at jointly purchasing Performances for more favorable conditions.

Purchase Order: the order of Client to Supplier to deliver a Performance to Client based on certain conditions.

Quotation: the Written offer to deliver a certain Performance subject to certain conditions.

Raw Material Passport: A document that provides insight into the raw materials and materials a Product is made of, the extent to which recycled materials have been used, and the extent to which the Product is recyclable after its service life.

Recall: the recall and removal from Client's site(s) of Products with a quality defect or risk of use identified by Supplier or Client. A Recall will occur with respect to a detected deviation in quality, safety, functioning and processing of a Product that leaves it short of the safety and/or functioning that can reasonably be expected.

Safety Notification: A notification by Supplier, warning that in some situations the safety or quality of a method or Product can fall short. By taking the measures prescribed (in the Safety Notification), the reported safety or quality issue can be controlled.

Services: Non-tangible service/work to be performed as part of the Performance.

Spare parts: a Product's replacement components that are not yet built in or connected.

Substances of Very High Concern: a chemical substance (or part of a group of chemical substances) which has been proposed as a candidate for inclusion on the Authorization or Restriction list of the Regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), a European Union regulation of 18 December 2006.

Supplier: the counterpart of Client.

Value added tax (VAT): a consumption tax on the value added to goods and services.

Works: all construction, civil engineering and infrastructure work including alteration and maintenance work beyond the mere maintenance of the Work.

Writing/Written: formal communication between Parties in writing, including on paper and by electronic message.

Article 2. Applicability

- 2.1. These GPC govern all requests, Quotations, offers, Purchase Orders, order confirmations, Agreements and all other legal acts between Client and Supplier.
- 2.2. The applicability of any general or specific conditions or stipulations of Supplier, under whatever name, is expressly rejected.
- 2.3. Should, in the competent court's opinion, any provision of the GPC be inapplicable or invalid, only the relevant provision will be considered unwritten, and the GPC will otherwise remain in full force and effect. The Parties will consult to replace the relevant inapplicable or invalid provision with a new provision, which will respect as much as possible the purpose and purport of the earlier provision.
- 2.4. In case of conflict between the provisions of the GPC and the provisions of an Agreement, the provisions of the Agreement will prevail.
- 2.5. Deviations from these GPC can only be agreed in Writing.



Article 3. Establishing the Agreement

- 3.1 Client's request for a Quotation is deemed an invitation to produce an offer and does not bind Client. A request for quotation from Client will be followed by a Supplier's Quotation. The costs of producing this Quotation will be for Supplier's account and the Quotation will be regarded as an offer. Quotations are unconditional and irrevocable within the validity period of the Quotation specified by Supplier.
- 3.2 An Agreement will come into force at the moment Client accepts the Quotation in Writing by means of a Purchase Order and this written acceptance is received or deemed to have been received by Supplier. Purchase Orders not in Writing are not binding on Client unless Client ratifies such orders in Writing.
- 3.3 Client will be entitled to revoke a Purchase Order or cancel a Purchase Order at any time, unless Supplier proves that it has commenced performance of the Agreement. In that case, Client will reimburse Supplier of costs incurred by the latter insofar these costs are demonstrable and reasonable. These costs may be demonstrated by means of invoices, issued purchase orders or demonstrably performed activities.
- 3.4 If a Purchase Order is placed by Client without a Quotation by Supplier preceding it, the Agreement will come into force when Supplier accepts this Purchase Order in Writing, provided that this acceptance occurs within 5 (five) calendar days after Purchase Order placement, in case of a supplier established in Sint Maarten/Saint Martin and otherwise within 14 (fourteen) calendar days after that Purchase Order. In the absence of a Written acceptance by Supplier, the Agreement is formed when the Performance is delivered in accordance with the Purchase Order and the Performance is accepted by Client without prejudice to the provisions of clause 7.9, provided that such delivery is made within 21 (twenty-one) calendar days from the date of the Purchase Order.
- 3.5 For Call-off contracts, the Agreement for (partial) delivery comes into force at the moment that the Written Purchase Order for delivery is sent by Client and deemed to have been received by Supplier, unless otherwise agreed.
- 3.6 If Auxiliary Materials and Documentation made available or approved by Supplier are used in the performance of the Agreement, they will form part of the Agreement.
- 3.7 Supplier is deemed to be sufficiently aware of Client's objectives pertaining to the Agreement and Client's organization.

Article 4. Modifications

- 4.1. Client is authorized, in consultation with Supplier and within a reasonable timeframe, to change the scope and quality of the Performances delivered, unless these changes bear such consequences that Supplier cannot reasonably be expected to honor the Agreement. Supplier will then inform Client thereof in Writing as soon as possible, but at the latest within 8 (eight) calendar days after notification of the change. If possible, Supplier will then propose new conditions to Client.
- 4.2. Amendments will not take effect until they have been recorded in Writing and signed by authorized representatives of the Parties.

Article 5. Prices

- 5.1. The agreed prices are fixed for the duration of the Agreement and therefore cannot be subject to revision, with the exception of an annual indexation provided that this is set out in Writing at the start of the Agreement.
- 5.2. Prices are denominated in XCG, USD or EUR, excluding sales tax and are based on the delivery condition "delivered duty paid" (D.D.P.) for domestic deliveries, and "Free Carrier" (F.C.A.) or "Cost, Insurance and Freight" (C.I.F.), all pursuant to the Incoterms® 2020 on the agreed place of delivery. All costs are included in the price, unless expressly stated otherwise in the Agreement. The Parties will endeavor to have as many Products as possible delivered in the same order to reduce Supplier's freight costs and environmental impact.
- 5.3. Supplier is required to state the applicable VAT rate on Quotations and invoices, among others.
- 5.4. In case of a change in VAT rates and/or changed classification (high, low or 0%) during the term of an Agreement, Supplier will adjust the rate and notify Client of the change and its legal basis.

