



GENERAL TERMS AND CONDITIONS OF PURCHASE

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Article 1 Definitions

For the purposes of these General Purchase Terms and Conditions the capitalised words shall have the meaning attributed to the same in Article 1 as well as in the Purchase Terms and Conditions.

- A. UMC and its Affiliated Legal Entities: a legal entity under public law, acting/trading under the name 'University Medical Center Utrecht' and registered with the Chamber of Commerce under number 30244197.
B. Affiliated Legal Entity: a legal entity of which UMC has predominant control or in which UMC holds a substantial interest (at least 5% of the shares).
C. Supplier The other party to the contract of UMC.
D. Parties UMC and the Supplier.

- E. Performance The goods delivered and to be delivered and the rights of use vested on said goods and other proprietary rights to be supplied and activities to be performed by the Supplier for the benefit of UMC as well as the accomplishment and delivery of a tangible work.
F. Offer The written or oral offer of the Supplier to deliver a specific Performance to UMC against a specific price.
G. Order The written instruction of UMC awarded to the Supplier to deliver a Performance.
H. Agreement Each and every agreement governing the legal relationship between UMC and the Supplier concerning the delivery of a Performance to UMC by the Supplier, amended as appropriate by means of an amendment there of or addition there to as well as all (legal) acts required in connection with the conclusion or the execution of said agreement.
I. Force Majeure: An inability to perform an agreement due to non-attributable failure or shortcoming. Force majeure (non-attributable failure or shortcoming) on the part of the Supplier shall not include: lack or shortage of personnel, wildcat strikes, illness amongst personnel, ICT issues, late delivery or unsuitability of materials or the system software, breach of contract or default by parties engaged by the Supplier and/or liquidity or solvency problems on the part of the Supplier.
J. Framework Agreement An agreement concluded by and between UMC and the Supplier with the objective of laying down the terms and conditions for Orders to be placed during a specific period of time, in particular concerning the price and, when the occasion arises, the intended quantity.
K. On Call Agreement An Agreement in pursuance of which previously established quantities are, as desired, ordered (called) from the Supplier by UMC against previously established prices, terms and conditions.
L. Medical Devices A Performance to which the Medical Appliances Act and subordinate of secondary regulations based upon this Act are applicable. Also including explicitly Software falling under the definition of a "medical device" applied by the Netherlands Healthcare Inspectorate (IGZ).
M. Shipment on Approval or Trial An Agreement in pursuance of which a Performance is rendered available to UMC by the Supplier free of charge during a period previously established in writing during which title and risk with regard to the relevant Performance shall remain vested in the Supplier and the Supplier shall again take back the Performance after the stipulated period.
N. Consignment An Agreement in pursuance of which a Performance is delivered to UMC by the Supplier on consignment free of charge during a period previously established in writing and in pursuance of which the title and risk with regard to the Performance shall only



transfer to UMC at the moment the relevant Performance is put into use and/or consumed by UMC.

- O. Purchase Terms and Conditions** These General Purchase Terms and Conditions of UMC.
- P. Recall** The recall, removal (or giving of further instructions or further information 'Field Safety Notice' or 'Safety Warning') by the Supplier for the attention of UMC concerning products and/or Medical Devices on the basis of a subsequent delivery due to a shortcoming in relation to quality, safety and/or the use of a product of which the Supplier has become aware, resulting in such product not offering the safety and/or application possibilities which may be reasonably expected in relation to the execution of a medical treatment contract.

#### Article 2 Applicability

- 2.1 The Purchase Terms and Conditions are applicable to and constitute part of all Orders and all Agreements relating to (a part of) the Performance.
- 2.2 The applicability of any general or specific terms and conditions or stipulations of the Supplier, under any name whatsoever, is expressly rejected.
- 2.3 Should in the opinion of the court any provision of the Purchase Terms and Conditions not be applicable or invalid then only the provision in question shall be held unwritten yet for the remainder the Purchase Terms and Conditions shall remain fully applicable. The Parties shall consult with each other in order to replace the not applicable or invalid provision by a new provision where the objective and scope of the earlier provision shall be taken into account.
- 2.4 In case of a discrepancy between the provisions set forth in the Purchase Terms and Conditions and the provisions set forth in the Agreement the provisions set forth in the Agreement shall prevail over the provisions set forth in the Purchase Terms and Conditions.
- 2.5 Amendments of and additions to the Purchase Terms and Conditions shall only be valid if they are agreed upon in writing by and between the Parties. The amendment and/or addition only applies to the involved Agreement.
- 2.6 In the Purchase Terms and Conditions electronic data traffic and facsimiles are put on par with documents in writing. Electronic data traffic is understood as the traffic of messages by email, internet, EDI and comparable forms of data transmission.

#### Article 3 Offers and Orders

- 3.1 Requests for an Offer shall not bind UMC and are considered to be an invitation to present an Offer. The Offer shall be free of charge for UMC. The Offer shall be irrevocable and shall remain valid for a period of sixty calendar days as from the date of the Offer.
- 3.2 UMC shall at all times be entitled to cancel the Agreement if the Supplier demonstrably did not commence the execution of the



Agreement yet. In that case UMC shall compensate the Supplier, to the extent reasonable, for the costs incurred by the Supplier.

- 3.3 If the Supplier commences the activities/delivery without having received an Order the same does so at its own expense and risk.
- 3.4 In case of On Call Agreements the Agreement always comes into being at the moment the Order within the framework of the On Call Agreement is sent and/or provided by UMC.
- 3.5 The Supplier is deemed to have sufficiently informed itself of the objectives of UMC with regard to the Agreement, the organisation of UMC, the circumstances under which and the environment in which the Performance and – where applicable – the processes in which the Performance shall be used and the data flows which shall thus be generated.
- 3.6 The Supplier will in any case be considered to have accepted these General Terms and Conditions of Purchase as soon as the Performance is first rendered.

#### Article 4 Changes

- 4.1 UMC shall be authorised to desire contract extras and/or contract reductions. There can only be question of contract extras and/or contract reductions to the extent that UMC commissioned this in writing. In case of contract reductions the price for the Performance shall be reduced proportionately.
- 4.2 At the discretion of the Supplier, if there is question of contract extras and this affects the stipulated price and/or delivery time the same shall be obliged to inform UMC accordingly in writing, prior to implementing the change, forthwith, yet in any case not later than 8 days after the notification of the desired change,. Work that the Supplier could easily have foreseen will never be charged as contract extras. If these consequences for the price and/or delivery time are, at the discretion of UMC, unreasonable compared to the nature and the scope of the change UMC shall be entitled to dissolve the Agreement by means of a written notification thereof to the Supplier, unless this would, in consideration of the circumstances, be in violation of the reasonableness and fairness. Dissolution in pursuance of this paragraph shall not entitle the Supplier to any compensation for damages.
- 4.3 The Supplier can only implement or execute changes in the scope, the composition and/or the quantity of the Performance to be delivered, the accessories and the relevant packaging after written approval of UMC. In issuing such approval, UMC shall never accept any liability and/or risk whatsoever with regard to the technical, structural and/or functional integrity of the Performance.
- 4.4 The Supplier shall warn UMC in case of errors in, or discrepancies or incompleteness between parts of the Order or the Agreement and shall consult with UMC before commencing the execution thereof in order that the Order can, where necessary, be amended.



4.5 With regard to changes in the Agreement, the Supplier will use the same unit prices and surcharges as those contained in the Agreement unless the Parties agree or have agreed to lower unit prices and surcharges for contract extras and cancelled work.

#### Article 5 Prices

5.1 The stipulated prices are fixed for the duration of the Agreement and are therefore not subject to revision.

5.2 The stipulated prices are in EUR, are excluding VAT (unless expressly indicated otherwise), are based on the delivery condition "delivery duty paid" (D.D.P., Incoterms 2010) and comprise all costs in connection with the fulfilment of the obligations of the Supplier on account of the Agreement. The Supplier is held to specify the applicable VAT percentage. The prices include an itemisation of the travel and accommodation expenses, any hourly rates and the number of hours required, broken down by product.

#### Article 6 Delivery

6.1 With regard to the interpretation of the delivery terms and conditions the latest version of the "Incoterms" published by the International Chamber of Commerce at the moment of the conclusion of the Agreement is applicable.

6.2 Delivery takes place D.D.P. at the stipulated delivery location.

6.3 The delivery time and the delivery lead time, or the deadline by which the Performance must have been delivered, are fatal deadlines. In case of untimely delivery the Supplier shall be in default without any further notice of default being required. If the Supplier expects that a delivery cannot take place in accordance with the arrangements the Procurement Department of UMC must forthwith be informed accordingly in writing with mention of the circumstances that gave cause hereto and a proposal is forthwith made in connection with bridging measures. The Supplier shall only be authorised to deliver an alternative Performance after UMC granted its approval in writing.

6.4 The delivery of goods must be accompanied by a packing list, which must be attached to the exterior of the packaging in a clearly visible manner. The packing list must state the order number(s) of UMC as well as the product number(s), the quantity (-ies), product description(s) and batch numbers.

6.5 Deliveries of multiple goods can be combined into 1 shipment by the Supplier however they must be packed separately per order (number) and must per (interior) packaging be provided with a packing list per order number. The separate packaging must each time comply with the provisions set forth in Article 7.1. of the Purchase Terms and Conditions. If the Supplier combines multiple orders in one shipment the exterior of the packaging must clearly state the concerned order numbers and the Supplier must also attach an extra packing list per order number.

