FEDERATION OF MEDICAL TECHNOLOGY COMPANIES

General terms and conditions

For the delivery of goods, the use of standard software and the performance of additional work

2023

General terms and conditions issued by FMed, Federation of Medical Technology Companies referred to as FMed TERMS AND CONDITIONS, filed with the Chamber of Commerce under number 40507573

**Publication of FMed, Federation of Medical Technology Companies,
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Art. 1. Definitions

Employee:
The natural person employed by the Contractor and involved in the execution of the Services.

Client:
Any natural person, partnership, legal entity or other entity that enters into a contractual relationship or legal relationship (with rights and/or obligations) with the Contractor and/or with whom the Contractor concludes an Agreement or has contact regarding the conclusion thereof or who negotiates with the Contractor about the provision of an order, or has provided an order.

Contractor:
A member of the Federation of Medical Technology Companies, Chamber of Commerce number 40507573 (referred to herein as "FMed"), that acts in the exercise of its business, enterprise or profession and thereby makes reference to these terms and conditions when a contractual relationship is entered into or a legal relationship is created.

Agreement:
Any Agreement that comes into existence between the Contractor and the Client, any amendment or addition thereto, as well as all (legal) actions in preparation for and execution of that Agreement, as well as any legal relationship that comes into existence between the Contractor and the Client.

Quote:
Any written or oral offer, proposal or price quotation made by or on behalf of the Contractor to the Client.

Good/Goods:
The material item or items or parts thereof that must be delivered by the Contractor to the Client to fulfil the Agreement or must be produced for the Client, such as (medical) consumables, a device, machine, semi-finished product, structure, installation, software or another item.

Services:
The Services or activities performed by the Contractor for the Client in execution of the Agreement concerning the provision of Services, insofar as these do not relate to producing Goods for the Client.

Documentation:
All information provided by the Contractor, such as (but not limited to) technical Documentation, user manuals, warranty certificates, specifications, drawings, designs, samples, calculations, inspection regulations, instructions and safety data sheets.

Parties:
The Client and the Contractor, and also (in the singular) each one separately.

Art. 2. Operation of the GTC 2023

2.1 These terms and conditions apply to all Quotes and proposals made by the Contractor, to all Agreements it concludes and to all Agreements and legal relationships between the Client and the Contractor related thereto (in the broadest sense of the word).

2.2 A counterparty's reference to its general terms and conditions is expressly rejected by the Contractor.

2.3 In the event of a conflict between the content of the Agreement concluded between the Client and the Contractor and these terms and conditions, the provisions of the Agreement shall prevail.

2.4 These terms and conditions may only be used by member companies of FMed (where the company is a member of FMed at the time the legal relationship is entered into).

2.5 In the event of a conflict between the content the GTC 2023 in the Dutch language prevail over the GTC 2023 as drawn up in the English or any other language.

Art. 3. Entering into an Agreement

3.1 An offer from the Contractor is without obligation. A binding Agreement only comes into existence after a written confirmation from the Contractor of an order or order confirmation from the Client. The Contractor has the right to revoke its offer immediately after acceptance.

3.2 The information provided by the Contractor in a Quote, which includes among other things the associated images, drawings, dimensions, weight specifications, explanations, ideas, models, samples, tables, diagrams, databases, software, calculations and all data provided in or with a Quote or during the fulfilment or in the context of the Agreement, is to be considered approximate, unless the Contractor has explicitly stated that it is to be regarded as an exact specification.

3.3 If an acceptance by the Client deviates from the offer, this shall be considered a new offer from the Client and a rejection of the offer from the Contractor, even if there is only deviation on minor points.

3.4 If an order is given via an online store, the Agreement shall only be concluded at the moment it is confirmed to the Client in writing by the Contractor through an order confirmation.

Art. 4. Amendments to the Agreement

4.1 Amendments or additions to or deviations from these Terms and Conditions or the Agreement require the Contractor's express written consent and apply only to the respective Agreement. If any provision of an Agreement lacks legal force, the remaining provisions shall remain in full force unless it is manifestly unreasonable to adhere to the relevant provisions of the Agreement.

4.2 A complete or partial amendment to the Agreement and/or the Terms and Conditions can only occur after written confirmation from the Contractor. In the event of such an amendment, the Contractor is entitled to charge the associated costs to the Client and furthermore to re-determine the delivery times associated with its obligations under the Agreement.

4.3 In the event of an agreed amendment, the Contractor is entitled to deviate from previously agreed delivery times and/or lead times, insofar as it deems this necessary to be able to comply with the Agreement in its amended form.