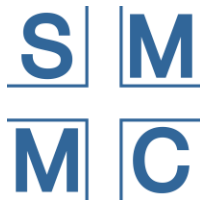


Article 6. Purchasing Associations

Client participates in the Dutch Caribbean Hospital Alliance Cooperation U.A., a Purchasing Association, and may participate in other Purchasing Associations in the future. If Client can gain an advantage over what was offered by Supplier directly to Client, it has the right to take advantage of the offer to the Purchasing Association. In such case, Client and Supplier will amend ongoing Agreements in favor of Client.

Article 7. Delivery

- 7.1. Delivery of a Product domestically will take place D.D.P. in accordance with Incoterms®2020 at the agreed delivery address(es) as specified in the Purchase Order, unless expressly deviated from in the Agreement. Delivery of a Product from abroad to St. Maarten will take place F.C.A. or C.I.F. in accordance with Incoterms®2020 at the agreed delivery address(es) specified in the Purchase Order, unless expressly deviated from in the Agreement.
- 7.2. The agreed delivery time and delivery period, as well as the latest date by which the Performance must be performed, are deadlines. In the event of late delivery, Supplier is in default without further notice of default being required. If Supplier expects that the delivery cannot be made in time in accordance with the Agreement, it will immediately notify Client's purchasing department thereof in Writing, specifying the circumstances giving rise to it, and Supplier will immediately make a proposal for taking interim measures. The interim measures will be equivalent to the agreed Performance and will not involve any additional costs for Client. An interim measure will only substitute the concerned Performance pending written approval of Client. Client may refuse the interim measure proposed by Supplier and arrange one by itself, provided Client has serious and reasonable arguments to do this. In that case, Client may require that a Performance of another Supplier be temporarily engaged as an interim measure - the costs for the relevant interim measure being for Supplier's account. If there are any risks in the supply chain in terms of availability, Supplier will proactively make these transparent.
- 7.3. Insofar as the Performance involves the delivery of Products, a packing list must be present. This packing list will be clearly attached to the outside of the transport packaging. The packing list must specify the order number(s) of Client, and also the item number(s), amount(s), item description(s) and if applicable serial numbers.
- 7.4. For successive deliveries of Products, Supplier will endeavor for the last delivery to have an expiry date that lapses later than, or at the least on the same date as the prior delivery of these products.
- 7.5. The shelf life of Products to be delivered shall be 24 (twenty-four) months or more. Supplier shall notify Client prior to shipping the Products if it intends to supply Client with Products with a shorter shelf life. In such case, Client is authorized to cancel the order and to refuse these Products. A cancellation or rejection pursuant to this paragraph will not entitle Supplier to compensation for any damage.
- 7.6. If Client accepts Products with a shorter shelf life than 12 (twelve) months, then it can exchange these Products free of charge if they are not used before the expiry date, unless otherwise agreed. Client will endeavor to first use Products with the shortest shelf life.
- 7.7. Delivery includes the provision of all related Auxiliary Materials and Documentation. If deemed necessary for proper use of the Product, Supplier will provide training for Client's staff entrusted with the use and/or maintenance of the Product, whereby the Parties will agree in advance on the costs or any fees for such training.
- 7.8. If Client requests Supplier to postpone the delivery, Supplier will store, secure and insure the Products and have them properly packaged and identifiably destined for Client (conditioned where necessary). Any associated reasonable costs may be charged after prior consultation with Client and after having received Written confirmation from Client. Client will confirm its agreement or rejection of the proposed conditions costs within 8 (eight) calendar days after receipt thereof.



- 7.9. Inspection, reviews and/or testing of the Performance by Client pursuant to provisions in Article 16 do not imply approval of delivery or purchase. Nor does signing for receipt imply approval of the delivered Performance.
- 7.10. If Supplier intends to discontinue production and/or marketing of Products ordered on a regular basis by Client in due course, it will notify Client thereof as soon as possible, but at least 3 (three) months prior to the possibility of placing a final Purchase Order. Supplier will ensure that Products already ordered by Client will be delivered.
- 7.11. If the Performance to be delivered by Supplier is subject to import or export regulations or import or export licenses, Supplier will promptly indicate in Writing and in a structured manner to Client which of these are applicable.