6.6 If the Performance delivered by the Supplier is subject to export regulations or export licences (such as, but not confined to, those

imposed by the EU or the United States), the Supplier shall inform UMC in writing and in a structured manner which export regulations or export licences are applicable, and shall keep UMC updated about any changes so that an up-to-date overview is available to UMC at all times.

6.7 Delivery will be accomplished exclusively through the goods receiving department of UMC, unless otherwise agreed between UMC and the Supplier. Delivery will be made during the regular opening hours of UMC's goods receiving department.

6.8 UMC will sign for the delivery (of the Performances) only for the quantity of goods received and is the only authorised signer. Signing for receipt does expressly not imply approval.

6.9 Delivery of goods in bulk quantities shall take place on Euro pallets and, if so desired by UMC, on a fixed day of the week.

6.10 Delivery of a Performance also comprises the availability of all associated tools as intended in Article 9 of the Purchase Terms and Conditions as well as the supply of all associated documentation in the Dutch language (among other things with regard to maintenance, control, safety and sterilisation), drawings, quality and warranty certificates. Technical documentation may be provided in English. Manuals and guides intended to assist in the daily use by the users of the Performance must be provided in Dutch.

6.11 The delivery of the Performance to UMC shall not prevent UMC from invoking non-compliance by the Supplier with its obligations at a later stage.

6.12 If UMC requests the Supplier to postpone the delivery of a goods item then the Supplier shall store, secure and sufficiently insure the Performance accurately packed and recognisably destined for UMC. Reasonable costs possibly associated therewith can in consultation with UMC be passed on.

#### Article 7 Packaging and shipment

7.1 Goods must be adequately packed and marked in conformity with the statutory regulations and decisions and possible additional regulations of UMC such that they arrive at their destination in a good condition. Delivery and packaging of sterile medical devices must comply with the VDSMH (Dutch Association of Sterile Medical Device Experts) guideline "Requirements for the delivery of single-use sterile medical devices" (Eisen aan de levering van steriele medische hulpmiddelen voor eenmalig gebruik).

The delivery/issue packaging shall include at least the following information: Description of product, batch number, supplier's product code, CE+ notified body, expiry date, dimensions (where applicable), barcode. The products at the different packaging levels shall display a GS1 format barcode. The barcode at all levels up until the final level, single packaging, shall provide at least the following information:

- GTIN code;



- Expiry date;

- Batch number and/or serial number.

7.2 The Supplier shall be liable for damages caused by improper packaging. The Supplier shall take care of the picking up or the taking back of the damaged goods and shall provide for a new (undamaged) delivery of the Performance within two working days, without any additional costs on the part of UMC. In case of urgency, at the discretion of UMC, the Supplier shall be held to carry out a new delivery of the Performance within a shorter deadline imposed by UMC, without any additional costs on the part of UMC.

7.3 The content of the packaging is clearly visible and verifiable from the outside. If the package contents are refrigerated, sterile or must be stored in another special manner, this must be clear and legibly indicated on the packaging.

7.4 Upon delivery all packaging (with the exception of returnable packaging) becomes the property of UMC unless UMC waives the same. In the latter instance Article 7.5 of the Purchase Terms and Conditions shall equally apply unabatedly. In the packing list accompanying the delivery of goods the Supplier must clearly indicate as to whether the Performance has been packed in returnable packaging. Moreover, the returnable packaging must clearly be marked as such by the Supplier. In case it concerns returnable packaging with deposit then the Supplier must register and specify this on the invoice.

7.5 Return shipment of returnable packaging takes place at the expense and risk of the Supplier to a destination to be specified by the same. A return shipment of returnable packaging shall take place within 14 days after UMC informed the Supplier of said return shipment in writing.

7.6 If packaging materials are processed or destroyed by the Supplier at the request of UMC, this shall take place at the expense and risk of the Supplier.

#### Article 8 Title and risk of goods

8.1 The title to the Performance, as well as components of the Performance, shall pass to UMC upon delivery (of the Performance). If it has been agreed between the Parties that the Performance must first be approved by UMC, the risk will not pass until after approval has been granted by UMC. Exceptions to this are Performances delivered on the basis of Shipments on Approval or Trial, Lease, Use on Loan and Consignment.

8.2 Contrary to the provisions set forth in Article 8.1, in the instance intended in Article 6.12 the title of a goods item shall transfer to UMC at the moment the same is stored for the benefit of UMC.

8.3 Contrary to the provisions set forth in Article 10 of these Purchase Terms and Conditions, if complete or partial payment in advance has been stipulated pursuant to the payment in advance effectuated by UMC, the same shall be entitled to the title of all



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materials, raw materials and semi-manufactures which the Supplier uses in connection with the execution of the Agreement or which are meant for this, without a further act of delivery being required, and such up to the value of the amount paid in advance. The Supplier is held to keep said materials, raw materials and/or semi-manufactures for UMC free from encumbrances and rights, to sufficiently insure the same as also to store the same for the benefit of UMC and to indemnify UMC against loss, damage and enforcement of rights by third parties.

8.4 If UMC exchanges/returns a Performance, whether or not with accessories, the risk of this Performance shall transfer to the Supplier at the moment the Performance is put into the hands of the carrier.

#### Article 9 Tools in connection with delivery of the Performance

9.1 Materials, unused and/or unprocessed raw and auxiliary materials, tools, drawings, models, instructions, specifications, software and other tools rendered available by UMC or purchased or manufactured by the Supplier at the expense of UMC are the property of UMC and/or shall become the property of UMC at the moment of purchase or manufacture.

9.2 The Supplier shall beforehand deliver the Performance to UMC in which the raw materials and/or auxiliary materials and/or software rendered available by UMC or purchased or manufactured by the Supplier at the expense of UMC have been used and/or processed. Delivery beforehand takes place at the moment of use and/or processing of the raw and auxiliary materials and software in the Performance.

9.3 The Supplier is obliged to recognisably mark the materials and tools intended in Article 9.1 as property of UMC, to keep the same in a good condition and to at its own expense and risk insure the same against all risks as long as the Supplier acts as holder of said tools.

9.4 The Supplier is obliged to return the materials and tools intended in Article 9.1. to UMC not later than the last (partial) delivery to which the tools are related.

9.5 Change of or deviation from the materials and tools intended in Article 9.1 as well as the use of the materials and tools for or in connection with any objective other than the delivery of the Performance to UMC shall only be permitted following the prior written approval of UMC. This approval shall not affect the warranty obligations of the Supplier.

9.6 If applicable, the Supplier shall remain responsible for the verification of the correctness of the tools and information rendered available to the same to the extent that this is required in connection with the delivery of its Performance.

#### Article 10 Invoicing and payment

10.1 After the delivery of the Performance specified in the Order that UMC placed with the Supplier has taken place, the Supplier must



submit an invoice per Order (per order number) unless the order indicates otherwise. In that case the invoicing terms stated in the order will prevail. The order number must clearly be mentioned on the invoice. At the request of UMC the Supplier must also mention cost centre, internal contact person or other relevant information on the invoice.

10.2 Each and every delivery and/or return shipment by the Supplier must moreover be invoiced respectively credited separately. Debit and credit entries cannot be set off on one and the same invoice.

10.3 In case of complete and correct execution of the Agreement UMC shall pay the thus invoiced amount within thirty days after the invoice date of a correct invoice. Statutory interest possibly due by UMC shall consist of the statutory interest referred to in Section 119 (3) of Book 6 of the Dutch Civil Code.

10.4 The Supplier shall, in the event payment in advance has been agreed upon, on first demand, at its own expense, arrange for an unconditional and irrevocable bank guarantee (including the amount in VAT due) to be issued by a reputable financial institution acceptable to UMC which is licensed by De Nederlandsche Bank or holds another comparable permit under public law.

10.5 Payment by UMC shall by no means imply the waiver of any right.

10.6 UMC shall be entitled to settle amounts it can claim from the Supplier on account of any title with the amounts the same is held to pay to the Supplier, whether or not the former are due.

10.7 UMC shall at all times be authorised to suspend its obligations on account of an Agreement if and to the extent that the Supplier (partly) fails in the compliance with its obligations.

10.8 UMC shall not pay interest costs, collecting costs or other costs for invoices if the Supplier submitted an incorrect, incomplete or otherwise incorrect invoice or if there is question of a failure in the compliance with the obligations of the Supplier.

10.9 Transaction costs related to payments (e.g. related to payments credited to foreign bank accounts) shall be for the Supplier's account.

#### Article 11 Quality and Warranty

11.1 The Supplier warrants that the delivered Performances comply with that which has been agreed upon, dispose of the features which have been promised and which UMC can expect, are sound and free from defects, are in accordance with the stipulated specifications and the delivered documentation, are suitable for the objective for which they are meant, are ready for use and comply with the highest statutory requirements and other government regulations, such to also include the European legislation and regulations and regulations of lower government bodies, as also with the safety, environmental and quality standards and/or certification used within the branch, all as applicable at the time of the delivery of the Performance. The Supplier also guarantees that the Performance is unencumbered and free from attachments.



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11.2 The Supplier is obliged vis-à-vis its suppliers to require that they will transfer warranty certificates and related guarantees furnished by any third parties with regard to the products supplied by the Supplier, and that they are transferred directly to UMC. The failure to provide such a guarantee certificate (or to cause same to be provided) releases neither the Supplier nor the third parties it engages from the relevant obligations. In the event of a discrepancy in the texts of warranties regarding the same product, the warranty most favourable to UMC shall apply.