Article 8. Packaging and Shipment

- 8.1. The Product must be packaged and labeled properly in accordance with applicable laws and regulations, as well as any additional requirements from Client, in such a way that the Product reaches Client in good condition.
- 8.2. Supplier is responsible for damage caused by inadequate packaging. Supplier will arrange for pick-up or the return of damaged Products and will – unless otherwise agreed – deliver a new (undamaged) version of the Product within 5 (five) calendar days in case of a supplier established in Sint Maarten/Saint Martin and otherwise within 14 (fourteen) calendar days and otherwise within 14 (fourteen) calendar days without Client incurring additional costs. In case of damage, if Client establishes that there is a need for urgency, Supplier will deliver within a shorter period of time, without incurring additional costs for Client.
- 8.3. The content of the packing is clearly visible from the outside and has a verifiable description. If the content of the packing is to be cooled, kept sterile or otherwise requires special storage, this will be clearly legible on the packing.
- 8.4. All packing materials (excluding loaned packing materials) will be the property of Client at delivery, unless Parties agree otherwise. In the event of the latter, Article 8.6 of this GPC applies in full. Supplier must specify in the packing list accompanying the Product if the Product is packed with loaned packing materials. Moreover, the loaned packing materials must be clearly characterized by Supplier as such. If it concerns loaned packaging with deposit, Supplier must register it and provide this registration to Client upon request.
- 8.5. If a sterile packaged Medical Device for single use is involved, Supplier must comply with the international guidelines on the supply of sterile medical devices for single use. Supplier will also arrange for the following when applying the ID code:
 - the number of ID codes on the packaging is minimal.
 - the information is maximally concentrated within a single ID code and is not dispersed across different ID codes.
 - a suitable placement of the ID code on the packaging, so that the ID code can be scanned in a user-friendly manner by Client.
- 8.6. A return shipment of loaned packing materials by Client shall be at the expense and risk of Supplier to a destination specified by the latter. Client will return loaned packing materials within 14 (fourteen) calendar days after it has notified Supplier of this return shipment in Writing.
- 8.7. If Supplier processes or destroys packing materials by request of Client, this will be at the expense and risk of Supplier.
- 8.8. If requested by Client, Supplier will, within 3 (three) months, submit a plan for making packaging more sustainable and possibly taking back packaging and will enter into discussions with Client on how to reduce packaging waste.



Article 9. Ownership/Property

In case of the sale and purchase of a Product, ownership of the Product, including parts of the Product, will transfer after full receipt of payment by Supplier, unless both Parties agree otherwise. Upon delivery, Client gets the unrestricted right to use the Product. If it is agreed between the Parties that the Product must first be approved by Client through an acceptance procedure, ownership will not pass until after approval by Client in accordance with the agreed upon procedure. Supplier guarantees that the full and unencumbered ownership of the Product is transferred and that the Product is free from attachments or seizures.

Article 10. Auxiliary Materials

- 10.1. Materials made available by Supplier or purchased or manufactured by Supplier at Client's expense, unused or unprocessed raw and Auxiliary Materials and other Auxiliary Materials and Documentation remain Client's property or become Client's property after payment. Ownership of existing intellectual property rights to resource materials is in principle not transferred unless explicitly agreed otherwise.
- 10.2. Supplier is obliged to send the Auxiliary Materials referred to in Article 10.1 to Client no later than with the last (partial) delivery to the extent that the nature of the materials does not prevent this.
- 10.3. Changes in or deviations to the materials and Auxiliary Materials meant in Article 10.1, and the adoption of these materials and Auxiliary Materials for, or tied to, any other purpose than the delivery of the Product to Client will only be permitted after prior Written consent by Client. This consent will leave the warranty obligations of Supplier unaffected.
- 10.4. Supplier warrants that all Auxiliary Materials and Documentation necessary or prescribed for achieving the purpose specified by Client will be included, even if they are not named in the Purchase Order. Upon delivery of Medical Devices that require cleaning, disinfection and sterilization, Supplier will provide the cleaning and sterilization instructions. Any associated validation reports will be made available on request or made digitally available for inspection by Client.

Article 11. Invoicing and payment

- 11.1. Supplier submits an invoice showing the cost per delivery.
- 11.2. In addition to the statutory requirements, the invoice should include at least the following information: reference and/or Purchase Order number, item description, item number quantity, price and VAT rate.
- 11.3. Invoices that do not comply with Article 11.2 will not be paid. Client will timely inform Supplier that the invoice will not be paid and state the reason for this.
- 11.4. Payment of invoices will occur within 60 (sixty) calendar days after receipt of the invoice, provided that Client approves the delivery. Should a delivery also require the approval of another body or authority, Client is authorized to suspend payment fully or in part until this approval has been obtained.
- 11.5. Client is entitled to suspend payment if it discovers a failure by Supplier to perform the Agreement. Client must inform Supplier of such intention and the reason(s) in Writing at its earliest convenience.
- 11.6. Partial deliveries and/or advance payment is not applicable unless otherwise agreed in Writing. In the event of any partial delivery or advance payment, and instead of or next to a transfer of ownership, Client may request that Supplier issues an unconditional and irrevocable bank guarantee or liability statement to guarantee fulfilment of its obligations. The costs for this are payable by Supplier.
- 11.7. Payment by Client will in no way constitute a waiver of any right.
- 11.8. Client is authorized to set off any amounts it owes to Supplier against claims of whatever nature it has against Supplier. Client will notify Supplier of this in Writing in advance, providing Supplier with an overview of the amounts to be offset.

Article 12. Quality and warranty

- 12.1. Supplier warrants that the completed Performance at the time of delivery:
 - complies with what has been agreed;



- has the properties that have been agreed;
 - is appropriate and without Defects;
 - is in accordance with the agreed specifications and Documentation provided, with any subcontractors also meeting the set requirements;
 - is suitable for the (special) goal for which it is intended;
 - complies with statutory requirements and other governmental regulations;
 - complies with the safety and quality standards and/or certification used within the industry;
 - complies with Client's properly communicated internal protocols and guidelines;
 - is unencumbered and free of attachments or seizures (in Dutch "onbezwaard en vrij van beslagen").
- 12.2. In the event of a Safety Notification or a Recall, once it has been determined internally at Supplier that a Safety Notification or a Recall has been defined, Supplier must immediately, but no later than within 24 hours, inform Client in Writing. Supplier will ensure that it avails of an adequate and careful internal procedure for a Safety Notification or a Recall, which will be shared with Client at Client's request in the manner designated by Client.
- 12.3. If an incident occurs when using Supplier's Product, Client will immediately report it to Supplier. Both Parties then initiate their own procedures to investigate the incident and to determine whether it must be reported to the Inspectorate for Public Health (in Sint Maarten) or other supervising entity (outside of Sint Maarten) and/or any other supervisory or regulatory authority and will, if this is the case, proceed with doing so. Parties shall keep each other informed about the status and findings of any investigation and support and cooperate with internal investigations and investigations by official bodies.
- 12.4. The specified direct costs arising from a Safety Notification or Recall are for the account of Supplier and may be charged to Supplier by Client. If the Safety Notification or Recall results in the Product no longer being suitable to be used as agreed, Supplier will then take all measures to offer an equivalent and suitable alternative, the price of which cannot exceed the price of the original Product (as set out in the price list).
- 12.5. Supplier will be obliged to require from its suppliers that they will transfer directly to Client any warrantee certificates and resulting guarantees transferred to Supplier by any third parties for Parts to be delivered or supplied. Failure to provide such a warrantee certificate (or have it provided) does not release either Supplier or the third parties engaged by it from any relevant obligations. If discrepancies occur between different warrantee texts concerning the same Component, the warrantee text most favorable to Client prevails.

Article 13. Documentation

- 13.1. Supplier warrants that all Documentation necessary or prescribed for achieving the purpose specified by Client will be made available.
- 13.2. Client is free to reproduce all Documentation for its own use.
- 13.3. If a Product and/or packaging has safety data sheets, Supplier must always provide these sheets immediately and unsolicited.
- 13.4. Supplier ensures that new versions of the Documentation referred to in Articles 13.1 and 13.3 are sent to Client free of charge and without delay.
- 13.5. At Client's request, Supplier provides a manual describing how to apply the Product in an energy-, water- and chemical-saving manner (if applicable).
- 13.6. At Client's request, Supplier will provide instructions on how to disassemble and reassemble the Product in order to replace only a broken Part or to offer the Parts separately for reuse/recycling.
- 13.7. All Documentation and information referred to in this Article will be provided to Client in Written form and in any case in the English language.



Article 14. (Spare) Parts

- 14.1. Supplier is obliged to keep Parts of Products to be supplied available, including Spare parts, Parts, consumables and Auxiliary Materials, for the Average Service Life from the actual date of delivery or installation (assuming conditions of normal use) and to supply them on a call-off basis unless otherwise agreed between the Parties.
- 14.2. The prices of the Spare Parts, Parts, consumables and Auxiliary Materials referred to in Article 14.1 are determined on the basis of the agreed price for the first delivery of the Product and will – unless otherwise agreed upon by Parties in Writing – remain fixed for at minimum a contract year. A price list of the parts and materials concerned will be added to the purchase agreement of these Products. These prices can only be increased if indexation is agreed in Writing (as set out in Article 5.1).
- 14.3. Supplier commits to notify Client in Writing without delay in the event of impending stagnation of the possibility of subsequent delivery of original Spare Parts, Parts, consumables and/or Auxiliary Materials of the delivered Product. Supplier will in such case take all reasonable measures to offer Client equivalent alternatives whose price cannot exceed the price of the original Spare Parts, Parts, consumables and/or Auxiliary Materials (as laid down in the price list referred to in Article 14.2, insofar as applicable).

Article 15. Commissioning Products

- 15.1. Client will, in consultation with Supplier, ensure that all preparations have been made and all necessary infrastructural and installation measures required for the placement, commissioning, operation, use and application of Products have been taken.
- 15.2. If consumables and reusables are required for the proper use of the Products, Supplier will deliver the materials required for proper use at the same time as the delivery of the Products, unless otherwise agreed.
- 15.3. Prior to commissioning new Products, Supplier will ensure that proper user instructions have been given to Client's relevant personnel. This user instruction should also focus, where relevant, on support services e.g. technical service and the sterilization department.

Article 16. Inspection, Control and/or Testing

- 16.1. Examination, inspection and/or testing by Client or persons or entities designated by Client for that purpose may take place both prior to, during and after delivery of the Performance.
- 16.2. To this end, Supplier provides access to locations where the Product is being produced or stored and cooperates with all desired inspections, controls and testing and will, if the inspection occurs prior to delivery, issue required Documentation and information at its expense.
- 16.3. Supplier promptly notifies Client of the available time for the inspection, control and/or testing.
- 16.4. Supplier is authorized to be present during the inspection, control and/or testing.
- 16.5. If inspection, examination and/or testing after delivery results in the Performance being rejected in whole or in part, Client will report this in Writing to Supplier. Supplier must then immediately replace the Product. The risk of the Product, rejected after delivery, passes to Supplier after the Written declaration of rejection has been sent by Client.
- 16.6. If the Performance, regardless of the results of any inspection, check and/or test, does not meet the provisions of Article 12 (quality and warranty) of these GPC and the Product as such does not function adequately according to Client, Supplier will at its own expense repair or replace the Products at Client's discretion upon first request.
- 16.7. In urgent cases and if, after consultation with Supplier, it must reasonably be assumed that Supplier cannot or will not, not timely or not adequately, provide for repair or replacement, Client has the right to carry out repair or replacement itself or have it carried out by (a) third party(ies) at Supplier's expense.
- 16.8. If Supplier fails to take back the rejected Performance within a reasonable time after the date of the Written declaration of rejection, Client is entitled to return the Performance at Supplier's expense and is entitled to



credit any Performance already invoiced within 14 (fourteen) calendar days, all without prejudice to Client's other rights.