#### Article 12 Documentation, parts and tools for the benefit of commissioning/use

12.1 Without prejudice to the provisions in Article 6.10, the Supplier warrants that all parts, auxiliary materials, accessories, tools, technical documentation, user manuals, instruction books, safety sheets and other tools (also including, but not confined to, e-learning modules) required or prescribed in connection with the realisation of the objective specified by UMC are also delivered, even if they are not specifically mentioned. In case of delivery of medical devices which must be cleaned, disinfected and sterilised, the Supplier will provide the cleaning and sterilisation instructions. Associated validation reports shall be provided on request or made available for inspection by UMC.

12.2 UMC is free in the use of these tools, such to include the duplication of documentation for personal use.

12.3 The Supplier is obliged to keep parts of goods delivered by it on stock, such to include spare parts and consumables as well as products, with regard to the delivered goods and to provide the same on demand during the usual service life (assuming circumstances of normal use, and for a minimum period of 10 years after the actual date of delivery or installation).

12.4 Without prejudice to the provisions in Article 12.3, the Supplier warrants in any event, where the Performance to be delivered concerns a medical device comprising an appliance, to maintain and service the Performance for a period of 10 years following acceptance, to the extent that instructions in that regard are issued.

#### Article 13 Inspection

13.1 Inspection, control and/or testing by UMC or by people or entities designated thereto by UMC can take place both prior to the delivery and during or after the delivery of the Performance.

13.2 The Supplier hereby grants access to the location where the Performances are produced or stored and lends its assistance to the desired inspections, controls and tests and shall at its own expense supply the required documentation and information.

13.3 If necessary, the Supplier shall inform UMC in a timely manner about the time when inspection, control and/or testing can take place.

13.4 The Supplier shall be authorised to be present during the inspection, the control and/or the test.



13.5 If during an inspection, control and/or test the Performance is rejected either in whole or in part during or after the delivery of the Performance, UMC shall communicate this to the Supplier in writing.

13.6 In case of rejection of the Performance during or after the delivery the risk of the rejected Performance shall transfer to the Supplier as from the date of the notification intended in Article 13.5 of the Purchase Terms and Conditions.

13.7 Irrespective of the results of any inspection, control and/or test, if the Performance does not appear to comply with the provisions set forth in Article 11 of the Purchase Terms and Conditions and/or the Agreement, the Supplier shall on demand at its own expense repair or replace the Performance, at the sole discretion of UMC, against return of the unsound Performance, unless UMC prefers termination of the Agreement in accordance with the provisions set forth in Article 20 of the Purchase Terms and Conditions.

13.8 In urgent instances and moreover if, after consultation with the Supplier, it must reasonably be assumed that the Supplier cannot or shall not provide for the repair or replacement in a timely and proper fashion, UMC shall be entitled to carry out the repair or replacement or to have the same carried out by third parties at the Supplier's expense.

13.9 If the Supplier does not take back the rejected delivered Performance within 10 working days after the date of the written notification UMC shall be entitled to return the Performance at the expense of the Supplier and shall be entitled to a credit entry for the possibly already invoiced Performances within 14 days, all without prejudice to the other rights of UMC.

13.10 Interim inspections, controls, trials and/or tests or the lack thereof shall not affect the rights of UMC with regard to the Performance.

#### Article 14 Medical Devices

14.1 If and to the extent that the Dutch Medical Appliances Act (Wet op de Medische Hulpmiddelen) and the VDSMH guidelines are applicable to the Performance to be delivered this Performance and the packaging thereof must fully comply with the requirements of this act and the lower regulations based thereon.

14.2 The expiry date to be mentioned on the label in conformity with the Medical Appliances Decree [*Besluit Medische Hulpmiddelen*] must be as far from the date of delivery as possible where a period of at least 24 months must fall between the date of receipt and the expiry date.

14.3 If, at the discretion of UMC, the expiry date of the Performance to be delivered is too close to the date of delivery UMC shall be authorised to reject this Performance, unless this would be apparently unreasonable in consideration of the circumstances. Rejection of the Performance in pursuance of this paragraph shall not entitle the Supplier to any compensation for damages whatsoever.



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14.4 In case of subsequent deliveries of Medical Appliances that fall under the scope of the act mentioned in this Article the Supplier must ensure that the last delivery has an expiry date which expires later, or at least on the same date, as the preceding deliveries.

14.5 The information specified in this Article as required must as much as possible be placed on the packaging in the form of pictograms.

14.6 Within no more than 24 hours after the defect in its product becomes known, the Supplier shall inform UMC in the event a Recall is necessary. This Recall shall be carried out at the Supplier's expense in accordance with the procedure which the Supplier can download from UMC's website. After being notified of a Recall by the Supplier, UMC has the option of cancelling the Agreement or Order.

14.7 With regard to the Performance concerned, the Supplier shall immediately and unconditionally cooperate in implementing the agreement pertaining to the "Safe application of medical technology in the hospital by UMC".

#### Article 15 Safety, environment and Corporate Social Responsibility

15.1 The Supplier accepts that it is responsible for the impact of its activities on the environment, employees and the society in which it operates. The Supplier shall endeavour to structure and formulate its own CSR policy as well as a CSR action plan, where appropriate.

15.2 The Supplier respects the universal standards with regard to labour which are elaborated in a series of conventions of the U.N. International Labour Organization (ILO).

15.3 The Supplier is willing to provide the (raw) material passport of a Product at the request of UMC.

15.4 The Supplier is willing to provide as much information and to be as transparent as possible about the production chain/supply chain of a Product at the request of UMC.

15.5 The Supplier shall take a proactive stance and wherever possible shall be innovative in terms of improving the environmental performance associated with the goods to be delivered or the services to be provided.

15.6 The Supplier shall comply with the most recent version of the Dutch Paper and Cardboard Packaging (Management) Decree (Besluit Beheer Verpakkingen Papier en Karton).

#### Article 16 Confidentiality, data security and personal data protection

16.1 The Supplier shall keep all information and/or data received within the framework of (the execution of) the Agreement confidential and shall not disclose the same to third parties – save third parties that are hired by the same in connection with the execution of the Agreement – without the written approval of UMC unless disclosure takes place in pursuance of a statutory obligation or a judicial order. The confidentiality obligations as laid down in this Article do not regard:



- a) information/data which had already been publicly accessible at the time they were rendered available to the Supplier;
- b) information/data which, after it was/they were rendered available to the Supplier, became publicly accessible unless this is the result of non-compliance by the Supplier with its obligations on account of this Article; or
- c) information/data which the Supplier lawfully acquired and/or with which the Supplier lawfully became familiar before this information/these data was/were rendered available to the Supplier.

16.2 The Supplier commits vis-à-vis UMC to impose the obligations as laid down in the preceding paragraph on those who (such to include employees of the Supplier) are encumbered with the execution of the Agreement on behalf of the Supplier and guarantees vis-à-vis UMC that this person/these persons shall comply with these obligations.

16.3 In case of a violation by the Supplier of its obligations on account of this Article the Supplier shall forfeit an immediately claimable penalty of EUR 25,000.00 per event to UMC, which penalty shall not affect the possible obligation of the Supplier to pay compensation for damages.

16.4 The Supplier shall conform to the current, applicable regulations on data security in the healthcare sector (NEN 7510 Standard for data security in the healthcare sector) and shall ensure that the Performance delivered by it complies with this Standard and these regulations. The Supplier grants UMC permission to verify the process and the Performance, or to have them verified, by means of an (external) information security audit. The Supplier warrants that the Performance does not contain any other security measures or functions or elements alien to the ICT Performance (including, but not confined to, logic bombs, viruses and worms, hidden keys, Trojan horses or other impediments, hindrances or infections, for example) than those that are mentioned in the documentation.

16.5 The Supplier warrants that all EU and statutory provisions concerning the data to be processed, such to in particular include the regulations imposed by or pursuant to the Dutch Personal Data Protection Act, are and shall strictly be complied with. The Supplier shall forthwith supply UMC with relevant requested information in writing. The Supplier shall in accordance with the state of the art provide for adequate security of the personal data. The Supplier shall indemnify UMC against all claims of third parties which could be filed vis-à-vis UMC on account of violation of the applicable privacy legislation and/or statutory retention periods.

16.6 Agreements between UMC and the Supplier concerning the processing of personal data (including indirectly traceable personal data) will be laid down in a data processing agreement.

#### Article 17 Intellectual property and/or other (comparable) rights

17.1 The Supplier shall not refer to the name of UMC and/or its employees in publications and/or advertisements or in any other media without the express written permission of the communications department of UMC.

17.2 If intellectual property rights and/or other (comparable) rights on the Performance and/or on all that which is associated with the Performance are vested in the Supplier or third parties the Supplier shall be obliged to automatically and forthwith grant (have granted) UMC a non-exclusive irrevocable (sub-) user licence with regard to said rights for an indefinite period of time which is understood to also comprise the right to resell the Performance delivered to the same and/or all that which is associated with the Performance to third parties. The royalties for this (sub-) user licence is included in the price of the Performance and/or in all that which is associated with the Performance.

17.3 The Supplier guarantees the free and undisturbed use of the Performance and/or of all that which is associated with the Performance by UMC or by third parties to whom UMC forwarded the Performance and/or all that which is associated with the Performance and guarantees that the Performance and/or all that which is associated with the Performance neither wholly nor partly infringes any intellectual property right or any other (comparable) right of third parties. The Supplier indemnifies UMC against all (imminent) claims of third parties in connection with a possible infringement of intellectual property rights or of any other (comparable) rights of said third parties and shall compensate UMC for all costs and damages incurred as a result of any (alleged) infringement, including the complete costs of legal assistance.

17.4 Contrary to the provisions set forth in Article 17.2 of these General Terms and Conditions of Purchase, all intellectual property rights and other (comparable) rights on a Performance specifically developed for the benefit of UMC and/or on an associated Performance are vested in UMC. As the occasion arises, the rights are, to the extent that they are (shall be) vested in the Supplier, transferred to UMC by the Supplier by signature of an Agreement which transfer is, as the occasion arises, accepted by UMC immediately after the occurrence of such rights. To the extent that the transfer of these kinds of rights would require a further deed or other formalities the Supplier, as the occasion arises, already irrevocably authorises UMC to draw up this kind of deed and to sign the same on behalf of the Supplier and to fulfil these formalities also on behalf of the Supplier, without prejudice to the obligation of the Supplier to on demand of UMC lend its assistance to the transfer of these kinds of rights, without being able to impose any conditions on the same. The Supplier hereby waives all personality rights possibly allocated to the same vis-à-vis UMC to the extent the applicable regulations allow for this kind of waiver.



The Supplier guarantees that its employees respectively contractors waive all personality rights possibly allocated to the same vis-à-vis the Supplier in the employment agreement respectively commission agreement applicable between these employees respectively contractors and the Supplier inasmuch as the applicable regulations allow for this kind of waiver.

17.5 In addition to the indemnification set forth in Article 17.3 and in case of a prohibition on the use of the Performance and/or all that which is associated with the Performance in connection with an infringement of the intellectual property rights and/or of other (comparable) rights of third parties the Supplier shall, at the discretion of UMC, forthwith and at its own expense:

(a) acquire a right of use for UMC on the relevant delivered Performance and/or all that which is associated with the Performance;

(b) adjust the relevant Performance and/or all that which is associated with the Performance such that rights of third parties are no longer infringed;

(c) replace the Performance and/or all that which is associated with the Performance by a comparable Performance with at least the same functionality and quality which does not infringe rights of third parties;

(d) take back the relevant Performance and/or all that which is associated with the Performance against payment of all costs paid for the Performance and/or all that which is associated with the Performance, all without prejudice to the other rights of UMC, such to include the right to dissolution of the Agreement and the right to (substitute and/or additional) compensation for damages.

#### Article 18 Transfer of rights and obligations

18.1 The Supplier shall neither wholly nor partly transfer and/or outsource its rights and its obligations on account of the Agreement to third parties without the prior approval in writing of UMC. The approval shall not be withheld on unreasonable grounds.

18.2 UMC is entitled to connect conditions to its approval as intended in paragraph 1 of this Article. The approval of UMC, whether or not subject to conditions, shall not release the Supplier from its obligations on account of the Agreement; the Supplier is responsible for the input of third parties where its own Performance is concerned.

#### Article 19 Liability

19.1 The Supplier is liable for all loss or damage sustained by UMC or by third parties as a result of a failure or defect in its Performance and/or as a result of or in connection with the execution of the Agreement.

19.2 The Supplier's liability as referred to in Article 19.1 for orders with an agreed price for the Agreement of EUR 250,000 or less (in words: two hundred and fifty thousand euro) is limited per occurrence to an amount of EUR 1,250,000 (in words: one million



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two hundred and fifty thousand euro) with a maximum of EUR 2,500,000 (in words: two million five hundred thousand euro) per calendar year. The Supplier's liability for orders with an agreed price for the Agreement of more than EUR 250,000 (in words: two hundred and fifty thousand euro) is limited to EUR 2,500,000 (in words: two million five hundred thousand euro) per occurrence, with a maximum of EUR 5,000,000 (in words: five million euro) per calendar year. The aforementioned limitation of liability ceases to apply:

- a) in case of third-party claims for compensation due to death or personal injury;
- b) in the event of wilful misconduct or gross negligence committed by the Supplier or its personnel;
- c) in case of breach of intellectual property rights as referred to in Article 17 of these General Terms and Conditions.

19.3 UMC is liable for loss or damage sustained by the Supplier as a result of or in connection with the execution of the Agreement.

19.4 UMC's liability as referred to in Article 19.3 is limited to a maximum amount of EUR 500,000 (in words: five hundred thousand euro) per occurrence.

19.5 The Supplier indemnifies UMC against claims of third parties (including subcontractors, the Dutch Tax and Customs Administration or social security agencies), regardless of how they are referred to, also with regard to loss incurred or delinquent payments and/or costs relating to this Agreement for compensation for damages in pursuance of liability as referred to in Article 19.1 and Article 19.2 and shall on demand of UMC come to a settlement with said third parties or present a defence against claims as aforementioned in court in lieu of or conjointly with UMC – all at the discretion and subject to the approval of UMC.

19.6 For the purposes of this Article personnel and employees of UMC are qualified as third parties and in the relation to UMC the Supplier shall not be held to compensate more damages to third parties than to which it is required by law.

19.7 The Supplier shall ensure that, during the term of the Agreement, it is adequately insured for its liability pursuant to this Article. At UMC's request, the Supplier will submit proof of insurance cover, showing that the Supplier is adequately insured. At UMC's request the Supplier will also submit proof of payment of the premiums due in this regard.

#### Article 20 Dissolution, Termination, force majeure and cancellation of the Agreement

20.1 Without prejudice to all other statutory and contractual rights to dissolve or terminate the Agreement, UMC is entitled

- (1) to immediately dissolve or terminate the Agreement, as well as all related agreements, by registered letter, without any judicial intervention being required and with immediate effect, without





incurring any liability to pay damages, and/or (2) to suspend its payment obligations to the Supplier, if:

- a). the Supplier fails to perform the obligations arising from the Agreement or fails to perform them in time or properly; If performance is not permanently impossible, dissolution may only be invoked after UMC serves the Supplier with a notice of default by registered letter and has granted the Supplier a reasonable period of time to perform its obligations and the Supplier has still failed to perform its obligation(s);
- b). the Supplier has applied for a moratorium on payments or has been granted a definitive moratorium on payments or invokes a (voluntary or statutory) debt adjustment arrangement or is declared bankrupt,
- c) the Supplier (a natural person) has submitted an request to be considered eligible for the Dutch Natural Persons Composition Act [*Wet Schuldsanering Natuurlijke Personen*] or such request has been granted,
- d) a full or partial attachment order has been imposed on the Supplier's assets,
- e) the Supplier (being a natural person), has been placed under legal guardianship,
- f) the supplier ceases to operate or transfers its business or a significant part thereof, including, but not confined to, the contribution of its business to an existing company or a company to be newly incorporated or the Supplier changes the objectives of its business,
- g) if the business ceases to operate, is liquidated or is the subject of a full or partial acquisition, merger or comparable transaction that results in a (significant) change in the control and/or management.

A dissolution or termination or suspension of payment obligations as referred to under points a-g of this paragraph shall not prejudice, limit or restrict any and all other potential rights that UMC may have pursuant to the foregoing, including UMC's right to claim damages.

20.2 Without prejudice to all other rights, UMC can dissolve the Agreement, either wholly or partly, as laid down in Article 20.1 of the Purchase Terms and Conditions if the Supplier or any of its subordinates or representatives offered or offer any advantage to a person who is part of the company of UMC or to any of its subordinates or representatives without the prior approval in writing of UMC. The Supplier is liable for the damages incurred and yet to be incurred by UMC which damages are, as the occasion arises, estimated at an amount of EUR 25,000.00 per violation. This shall not affect the other rights of UMC, such as the right to claim full compensation for damages. In this Article, a person is also understood to include any person who is, whether or not in employment, in any way connected with one of the Parties.

20.3 All claims UMC might have or acquire vis-à-vis the Supplier pursuant to the instances specified in this Article are immediately claimable in full.



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20.4 If the Parties cannot comply with their obligations vis-à-vis each other due to Force Majeure these obligations shall be suspended for the duration of the force majeure situation

20.5 The Supplier shall only be able to invoke Force Majeure if it forthwith informs UMC accordingly upon presentation of the required documentary evidence. However, UMC can accept an appeal to force majeure of the Supplier, even if the Supplier does not comply with the provisions set forth in the previous sentence, on grounds of fairness. If the force majeure situation on the part of the Supplier lasted more than one month UMC shall be entitled to dissolve the Agreement either wholly or partly by means of a registered letter.

20.6 Fixed-term agreements shall end by operation of law on the agreed expiry date. Tacit extension is explicitly rejected by UMC. The Supplier shall be expected to make an extension proposal in writing at least 3 months prior to the expiry of the contract.

20.7 In case of open-ended agreements UMC shall at all times be entitled to terminate the Agreement before the end of the term, without stating reasons, provided a notice period of at least three months is taken into consideration. UMC shall not be held to pay any compensation for damages to the Supplier as a result of this kind of termination.

20.8 Obligations which are due to their nature meant to remain in effect even after dissolution of the Agreement shall remain in effect after dissolution of this Agreement. These obligations comprise, among other things: indemnification against infringement of intellectual (property) rights, confidentiality, dispute settlement, compensation, applicable law and election of domicile.