- 16.9. Interim inspections, examinations, trials and/or tests or the absence thereof will not affect Client's rights in respect of the Performance.

Article 17. Intellectual Property and other (similar) rights

- 17.1. Parties will refrain from using the other party's name directly or indirectly for publications and/or advertisements or otherwise without prior permission from the other party.
- 17.2. Supplier guarantees that the use of the Product, including the resale of the Product, or the use of the Auxiliary Materials purchased or manufactured by it on behalf of Client, will not infringe any patent rights, trademark rights, model rights, copyrights, database rights, rights to know-how or other (intellectual property) rights of third parties.
- 17.3. If the Performance and/or anything connected with the Performance is subject to intellectual property rights and/or other (similar) rights of Supplier or third parties, Supplier is obliged to automatically and immediately grant Client a non-exclusive, non-cancellable (sub)use license for an indefinite period of time with respect to those rights, if that (sub)use license is required by Client for the purposes of the Performance. If there is a Product where resale is not excluded, such resale includes the nonexclusive non-cancellable (sub)use license for an indefinite period of time.
- 17.4. Notwithstanding the provisions of Article 17.3, all intellectual property rights arising in the development of a Performance, specifically commissioned by Client, are vested in Client, unless otherwise agreed in Writing by the Parties. The rights, insofar as they are (or will be) vested in Supplier, are transferred to Client by Supplier's signing of an Agreement or by Client's Written acceptance of the Quotation, to be accepted by Client immediately after these rights have arisen. Insofar as the transfer of such rights would require a further deed or other formalities to be completed, Supplier will, at Client's first request, lend its cooperation to the transfer of such rights, without being able to impose conditions. Supplier hereby waives any personality rights to which it may be entitled, to the extent legally permissible. Supplier guarantees that any employees or subcontractors involved on its side waive, through conditions stipulated in their employment contract or contract of assignment, any personality rights to which they are entitled towards Supplier, to the extent the applicable legislation permit such a waiver.
- 17.5. Supplier will indemnify Client against third-party claims arising from any (alleged) infringement of the rights referred to in this Article. Supplier will immediately inform Client in Writing about the claims of those third parties under provision of all relevant documents and keep Client informed of the follow-up. Client will leave (the manner of) settling the claim to Supplier and will never make any commitments. Supplier will see to it that the infringing Product is modified so that it can be used undisturbed or provide another, functionally equivalent, Product. If this is not reasonably possible, Supplier will, upon return of the infringing Product, compensate Client for the residual book value.

Article 18. Confidentiality

- 18.1. Parties will keep all information and/or data, which can reasonably be suspected to be confidential in nature and which has come to their knowledge in any way through the Agreement strictly confidential towards third parties, with the exception of third parties engaged for the execution of the Agreement with the other Party's explicit consent whereby these third parties have been contractually bound by confidentiality agreements that cover the scope of services provided. The parties will not disclose any information about the delivered Performance to third parties, unless with the prior Written consent of the other party, or if disclosure is made pursuant to a statutory obligation or court order. The confidentiality obligations mentioned in this Article do not pertain to: a) information/data that was already publicly available at the time it was disclosed; b) information/data that subsequently becomes publicly available, unless this is due to the Parties' failure to



- comply with its obligations under this Article; or c) information/data that the Parties have lawfully obtained or become aware of before such information/data was made available to the Parties.
- 18.2. The provisions of Article 18.1 do not apply to Purchasing Associations or formal partnerships in which Client participates.
 - 18.3. If a statutory obligation or court order demands that information is shared that was obtained in the context of fulfilling the Agreement, Parties will immediately notify each other of this in Writing.
 - 18.4. Supplier undertakes towards Client to impose the obligations mentioned in Articles 18.1 and 18.3 on those (including employees) charged with the performance of the Agreement.
 - 18.5. If Supplier breaches its obligations under this Article, Supplier will forfeit an immediately payable penalty of USD 10,000 (ten thousand US dollars) or the equivalent in EURO excluding VAT per event to Client, such penalty not affecting Supplier's potential obligation to compensate Client's damages suffered as a consequence of this breach. Parties may depart from this in Writing.

Article 19. Information security and protection of personal data

- 19.1. Supplier conforms to the applicable regulations regarding information security in healthcare (such as but not limited to the ISO 27000 series, NEN7510 Standard for Information Security in Healthcare or an equivalent international standard) and ensures that the Performance it provides is in accordance therewith. Supplier gives Client permission to audit the process and the Performance or have these audited by means of an (external) information security audit, if Client sees reason to do so as a result of (suspected) information security or privacy incidents. Internal costs for the audit are borne by each of the Parties, external costs for an external audit are borne by Supplier if deficiencies are found. Supplier guarantees that the Performance does not contain any security measures or functions other than those specified in the Documentation and that it does not contain elements foreign to the ICT Performance (malware such as, but not limited to, viruses, hidden keys, Trojan horses or other obstructions).
- 19.2. Parties guarantee that all applicable legal regulations concerning the data to be processed, including in particular but not limited to regulations by or pursuant to the National Ordinance on Personal Data Protection ("Landsverordening bescherming persoonsgegevens", AB 2010, GT no. 2), and, where applicable, the current text of the General Data Protection Regulation (Regulation (EU) 2016/679), and medical confidentiality within the medical treatment agreement (Book 7, Section 5 of the CC) or otherwise, have been and will be complied with strictly.
- 19.3. Upon request, Supplier will promptly provide Client with all requested information pertaining to the technical, organizational and contractual measures it has implemented to protect Client's data against loss or any form of unlawful processing in Writing. Supplier will at all times ensure an adequate level of protection of the personal data taking into account the risks associated with the processing and the nature of the data to be protected, in accordance with the current state of the art. Its implemented measures shall be aimed partly at preventing unnecessary gathering and further processing of personal data. Supplier will indemnify Client for all third-party claims and penalties that may be instituted/imposed against Client for violation of applicable laws and regulations regarding the processing of personal data.
- 19.4. If Supplier is a data processor within the meaning of the National Ordinance on Personal Data Protection, the agreements between Client and Supplier with regard to the processing of personal data (including indirectly traceable personal data) will be laid down in a data processor's agreement.
- 19.5. Agreements between Client and Supplier on the transfer of personal data where both Parties are data controllers will be laid down in a data exchange agreement.
- 19.6. When Client and Supplier are joint controllers for the processing of personal data, the agreements on this joint processing are laid down in a Joint Controllers' Agreement.