#### Article 21 Applicable law and disputes

21.1 Dutch law is exclusively applicable to the Agreement and all Agreements deriving there from or connected therewith as also to the Purchase Terms and Conditions.

21.2 The uniform laws on the unification of the international law on contracts of sale ("LUF" and "LUVI") drawn up by the Convention held in The Hague in 1964 and the Vienna Sales Convention are not applicable.

21.3 All disputes (such to include disputes only considered as such by one of the Parties) that could occur as a result of the Agreement or agreements concluded by and between the Parties shall be referred to the competent court in the district where UMC is domiciled.

#### Article 22 Personnel and third parties

22.1 Upon the deployment of personnel or third parties the Supplier shall ensure that such persons or third parties who are assigned to work for/at UMC have been screened by it in terms of the validity of diplomas as well as that a certificate of good conduct ("*Verklaring omtrent het Gedrag*" or "VOG") as referred to in the Dutch Judicial Records and Certificates of Good Conduct Act can be provided for



such persons or third parties. The relevant VOG cannot be older than 4 years. The Supplier shall preserve the VOG.

22.2 The Supplier undertakes to order the third parties hired by it and/or employees to abide by the working hours and code of conduct applicable at UMC.

22.3 If the quality of the work or the behaviour of an employee of the Supplier and/or of a third party deployed by the Supplier is in the motivated opinion of UMC unsatisfactorily the Supplier shall replace the employee or third party on demand of UMC.

22.4 In case of temporary or permanent absence of employees or third parties deployed by the Supplier, the Supplier must forthwith render substitute people available who dispose of at least the same expertise, the same training level and experience as the originally deployed people.

22.5 In case there is question of the supply of services which pre-eminently depend on the skills of the deployed employee or third party UMC may desire that this employee or third party is first presented to UMC for approval.

#### Article 23 Income tax, social security premiums and self-employment

23.1 With regard to all employees rendered available to UMC by the Supplier the Supplier commits to pay all payable income tax, social security premiums and employee insurance premiums to the competent authorities. The Supplier also provides for a timely and complete filing of the same.

23.2 The Supplier indemnifies UMC against all claims concerning payment of taxes and premiums, including the thereto pertaining interest, costs and fines, which are payable or for satisfaction of which UMC is held liable with regard to people rendered available to UMC within the framework of the Agreement or agreements deriving therefrom.

23.3 UMC is authorised to desire sound evidence from the Supplier with regard to the compliance with the obligations set forth in paragraph 1 of this Article. If such evidence is not provided or if it becomes apparent that the Supplier did not timely and completely comply with said obligations UMC shall be authorised to suspend its payment obligations.

23.4 UMC shall always be entitled to pay the social insurance premiums, turnover tax and income tax, including national insurance premiums, payable by the Supplier in connection with the executed activities for which UMC might be held liable to the Supplier by crediting its blocked account within the meaning of the Dutch Collection of State Taxes Act 1990 (Invorderingswet 1990).. The Supplier shall open a G account (g-rekening) for this purpose at UMC's request. The Supplier shall provide a statement from the Dutch Tax and Customs Administration or from an independent accountant each year showing that the wage and salaries tax and social security premiums have been remitted in conformity with the



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applicable rules, so that UMC has insight into the Supplier's payment record with the Dutch Tax and Customs Administration.

23.5 Without prejudice to the provisions set forth in paragraph 4 of this Article UMC shall at all times be authorised to withhold the amounts on account of social security premiums, VAT and income tax, including national insurance premiums, as referred to in paragraph 4 of this Article from the contracting fee and to pay this directly to the UWV respectively the tax collector on behalf of the Supplier.

23.6 In the instances referred to in paragraphs 4 and 5 of this Article UMC shall by payment thereof be discharged vis-à-vis the Supplier to the extent that these amounts are concerned.

23.7 To the extent that the Supplier is an independent contractor (self-employed worker without employees – ZZP'er) or a freelancer), the Agreement with UMC is entered into under the condition precedent that the parties sign an Agreement that has been approved by the Dutch Tax and Customs Administration in the context of the Dutch Assessment of Employment Relationships (Deregulation) Act (Wet deregulerend beoordelen arbeidsrelaties). If a UMC-specific agreement meeting the provisions of the aforementioned Act has been agreed with the Dutch Tax and Customs Administration for the work to be performed by the Supplier, the Supplier shall be obliged to sign this UMC-specific agreement.

The Agreement is additionally entered into under the condition precedent that the Supplier shall within one month after the conclusion of the Agreement present UMC with the following documents:

- proof of registration with the Chamber of Commerce;
- proof of registration as an entrepreneur for the purpose of Turnover Tax (VAT registration no.);
- if and to the extent required in accordance with applicable rules and legislation, a copy of the residence and work permit(s);
- a certificate of good conduct as referred to in the Dutch Judicial Records and Certificates of Good Conduct Act (Wet op de justitiële documentatie). UMC will instruct the Supplier to submit an application to the Central Agency for Certificates of Good Conduct (COVOG) for this purpose. The costs for applying for the relevant certificate of good conduct are for the Supplier's account. The Supplier will be responsible for the safekeeping of the certificate of good conduct.

#### **ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO PERFORMING SERVICES AND SUPPLIES REGARDING THE PERFORMANCE ON-SITE AT UMC**

##### Article 24 Applicability

24.1 If services and supplies are to be rendered with regard to a Performance to be rendered on-site at UMC, then Articles 24-29 of the Purchasing Terms and Conditions apply in addition to Articles 1-23 of the Purchasing Terms and Conditions. In case of



discrepancies between the first mentioned Articles and the latter mentioned Articles the provisions laid down in the latter mentioned Articles shall prevail.

24.2 For the purposes of these additional terms and conditions personnel of the Supplier is understood to also comprise (the personnel of) third parties who are involved in the execution of the Agreement(s) by the Supplier.

#### Article 25 Additional definitions

**Q. Materials** Items that are used to manufacture tangible objects, with exception of the Equipment to be used.

**R. Equipment** All vehicles, gear, cranes, scaffoldings and parts thereof, consumables and the like, which the Supplier uses during the execution of the Agreement, with the exception of the Materials.

#### Article 26 Personnel, Equipment and Materials

26.1 If the Supplier deploys its own personnel or third parties to perform independently (technical) work on equipment and/or resources in UMC, such persons must be demonstrably qualified, capable and skilled to perform work on the equipment and/or resources concerned.

The persons concerned must additionally demonstrably receive adequate further training and refresher training. The Supplier must be able to provide relevant proof of registration of the persons concerned in relevant professional registers and suchlike at UMC's request.

If persons deployed by the Supplier do not have the qualifications and/or qualities referred to above, or do not have them to an adequate level, the Supplier shall be liable for any and all resulting loss or damage as referred to in Article 19..

26.2 Without prejudice to the situation described in Article 22.3 of the Purchase Terms and Conditions the Supplier shall only temporarily or definitively replace personnel deployed at UMC for a longer period of time if this appears to be absolutely necessary and only after prior consultation with UMC. New personnel shall at least dispose of the same knowledge and experience as the personnel that is being replaced without resulting in higher costs on the part of UMC or consequences for the planning. The replacement shall not result in costs on the part of UMC due to the transfer of activities.

26.3 UMC is authorised to inspect and test all Materials and Equipment used by the Supplier during the execution of the Agreement.

26.4 UMC is authorised to inspect the planning, work schedules and work procedures, among other things with regard to the deployment or use of personnel and Materials, both for activities which have already started and for activities which must yet be started. In case of doubt concerning the accomplishment of the intended quality and/or planning UMC can order the Supplier to



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change its supply of services, without being held to pay any compensation for damages.

#### Article 27 Premises and buildings of UMC

27.1 Prior to commencement of the execution of the Agreement the Supplier must inform itself of the circumstances at the premises and in the buildings of UMC where the activities must be carried out and which can affect said execution of the Agreement.

27.2 The Supplier ensures that its presence and the presence of its personnel at the premises and in the buildings of UMC shall not hinder the undisturbed progress of the activities and the thereto related processes of UMC and third parties.

27.3 The business operations of UMC shall not be interrupted as a result of the activities of the Supplier.

27.4 The processes of UMC shall remain operational during the activities. Activities causing nuisance must be avoided as much as possible and/or scheduled in consultation with the concerned departments.

27.5 Tests and activities that can disturb the business operations of UMC must first be applied for and/or consulted; execution of these activities can only take place after the express approval of the project manager of UMC.

27.6 Prior to commencement of the execution of the Agreement the Supplier and its personnel must inform themselves of the content of rules and regulations applicable at the premises and in the buildings of UMC, among other things with regard to safety, health and the environment, and must act accordingly. In this context it shall in any case apply that the Supplier and/or its personnel must report to an officer yet to be appointed by UMC..

27.7 In case of failures and other interruptions the Supplier shall ensure that these failures are terminated as soon as possible such that the normal business operations of UMC are safeguarded as much as possible. To this end the Supplier shall, where necessary, carry out (have carried out) maintenance and/or service activities. The Supplier is responsible and liable for the consequences that derive from the failure or interruptions.

#### Article 28 Obligations of the Supplier/Execution of the activities

28.1 Prior to the execution of its activities the Supplier shall present a work plan to UMC.

28.2 The Supplier shall provide regularly interim reports about the progress of the activities.

28.3 Activities in the building and/or the buildings of UMC or at the premises of UMC must always be carried out under the supervision of a project manager appointed by UMC or a delegated member of staff. All contacts concerning the performance of the work must also run through this project manager.

28.4 The personnel hired by the Supplier in connection with the execution of the Agreement shall basically be present at UMC and/or at the working site on the hours during which the



commission is carried out and their absence, replacement and reachability are arranged in consultation with UMC.

28.5 Activities shall basically be carried out on working days during the regular office hours. At the request of UMC the Supplier commits to carry out activities on different days or on different hours.

28.6 In case of activities on a cost-plus basis a week respectively work list must weekly, and in case conclusion of the activities falls within a weekly period immediately after conclusion of the activities, be submitted with the project manager. This kind of list must at least specify: name of the person(s), number of worked hours, possibly delivered materials, extra expenses.

28.7 The contact person appointed by UMC (referred to as the project manager) or his or her deputy checks, codes and signs said week or work list and provides a copy thereof to the general foreman appointed by the Supplier. If it appears to be impossible to specify the prices of possibly delivered materials, it shall be allowed to submit the week or work list with the project manager at a later time, however not later than within two working days after conclusion of the work week.

28.8 The Supplier must dispose of a valid registration certificate of the Employee Insurance Schemes Implementing Body ("*Uitvoeringsinstituut Werknemersverzekeringen*" or "*UWV*") where the same is registered and must also dispose of a residence permit, to the extent required. On demand of UMC the Supplier must show said documents to the same.

28.9 On first demand by UMC the Supplier must present the former a list comprising the information, such to in any case include the names of all personnel that the Supplier deploys from week to week in connection with the execution of the Agreement. The Supplier indemnifies UMC against damages the latter incurs as a result of personnel deployed by the Supplier that does not dispose of the required permits.

28.10 On demand of UMC the Supplier must with regard to the current commission provide the former insight into the payroll or the man-hour specification of all personnel deployed by the Supplier in connection with the execution of the commission, in accordance with a template drawn up by UMC.

28.11 In case of more and/or less work the Supplier must submit biweekly overview specifications with the project manager of UMC.

28.12 With the first delivery the Supplier must submit a single copy of the (draft) revision drawings, operating instructions, and the like, to the relevant department of UMC. The (draft) revisions must be approved by UMC and must, where necessary, be revised by the Supplier.

If draft revision drawings are submitted the definitive revision drawings must be submitted in threefold not later than 4 weeks after the first delivery. Moreover, the Supplier must supply data



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and/or revision(s)/(drawings) that are available digitally in a digital form, all in conformity with the drawing software used within UMC.

28.13 The Supplier must personally provide for appropriate and suitable tools and possibly ladders or movable scaffoldings or other aids. In addition, the Supplier shall be at least SCC certified in the event installation, construction or maintenance work is/are to be performed in or around UMC.

28.14 Possible installation connections (water, electricity, etc.) must always be placed in consultation with the UMC departments which are responsible for accommodation and real estate. The costs of the adjustments/modifications shall be for UMC's account unless specified otherwise in the Order and/or otherwise agreed upon in the Agreement.

28.15 The use of radios is not allowed. The use of mobile telephones is allowed throughout the building of UMC, except where this has expressly been prohibited. These areas can be recognised by prohibitory signs. This regards, in any case, areas with sensible equipment or where nuisance can be caused to patients and/or visitors.

28.16 Parking, even when more than one group of personnel is deployed by the Supplier, shall be at the expense of the Supplier.

28.17 Putting industrial materials (gasses, liquids, electricity, etc.) or other facilities of UMC into or out of service is exclusively allowed after prior approval of the relevant project manager. In case of changes to installations the Supplier shall submit a (rough) draft of the revision drawing, provided with all relevant data, with the relevant project manager of UMC.

28.18 If activities have been scheduled outside of office hours the Supplier must always report this to the relevant project manager in advance. After 16:00 o'clock activities cannot be carried out that generate heat, dust, smoke and/or vapour.

28.19 When leaving the areas the Supplier is obliged to always properly close the doors of rooms and shafts. After conclusion of the activities or at the latest at the end of the working day the issued keys must be returned.

28.20 The Supplier must take sufficient protective measures to prevent damage to already placed installations or architectural structures.

28.21 During the execution of its activities for the benefit of UMC the Supplier shall not place any advertising without the express approval of UMC. Any and all advertising must be presented to UMC for assessment.

28.22 The Supplier shall ensure that its personnel, or people acting on its behalf, shall always act courteously vis-à-vis visitors, patients, employees of UMC and other suppliers.

#### Article 29 Payment and pricing

29.1 Invoices for cost-plus activities shall only be processed by UMC if they are supported by timely submitted week or work lists approved by the project manager.



29.2 The salary and material risk shall not be set off.

29.3 Partial invoicing of contracting fees can only take place if this has been agreed upon by and between the Parties and if the conditions for release of the partial payment are complied with.

#### **ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO SHIPMENTS ON APPROVAL OR TRIAL**

##### Article 30 Applicability

In case of Shipments on Approval or Trial in addition to the provisions set forth in Article 1 up to and including 22 of the Purchase Terms and Conditions the provisions set forth in Article 30 up to and including 34 of the Purchase Terms and Conditions are equally applicable. In case of discrepancies between the first mentioned Articles and the latter mentioned Articles the provisions laid down in the latter mentioned Articles shall prevail.

##### Article 31 Additional definitions

**S. Equipment on Approval** Equipment and the associated parts, as well as equipment-specific Medical Devices and/or consumables, which the Supplier renders available to UMC for a specific period of time on approval or trial or for a practical test in order that UMC is able to determine as to whether the functionality of the equipment and the associated parts, as well as the equipment-specific Medical Devices and/or consumables, comply with the wishes and/or the programme of requirements of UMC. Goods that fall within the definition of Article 1M are also included in this definition.

**T. Period on Approval** Period and/or term during which the Equipment on Approval is on approval or trial at UMC.

##### Article 32 Procedure

32.1 UMC will place a written Order with the Supplier for the placement on trial and/or approval ("trial placement or order on approval").

32.2 On the Order UMC shall specify when the Period on Approval comes to an end as well as the day when the Equipment on Approval is picked up if UMC did not reach the decision to purchase the Equipment on Approval before that time. If UMC did not specify a pick up date on the Order or if the Parties did not agree upon a term for the duration of the Period on Approval a Period on Approval of 4 weeks shall apply.

32.3 The Parties back and forth commit to deliver the Equipment on Approval complete and clean upon the start and end of the Period on Approval.

##### Article 33 Rights and obligations

33.1 The Supplier shall render sufficient consumables available to UMC so that the latter is able to adequately make use of the Equipment on Approval during the Period on Approval.

33.2 All costs associated with the energy supply and the energy consumption are at the expense of UMC. If consumables and/or Medical Devices and/or re-usables are required for a correct use of the Equipment on Approval the Supplier shall deliver these



materials to UMC free of charge with the delivery of the Equipment on Approval, unless otherwise agreed upon.

33.3 UMC shall – in consultation with the Supplier – at its own expense and under its own responsibility ensure that all preparations and all infrastructural measures (such to, among other things, include the necessary reorganisations, construction of pipes, walls, installations and the like) required in connection with the placing, commissioning, control, use and application of the Equipment on Approval have been taken.

33.4 Only if the Supplier provided an indication of the costs of decommissioning, disassembly and removal of the Equipment on Approval in advance and if UMC decides not to purchase the Equipment on Approval after the conclusion of the Period on Approval shall these costs be borne by UMC if so agreed upon by and between the Supplier and UMC in advance.

33.5 During the Period on Approval the Supplier shall be liable and responsible for the necessary and the prescribed periodic maintenance as well as corrective maintenance and the supervision of the equipment, unless otherwise agreed upon. For this purpose UMC shall grant the Supplier access to the relevant Equipment on Approval. The costs associated with the maintenance shall therefore be borne by the Supplier.

33.6 Beforehand the Supplier shall check the functioning and completeness of the Equipment on Approval and must release Equipment on Approval for use.

33.7 The Supplier shall moreover be responsible for the supply of the correct user documentation and, if so required by the Equipment on Approval, the provision of correct instructions concerning the use of the Equipment on Approval. UMC shall ensure that the users of the Equipment on Approval are available for these instructions. With regard to Shipments on Approval or Trial the same product liability of the Supplier applies as in case of a regular sale of goods.

33.8 The Supplier shall moreover also deliver all documentation and instructions required in connection with the cleaning and rinsing of the Equipment on Approval.

33.9 Where applicable the Supplier must also deliver safety sheets and decontamination declaration(s) to UMC.

33.10 Throughout the Period on Approval the Supplier shall bear the complete risk (of, by way of example, fire, theft and the like) with regard to the Equipment on Approval, unless there was question of gross carelessness or negligence on the part of UMC with regard to the use of the Equipment on Approval during the Period on Approval.

33.11 The Supplier fully indemnifies UMC against all damages to goods or people incurred by UMC or third parties during the Period on Approval resulting from defects or other demonstrable deviations of the goods and/or insufficient control/user instructions and/or otherwise resulting from an attributable shortcoming or in case of a



wrongful act of the Supplier, its personnel or other people involved in the execution of the activities by the Supplier.

33.12 If the Supplier fails to pick up the Equipment on Approval on the stipulated day the risk shall remain at the expense of the Supplier. If the Equipment on Approval is not available to the Supplier after the conclusion of the stipulated Period on Approval, the risk with regard to fire, theft and the like shall be transferred to UMC until such time as the Equipment on Approval is again available for retrieval by the Supplier.