Article 20. Liability

- 20.1. Supplier will be liable for damage suffered by Client or by third parties (including but not limited to patients, visitors, persons acting on behalf of Client and subcontractors) as a result of a Defect in its Performance and/or as a result of or in connection with Supplier's performance of the Agreement, unless the Parties have agreed otherwise. Supplier is also liable for the damage suffered by Client or third parties as a result of an attributable failure of any obligation under the Agreement by Supplier, such damage arising from the Performance delivered by Supplier to Client. Supplier is not liable for damage caused by force majeure within the meaning of Articles 21.9 to 21.11, depreciation of Products and loss of turnover and/or profit.
- 20.2. The limitation of liability in Article 20.1 lapses: a) in case of third-party claims for damages resulting from death or injury; b) if there is intent or gross negligence on the part of Supplier, its personnel or others such as personnel of/and subcontractors employed by Supplier; c) in case of infringement of intellectual property rights and other (similar) rights as referred to in Article 17 of this GPC; d) in case of statutory liability which cannot be limited; e) in case that limitation of liability is otherwise contrary to the regulations in force; f) in case liability arises from the protection of personal data (Article 19).
- 20.3. Client's liability to Supplier is limited to a maximum amount of USD 100,000 (ten thousand United States Dollars) excluding VAT per calendar year or another amount to be determined by Client. In case the price for an Agreement or contract is set in Euro or Caribbean Guilders, the equivalent amount to the amount mentioned in United States Dollars applies.
- 20.4. Supplier indemnifies Client against third party claims under this Agreement (including but not limited to subcontractors, the tax authorities or social security authorities).
- 20.5. Supplier will ensure that it is adequately insured for its liability under this Article during the term of the Agreement. At Client's request, Supplier will provide proof of insurance coverage, showing that Supplier is adequately insured. If applicable, upon Client's request, Supplier will provide proof of payment of premiums due in this respect. Supplier is required to assign to Client all claims as regards insurance sums paid that are tied to a claim submitted against Client.

Article 21. Suspension, dissolution and termination and force majeure

- 21.1. Without prejudice to all other statutory and contractual rights to rescind or terminate the Agreement, Client is entitled (1) to rescind or terminate the Agreement, as well as any related Agreements, in whole or in part, with immediate effect by means of a registered letter without judicial intervention, without being liable to pay any compensation, and/or (2) to suspend its payment obligation towards Supplier, if:
 - a. Supplier fails to fulfil its obligation(s) under the Agreement or fails to do so on time or properly. If performance is not permanently impossible, dissolution can only be invoked after Supplier has been given notice of default by Client by means of a Written notice of default and has been granted a reasonable period of time to perform and after this reasonable period of time to perform has expired Supplier still fails to perform these obligation(s);
 - b. Supplier has filed a petition for suspension of payments or for its own bankruptcy, filed a petition seeking any reorganization, arrangement, composition, or similar relief under any insolvency law regarding relief for debtors, or makes an assignment for the benefit of creditors or has been granted suspension of payments or is declared to be bankrupt;
 - c. all or part of Supplier's assets are seized;
 - d. Supplier (being a natural person), is placed under guardianship;
 - e. Supplier proceeds to discontinue or transfer its business or an important part thereof, including, but not limited to, the transfer of its business into a company to be incorporated or already existing, or proceeds to change the objective of its business;
 - f. in case of shutdown, liquidation or full or partial takeover, merger or any similar situation resulting in a (significant) change in ownership and/or control at Supplier;