33.13 Throughout the Period on Approval and during the transport to and from UMC the Supplier shall provide for insurance of the Equipment on Approval and of the aforementioned liability.

33.14 Shipments on Approval shall by no means imply a sale, purchase or other (e.g. lease) obligation on the part of UMC.

Article 34 Purchase

34.1 If UMC decides to purchase the Equipment on Approval or comparable equipment during or after the Period on Approval the provisions laid down in Article 1 up to and including 23 of the Purchase Terms and Conditions are equally applicable to such purchase.

34.2 If UMC purchases the Equipment on Approval and/or comparable equipment within the Period on Approval, the title of the Equipment on Approval and/or comparable equipment shall transfer to UMC at the moment UMC sends the notification of the purchase to the Supplier or (in case of comparable equipment) as soon as delivery took place or in accordance with the manner set forth in the Agreement.

**ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO CONSIGNMENT**

Article 35 Applicability

35.1 In case of Consignment, in addition to the provisions set forth in Article 1 up to and including 22 of the Purchase Terms and Conditions, the provisions set forth in Articles 35 and 36 of the Purchase Terms and Conditions are equally applicable, as well as the provisions in the Agreement. In case of conflict between the first mentioned Articles and the latter mentioned Articles the provisions laid down in the latter mentioned Articles shall prevail.

Article 36 Title and risk

36.1 The Supplier shall remain the owner of the goods on consignment up to the moment UMC uses or commissions the goods. Hence, the title transfers with the commissioning.

36.2 UMC will communicate to the Supplier in writing the date on which it expects all goods on consignment will have been used or commissioned.

36.3 After receipt of the notification referred to in Article 36.2 the Supplier shall replenish the stock by not later than the notified date as referred to in the previous paragraph, unless otherwise agreed upon in writing.



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36.4 The Supplier commits to insure the Performances on Consignment up to the moment the title transfers to UMC in pursuance of Article 36.1.

36.5 The Supplier shall invoice on the basis of the notification that the Performances were commissioned by UMC.

36.6 The Supplier can only take back Performances delivered on Consignment after consultation with UMC.

36.7 If it becomes apparent after commissioning of the Performances by UMC that the Performances do not comply with the imposed requirements the Supplier shall comply with its obligations as laid down in Article 13 of the Purchase Terms and Conditions.

**ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO USE ON LOAN AND LEASE**

Article 37 Applicability

37.1 In case of Use on Loan or Lease of Equipment, in addition to the provisions set forth in Article 1 up to and including 23 of the Purchase Terms and Conditions the provisions set forth in Article 30 up to including 34 and Article 37 up to and including 39 of the Purchase Terms and Conditions are equally applicable. In case of discrepancies between the first mentioned Articles and the latter mentioned Articles the provisions laid down in the latter mentioned Articles shall prevail.

Article 38 Additional definitions

**U. Leased Equipment/Equipment on Loan** The agreed equipment, including associated peripheral equipment, materials and software, where applicable, rendered available to UMC on lease and/or loan by the Supplier.

**V. Lease Period/Period on Loan** The period during which the Equipment on Lease/Loan is rendered available to UMC on lease and/or loan.

Article 39 Use on loan and/or Lease

39.1 During the Lease Period/Period on Loan the Supplier renders the Leased Equipment/Equipment on Loan available to UMC on lease and/or loan. The Leased Equipment/Equipment on Loan is rendered available to UMC by the Supplier in a good maintenance condition. Moreover, the Supplier shall provide instructions to UMC concerning the use of the Leased Equipment/Equipment on Loan and, where necessary, the thereto pertaining further training.

39.2 During the Lease Period/Period on Loan the Supplier shall be responsible for the adequate functioning of the Leased Equipment/Equipment on Loan and the Supplier shall maintain the Leased Equipment/Equipment on Loan at its own expense, unless otherwise agreed upon in writing.

39.3 During the Lease Period/Period on Loan the Supplier shall be liable for loss or damage caused to the Leased Equipment/Equipment on Loan and the Supplier shall at its own expense insure and keep the Leased Equipment/Equipment on Loan insured against loss or damage, unless otherwise agreed upon in writing.



39.4 Installation and/or connection of the Leased Equipment/Equipment on Loan in/with the system of UMC can exclusively take place following instruction of UMC.

#### **ADDITIONAL TERMS AND CONDITIONS APPLICABLE TO ICT PERFORMANCE**

##### Article 40 Applicability

40.1 In case of ICT Performance in addition to the provisions set forth in Article 1 up to and including 23 of the Purchase Terms and Conditions the provisions set forth in Article 40 up to and including 47 of the Purchase Terms and Conditions are equally applicable, as well as the provisions in the Agreement. In case of use on loan, lease or consignment, Article 30 up to and including Article 39 of the Agreement shall apply. In case of conflict between the first mentioned Articles and the latter mentioned Articles the provisions laid down in the latter mentioned Articles shall prevail.

##### Article 41 Additional definition

41.1 **ICT Performance** All goods and/or services in the area of ICT which are delivered or offered to UMC by the Supplier, such as:

- a) the delivery, conversion, installation, implementation, maintenance, repair and manufacture of and advice about (parts of) software, system software, hardware (including medical equipment in which the software constitutes an important component) or IT systems, all with associated materials, tools, replacement parts and documentation;
- b) the provision of software licences and/or intellectual property rights to the ICT Performance;
- c) the maintenance and hosting of networks and websites;
- d) the provision of telecommunication services;
- e) the registration of domain names, or arranging such registration;
- f) the design of websites and web applications;
- g) Update(s): Modifications or alterations or updating of the Performance, in relation to software as well as hardware, with the aim of ensuring or enhancing technical functioning in conformity with the agreed specifications in order to increase operational reliability and operational safety. Updates are provided by the Supplier free of charge.
- h) Upgrade(s): Predominantly renewals (upgrades) or modifications to the functionality of the Performance, in relation to software as well as hardware. All available Upgrades which UMC must carry out on the instructions of the Supplier or mandatory Upgrades in connection with safety requirements and related to the rules and legislation pertaining to the Equipment shall be provided to UMC and implemented by the Supplier free of charge throughout the service life of the Equipment. This shall take place in consultation with UMC.

##### Article 42 Quality/warranty/updates and upgrades

42.1 With regard to the ICT Performance the Supplier warrants in addition to the provisions set forth in Article 11 that:



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- a) the ICT Performance also complies with the provisions laid down in this Article in case of a peak load;
- b) that the ICT Performance is efficient, coherent and sound;
- c) that the ICT Performance can be used without adjustments and is and shall remain fully compatible in combination with the existing ICT environment of UMC;
- d) that the ICT Performance does not contain other security measures or functions or elements foreign to the ICT Performance (including, but not limited to, logic bombs, viruses and worms, hidden keys, Trojan horses or other hindrances or foreign objects and infections) than those specified in the documentation;
- e) that new upgrades and updates will be regularly issued for the ICT Performance and that the possibility of delivery of (comparable, exchangeable and functionally corresponding) parts, components and expansions as available (and/or announced) at the time of the signature of the Agreement is provided against a reasonable price. UMC shall be authorised yet not obliged to commission the new upgrades and updates. Updates and Upgrades can only be implemented after written consent from UMC.  
Non-embedded Software clause: all Upgrades related to the operating system (including Windows, Unix, etc.) are included in the purchase price and will be provided and implemented free of charge by the Supplier throughout the service life of Equipment, following written approval by or on behalf of UMC. UMC is not subject to any obligation in this regard.
- f) the quality and capacity of (a) third party (parties) hired by it shall at least correspond with those of the Supplier;
- g) that it shall abide by all other warranties common in the branch of the Supplier by which a professional and prudent supplier can be bound under the given circumstances in consideration of normal care and normal professional knowledge and normal performance of the profession.

42.2 Without prejudice to the provisions set forth in Article 42.1 the Supplier moreover guarantees that defects in the ICT Performance shall be resolved at the expense of the Supplier for a period of twelve months after acceptance.

In these additional terms and conditions "defects" is understood as: failing or incomplete compliance of the ICT Performance with the stipulated specifications or otherwise non proper functioning of the ICT Performance. If the ICT Performance does not comply with the provisions set forth in Articles 11 and 42.1 within a period of twelve (12) months (or the warranty period used by the Supplier, where longer) after delivery the Supplier shall on demand of UMC at its own expense forthwith yet not later than within two weeks repair or replace the ICT Performance, without prejudice to the other rights attributed to UMC on account of the Agreement or a further



(maintenance) agreement deriving there from.

If the ICT Performance is replaced pursuant to this Article a new period of 12 months shall take off. If the Supplier is of the opinion that UMC cannot invoke the warranty provisions on account of the fact that a non-functioning function or a non-functioning component is not part of the guaranteed features or on account of the fact that a defect could be attributed to other causes that cannot be blamed on the Supplier, the burden of proof in connection therewith shall be borne by the Supplier.

If the Supplier does not comply in a timely manner with its obligation to repair defects UMC shall, without prejudice to its other rights, be entitled to after a prior notice in writing solve these defects personally or to have them solved by third parties at the expense of the Supplier. The Supplier shall be obliged to lend its assistance to this. In that case the Supplier shall be obliged to on demand provide the thereto required information.

42.3 If changes occur, then the Supplier must adjust the software to take said changes into account within a foreseeable period of time, that being no longer than the term by which the change in the relevant laws and regulations will enter into effect. A determination of how the costs of said changes will be shared will be made in mutual consultation.