- g. if any benefit has been or is offered or provided by Supplier or any of its subordinates or representatives to a person, who is part of Client's organization or to any of its subordinates or representatives without Client's prior Written consent; or
 - h. if Supplier is found to have engaged in illegal activities, or if credible evidence suggests such involvement. Dissolution or termination or suspension of payment obligations as referred to under a to g of this Article will not affect any other rights to which Client is entitled under the foregoing, including Client's right to compensation.
- 21.2. Client is entitled to terminate the Agreement based on a deficiency that arises out of Article 16.6.
- 21.3. If Client requires a modification as referred to in Article 4 and the proposal for price and/or delivery time is unreasonable in the opinion of Client given the nature and scope of the change, Client will have the right to terminate the Agreement through a Written notification to Supplier. Dissolution based on this paragraph will not give either Party a right to compensation for damages.
- 21.4. If Client is entitled to terminate the Agreement, Client is also authorized to terminate any Associated Maintenance agreements and other Associated Agreements, even if there are no independent shortcomings in the execution these Agreements.
- 21.5. In the event of an attributable shortcoming on the part of Supplier, Supplier will be required to compensate Client for any extrajudicial and judicial costs.
- 21.6. Supplier will not be entitled to invoke any right of suspension or power of set-off towards Client other than in case of a suspension of payments or bankruptcy of Client.
- 21.7. All claims that Client may have or acquire against Supplier in the cases referred to in this Article will be immediately due and payable.
- 21.8. If due to newly established or changed tender legislation or a court ruling that has become final and binding, Client has entered into an Agreement in violation of applicable tendering rules, Client is entitled to dissolve the Agreement without judicial intervention. In that case, Client is not required to compensate Supplier for any damage of whatever nature or scope suffered as a result of this dissolution.
- 21.9. Force majeure means the inability to perform an Agreement due to a non-attributable failure. Force majeure on the part of Supplier does in any case not include: lack of personnel, strikes, illness of personnel, automation problems, late delivery within the area of influence of Supplier or unsuitability of materials or of the system software, breach of contract by third parties engaged by Supplier and/or liquidity or solvency problems on the part of Supplier.
- 21.10. If a Party (or both Parties) cannot fulfil its (their) obligations to the other Party (towards each other) due to force majeure, those obligations will be suspended for the duration of the force majeure.
- 21.11. Supplier will only be able to invoke force majeure if it notifies Client thereof as soon as possible, accompanied by the necessary supporting documents. If the force majeure situation on the part of Supplier has lasted longer than 1 (one) month and there is no agreed suitable solution, Client is entitled to dissolve the Agreement in whole or in part by means of a registered letter and without judicial intervention. Invoking Force Majeure on the part of Supplier does not affect Supplier's obligation to seek alternatives to nevertheless deliver the Performance and to minimize the damage resulting from the Force Majeure.

Article 22. Termination

In case of an Agreement for an indefinite period, the Parties can terminate the Agreement provided that they take into account a notice period of 12 (twelve) months, in case of termination by Supplier, and 4 (four) months, in case of termination by Client. Client is not liable to pay Supplier any compensation in case of termination in accordance with this Article.

Article 23. Continuing obligations

Obligations that are by their nature intended to continue after the end of the Agreement will continue to exist after the end of the Agreement and Associated Agreements. These obligations include:



- ownership of Products (Article 9);
- obligations in case of a Safety Notification, Recall or incident (art 12);
- provision of Documentation (art 13);
- obligations with regard to Spare parts, Parts, consumables and Auxiliary Materials of Products (Article 14);
- indemnification for violation of intellectual property and other (similar) rights (Article 17);
- confidentiality obligations (Article 18);
- obligations to protect personal data (Article 19);
- liability (Article 20);
- applicable law and competent court (Article 24).

Article 24. Applicable law and disputes

- 24.1. St. Maarten law exclusively applies to the Agreements to be concluded by the Parties and all Agreements resulting therefrom or related thereto.
- 24.2. Any disputes which could arise as the result of the Agreement or Associated Agreements will be brought before a competent judge in the Court of First Instance in St. Maarten and are subject to appeal.

Article 25. Procedure for Demonstration shipment/placement

- 25.1. After having received the relevant terms and conditions for Demonstration shipment/placement by Supplier, Client shall provide a Written order ('demonstration placement order') to Supplier. By providing Supplier with this Written order, Client confirms acceptance of these terms and conditions.
- 25.2. Supplier confirms, insofar as applicable, in Writing when the desired or agreed Demonstration placement starts and ends, or when the Demonstration shipment is sent, as well as on which day the Demonstration placement will be picked up by Supplier, or on which day the Demonstration shipment must be returned by Client if Client has not taken the decision to buy the Product and no Agreement has been reached on the purchase before that time. A Demonstration shipment is delivered complete, clean, and ready for operational use by Supplier.
- 25.3. Any proposal from Supplier regarding purchase, intake, or other agreements regarding the Demonstration shipment/placement on approval must be submitted in Writing to Client. Supplier can only claim any rights against Client after Client has accepted such proposal in Writing.
- 25.4. Supplier provides Client with sufficient consumables free of charge to properly evaluate the Demonstration shipment/placement during the trial period.
- 25.5. Supplier bears the full risk for the Demonstration shipment/placement, unless during the trial period there has been gross negligence or carelessness in the use of the Demonstration shipment/placement on the part of Client.

Article 26. Ownership and Risk in case of a Loan agreement

- 26.1. In case of Loan, Supplier retains ownership of the Products loaned to Client and continues to bear the risk associated with these Products. Supplier shall obtain adequately insurance for them. For the Loan, Client owes no compensation or consideration, except for reimbursement of used disposables. If a Loaned product shows Deficiencies or wear, Supplier will at the request of Client replace or repair the Product at its own expense, unless Client has not handled the Product with due care (in Dutch "als goed huisvader"). The parties shall make arrangements regarding maintenance.
- 26.2. Client will handle the Products during the Loan with due care (in Dutch "als goed huisvader").
- 26.3. Supplier may retrieve Products that have been Loaned after consultation with Client, or if the agreed period has expired. In the event of a Recall or Safety Notification, the provisions in Article 12 applies.



Article 27. Ownership and Risk in Consignment

- 27.1. Supplier retains the risk of the Products in Consignment until the moment Client puts the Product into use. Commissioning is seen as delivery.
- 27.2. Supplier will replenish the stock of Products within the timeframe agreed upon by Parties in the relevant consignment agreement, after Client has informed Supplier through a Purchase Order that it has taken or intends to take the Products from Supplier into use.
- 27.3. Supplier commits to insuring the products in Consignment until the moment risk transfers to Client pursuant to Article 27.1.
- 27.4. Client will handle the Products during the Consignment as a good caretaker.
- 27.5. In the case of Consignment, Supplier invoices after receiving confirmation that the Product has been taken into use by Client.
- 27.6. Supplier may take back Products sent in Consignment after consultation with Client, or if the agreed period has lapsed. In the event of a Recall or Safety Notification, the provisions in Articles 12.2 and 12.4 will be adhered to.
- 27.7. If after approval and the commissioning of Products by Client it has become apparent that the Products do not satisfy set requirements, Client is entitled to complain to Supplier within 14 (fourteen) days after discovering a possible Defect. In this case, Client will not be liable for a decrease in value of the Product.

Article 28. Safety, Environment and Corporate Social Responsibility (CSR)

- 28.1. Supplier accepts that it is responsible for the effects of its activities on the environment, employees, and the society in which it operates. Supplier strives to establish a structured CSR policy, possibly a CSR action plan, and will provide a CSR report to Client upon request.
- 28.2. Supplier will, insofar as applicable, comply with (supra)national and local environmental legislation and will take measures to protect the environment in the broadest sense of the word. Supplier will organize its business processes in such a way that compliance is ensured. Supplier will be proactive and, where possible, innovative, in order to continuously improve its environmental performance in relation to the delivery of Products and/or Services.
- 28.3. Supplier strives to limit the amount of waste as much as possible and to process it in a way that minimizes the impact on the environment. Supplier supports Client in the environmentally conscious disposal of waste generated by the delivery of the Services.
- 28.4. Supplier applies the universal labor standards outlined in a series of conventions by the United Nations International Labor Organization (ILO).
- 28.5. If Supplier also provides housing for its employees made available to Client, then Supplier must have 2 (two) contracts with the employee: 1 (one) for performing the work and 1 (one) for renting the housing. These 2 (two) contracts must not be linked in any way. Supplier will provide access to the relevant contracts to Client upon request.
- 28.6. Supplier will treat employees equally regarding the nature of work and work intensity, and ensure all have equal opportunities.
- 28.7. Supplier will reward work on equal levels equally.
- 28.8. At the request of Client, Supplier is willing to provide the Raw Material Passport, as far as possible and if applicable, for a Product.
- 28.9. At the request of Client, Supplier is willing to make the chain of suppliers of a Product transparent to the extent possible.
- 28.10. Supplier will, at the request of Client, demonstrate the CO2 footprint throughout the life cycle of the Performance.
- 28.11. Supplier strives to offer a high level of Circularity for its Products. Upon request from Client, Client and Supplier agree on key performance indicators ('KPIs) for Circularity.



- 28.12. Supplier is proactive and, where possible, innovative in improving the environmental performance of the Products or Services to be delivered.
- 28.13. Client has the goal of acting in line with (inter)national sustainability objectives. At the request of Client, Supplier will endeavor to develop a plan with Client on how the delivered Product or Service can contribute to these (inter)national sustainability objectives.
- 28.14. At the request of Client, Supplier will indicate which Substances of Very High Concern ('SVHC') are present in its Product, packaging, and in what concentrations (grams per gram). Once that request has been made, Supplier will keep Client informed of changes regarding the composition or legislation regarding SVHC.

ADDITIONAL SERVICE CONDITIONS

Article 29. Personnel, equipment and materials

- 29.1. Any personnel engaged by Supplier in the performance of the Agreement must demonstrably meet the special requirements laid down by Client, as well as the general requirements of professional competence and expertise (qualified and competent).
- 29.2. If, in the opinion of Client, Supplier does not engage sufficiently qualified personnel, Supplier is obliged, on Client's demand, to replace such personnel without delay, subject to the provisions of Article 29.1. In all other cases, Supplier shall only replace personnel that is engaged long-term at Client completely or temporarily if there is a genuine need and only after prior consultation with Client. New personnel will at least have the same knowledge and experience as the replaced personnel, without this resulting in higher costs for Client. The replacement will not result in costs for Client pertaining to the transfer of work.
- 29.3. Client has the authority to inspect and test all materials and equipment to be used by Supplier in performance of the Agreement and to identify personnel to be used by Supplier in its performance of the Agreement.

Article 30. Client's terrain, buildings and infrastructure

- 30.1. Before performance of the Agreement commences, Supplier must become familiar with circumstances on the terrain and in the buildings of Client where the work is to be performed that may influence performance of the Agreement.
- 30.2. Supplier ensures that its presence and the presence of its personnel on Client's premises and in Client's buildings shall not impede the uninterrupted progress of Client's and third parties' work and related processes.
- 30.3. Client's business operations may not be interrupted as a result of Supplier's work unless previously discussed and agreed to in Writing by Client.
- 30.4. During the work, Client's processes remain in operation. Nuisance-causing work should be avoided as much as possible and/or planned in consultation with relevant Client departments.
- 30.5. Tests and work that may interfere with Client's business operations must first be submitted to Client. Execution of this work may only take place after Client's explicit Written consent.
- 30.6. Before commencing performance of the Agreement, Supplier and its personnel must familiarize themselves with the contents of Client's house rules and conduct rules, regulations and codes of conduct applicable on Client's premises and in Client's buildings, including those relating to safety, health and the environment, and conduct themselves accordingly. Supplier and/or its personnel and/or subcontractors will in any case report to officers to be designated by Client.