#### Article 43 Documentation

43.1 The Supplier shall provide UMC with a sufficient number of copies of documentation with regard to the ICT Performance. This documentation must:

- a) be available in the Dutch language, unless otherwise agreed;
- b) must provide a correct, complete and detailed description of the ICT Performance and the functions thereof;
- c) must enable (users of) UMC to test or have tested the ICT Performance;
- d) as well as to maintain or have maintained the same, and to easily make use of all possibilities of the ICT Performance.

The documentation must always be supplied in a timely fashion, before or simultaneously with the delivery of the (test versions of the) ICT Performance.

43.2 The Supplier shall ensure that the documentation supplied by the same shall forthwith be replaced, revised or adjusted at its own expense if it becomes apparent at any moment in time during the use by UMC of the ICT Performance that the documentation contains incorrect information or is otherwise incomplete, insufficient, unclear or outdated.

#### Article 44 Delivery, implementation/installation and acceptance test

44.1 The Supplier shall deliver the ICT Performance to UMC in accordance with the timeframe specified in the Agreement and such upon proof of release. Unless UMC expressly indicates to personally take care of this, the implementation and/or installation shall take place in accordance with the timeframe specified in the



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Agreement. The Supplier shall ensure that the ICT Performance is implemented and/or installed in coherence with the ICT environment already present at UMC. As part of the implementation and/or installation the Supplier shall carry out an internal company test which serves to have the Supplier determine that the ICT Performance functions well, both where the various components and the whole are concerned. As soon as, in the opinion of the Parties, the implementation and/or installation has been completed shall a certificate of implementation and/or installation be drawn up and signed by the Parties. This certificate shall not affect the provisions laid down in the Agreement and in these Purchase Terms and Conditions concerning acceptance and warranty. Unless otherwise agreed upon in writing the acceptance test shall be drawn up by the Supplier and timely be offered to UMC. The acceptance test concerns all components of the ICT Performance.

44.2 Immediately after the acceptance test an official report shall be drawn up and signed by the Parties in which possible defects displayed by the ICT Performance are established. These defects shall be solved by the Supplier at its own expense within a reasonable period of time of at most two weeks. Thereafter a second acceptance test shall be held. If the ICT Performance is then again rejected by UMC, UMC can dissolve the Agreement out of court – without any notice of default being required – with immediate effect and/or claim compensation for damages, without prejudice to the right to yet claim full compliance.

44.3 Minor defects, at the discretion of UMC, shall not oppose acceptance, without prejudice to the obligation of the Supplier to forthwith repair these defects free of charge. Acceptance of the ICT Performance shall not affect the other rights of UMC.

44.4 Without prejudice to the provisions set forth in Article 8 of these Purchase Terms and Conditions, if the ICT Performance consists of hardware the title of said hardware shall transfer to UMC after acceptance by UMC in accordance with the provisions set forth in this Article.

#### Article 45 Intellectual property and other (comparable) rights

45.1 Without prejudice to the provisions set forth in Article 17 of these Purchase Terms and conditions, if intellectual property rights and/or other (comparable) rights on the ICT Performance are vested in the Supplier or third parties the Supplier commits to automatically grant (have granted) UMC a non-exclusive irrevocable (sub-) user licence for an indefinite period of time without UMC being held to pay any additional costs to the Supplier in connection therewith. To the extent that it concerns an ICT Performance in respect of which the Supplier disposes of the intellectual property rights and/or other (comparable) rights the Supplier declares to, as the occasion arises, on demand of UMC conclude an escrow agreement with regard to the source code of





this ICT Performance at a company specialised in software source code escrow in the Netherlands designated by UMC and such on the basis of written terms and conditions further to be agreed upon.

45.2 Contrary to the provisions set forth in Article 45.1 of these Purchase Terms and Conditions, all intellectual property rights and other (comparable) rights on an ICT Performance specifically developed for the benefit of UMC, with the inclusion of software and the source code, the materials and documentation required for the use and the maintenance, are vested in UMC and, as the occasion arises, the rights are, to the extent that they are (shall be) vested in the Supplier, transferred to UMC by the Supplier by signature of an Agreement which transfer is, as the occasion arises, accepted by UMC immediately after the occurrence of such rights. To the extent that the transfer of these kinds of rights would require a further deed or other formalities the Supplier, as the occasion arises, already irrevocably authorises UMC to draw up this kind of deed and to sign the same on behalf of the Supplier and to fulfil these formalities also on behalf of the Supplier, without prejudice to the obligation of the Supplier to on demand of UMC lend its assistance to the transfer of these kinds of rights, without being able to impose any conditions on the same. The Supplier hereby waives all personality rights possibly allocated to the same vis-à-vis UMC inasmuch as the applicable regulations allow for this kind of waiver. The Supplier guarantees that its employees respectively contractors waive all personality rights possibly allocated to the same vis-à-vis the Supplier in the employment agreement respectively commission agreement applicable between these employees respectively contractors and the Supplier inasmuch as the applicable regulations allow for this kind of waiver.

45.3 Unless otherwise agreed upon by and between the Parties, the Supplier shall render the source code with regard to the ICT Performance developed for UMC as intended in Article 45.2 available to UMC upon the presentation for acceptance of the first version thereof or on demand of UMC. Each time changes in the aforementioned ICT Performance lead to changes in the source code the revised source code shall be rendered available to UMC. The title of the carrier of the source code is automatically transferred to UMC at the moment it is rendered available to UMC.

45.4 UMC shall be authorised to make a few back-up copies of the software delivered by the Supplier. If the former is not able to do this due to security measures, the Supplier shall on demand render some back-up copies available free of charge.

45.5 Inasmuch as the Supplier is not personally in possession of the intellectual property rights on the ICT Performance to be delivered to UMC the same shall clearly and timely report this to UMC prior to the conclusion of the Agreement and the Supplier guarantees that it has been authorised by the rightful claimant to sublicense the relevant ICT Performance and associated documentation to



UMC where the provisions set forth in Article 45.1 of these Purchase Terms and Conditions are equally applicable and – where applicable – to maintain and adjust the ICT Performance for the benefit of UMC.

45.6 The Supplier guarantees that the ICT Performance infringes, neither wholly nor partly, any intellectual property right or any comparable right of third parties. The Supplier indemnifies UMC against all (imminent) claims of third parties in connection with possible infringement(s) of intellectual property rights and/or other (comparable) rights of said third parties. In addition to the indemnification laid down in Article 17.3 in case the use of the ICT Performance delivered to UMC is prohibited in connection with an infringement of the intellectual property rights and/or other (comparable) rights of third parties the Supplier shall, at the discretion of UMC, forthwith and at its own expense:

- a) acquire a right of use for UMC on the relevant delivered ICT Performance;
- b) adjust the relevant ICT Performance such that rights of third parties are no longer infringed;
- c) replace the ICT Performance by a comparable ICT Performance with at least the same functionality which does not infringe rights of third parties;
- d) take back the relevant ICT Performance against payment of all costs paid for the ICT Performance and the implementation thereof, all without prejudice to the other rights of UMC, such to include the right to dissolution of the Agreement and the right to (additional) compensation for damages.

45.7 The transfer of any intellectual property right and/or any other (comparable) right to UMC shall not be subject to annulment upon termination of the Agreement. To the extent that UMC did not acquire the intellectual property rights and/or other (comparable) rights on the ICT Performance in accordance with the Agreement, upon termination of the Agreement UMC shall be entitled to continue its use of the ICT Performance on the basis of the acquired licence, unless it has been established in court that UMC attributably did not comply with its obligations on account of the Agreement.

#### Article 46 Support and maintenance

46.1 The Supplier shall render UMC and its users of the ICT Performance familiar with the use of the ICT Performance. The support is provided by experts who are experienced and suitable for this purpose and is as much as possible provided by experts who are or were involved in the implementation and/or installation. During the term of the Agreement the Supplier shall also be willing and able to provide training to the personnel of UMC for the benefit of the use of the ICT Performance against reasonable terms and conditions and fees then to be agreed upon.



46.2 The Supplier declares to be willing to on demand of UMC maintain the ICT Performance and to for this purpose conclude a maintenance agreement with UMC. At the request of UMC the Parties shall consult with each other about the conclusion of one or more service level agreements (SLAs) in which concrete performances ('service levels') are established with regard to the ICT Performance and the maintenance to be carried out and in which sanctions are provided if the stipulated service levels are not accomplished.

46.3 The maintenance shall in any case comprise

- a) the supply of user support
- b) preservation of the ICT Performance by taking suitable preventive measures in order to enhance that the ICT Performance shall function for the term of the Agreement in conformity with the Agreement;
- c) the swift detection and resolution of failures and defects;
- d) the revision of the ICT Performance after written approval of UMC in order to increase its reliability;
- e) to change functions or to add new functions and/or to solve issues in connection therewith;
- f) and/or the regular issue of new upgrades and releases of the ICT Performance.

UMC shall not be obliged to always implement the latest upgrade or release of the delivered ICT Performance.

46.4 The maintenance takes off after the expiry of the warranty period in accordance with Article 42.2.

46.5 If a maintenance agreement has not been agreed upon UMC shall be entitled to have the maintenance activities with regard to the ICT Performance carried out by its own personnel or to have the same carried out by a third party. The Supplier shall lend its unconditional assistance to this, among other things by providing the required information and tools.