Art. 5. Duty to provide information and confidentiality

5.1 All Documentation of any nature and in any form provided by or on behalf of the Contractor to the Client is confidential, shall be kept secret by the Client and shall not be used by the Client for any purpose other than the execution of the Agreement.

5.2 The information mentioned in paragraph 1 of this article may not be reproduced, copied, made available to third parties or made public by the Client.

5.3 The Client must return or destroy the information mentioned in paragraph 1 of this article upon first request, within a period set by the Contractor, at the Contractor's discretion.

5.4 The Client shall not provide the Documentation (or any part thereof) to its own employees who are not involved in the performance, nor to third parties, unless the Contractor has given prior written permission. Without prior written permission from the Contractor, the Client is not allowed to use the Contractor's name and/or logo in advertisements or other statements. The Client shall impose the same obligations of confidentiality on its employees as those imposed on it by this article. In the event of a breach of confidentiality, the Client shall immediately inform the Contractor in writing.

5.5 If the Client breaches any of the obligations mentioned in paragraphs 1 to 4 of this article, it shall owe an immediately due and payable fine of €25,000 per violation, plus a fine of €1,000 for each day that the violation continues, up to a maximum of €100,000. The forfeiture and collection of this fine do not affect any other claims of the Contractor, such as performance and compensation for damages.

Art. 6. Handling information

6.1 The Client may not derive any rights from advice and information provided by the Contractor that do not directly relate to the Agreement.

6.2 The Client indemnifies the Contractor against any claim by third parties concerning the use of information, advice, drawings, calculations, designs, materials, brands, samples, models and the like provided by or on behalf of the Client. The Client shall compensate all damage suffered by the Contractor, including costs incurred in defending against these claims.

6.3 If the Client provides information to the Contractor, the Contractor may assume the accuracy and completeness thereof in the execution of the Agreement. If the information provided by the Client is incorrect, the Contractor is entitled to revise its obligations under the Agreement.

Art. 7. Delivery time and delivery aspects

7.1 The delivery time is the period specified in the Agreement within which the Goods and/or Services will be delivered. Unless otherwise agreed, this period begins on the last of the following dates:
   a. the date of conclusion of the Agreement;
   b. the date on which all necessary data and documents, information and items to be provided to the Contractor for the execution of the Agreement have been obtained or processed by the Contractor;
   c. if an instalment payment has been agreed upon before the start of a Service, the date on which the Contractor has received this instalment payment in full.

7.2 If the Client fails to pay any amount due to the Contractor after it has become due and payable, the Contractor shall have the right to suspend the delivery of its Services or Goods for the duration of non-payment.

7.3 The Contractor shall endeavour to observe the agreed delivery time as far as possible. The agreed delivery times and/or dates are not strict deadlines for the Contractor. If the Contractor foresees that delivery cannot take place within the agreed period, it shall inform the Client as soon as possible and consult with the Client.

7.4 If delivery cannot take place within the agreed period due to a request from the Client, or because the Client does not meet its obligations on time or does not enable the Contractor to meet its obligations under the Agreement on time, the Contractor shall be entitled to demand payment for the outstanding payment periods at the times when these periods would have become due and payable if delivery had been made on time.

7.5 If the delivery period is exceeded, the Client shall not be entitled to any compensation in this respect. In such a case, the Client shall also not be entitled to dissolve the Agreement, unless the delivery period is exceeded to such an extent that the Client cannot reasonably be expected to maintain the relevant part of the Agreement. The Client shall then be entitled to dissolve the Agreement to the extent and for the part that is strictly necessary. Under no circumstances may the Client suspend its obligations under the Agreement or refuse to accept the Goods or Services. The Client indemnifies the Contractor against any third-party claims as a result of exceeding the delivery time or execution period.

7.6 If the Client does not take delivery of the Goods and/or Services within the delivery time, or if the Client does not observe an agreed call-off period, the Contractor is entitled to charge the Client for the Goods and/or Services and to store the Goods (or have them stored) at its own discretion. If the storage exceeds a period of three months, the Contractor is entitled to charge the Client a storage fee of 15% of the value of the stored Goods. In the event of non-timely acceptance or call-off by the Client, the Contractor is furthermore entitled either to demand fulfilment of the Agreement by the Client or to dissolve the Agreement without the need for notice of default or judicial intervention, notwithstanding the right to claim damages.

7.7 The Contractor may make partial deliveries – in which case the Client is obliged to accept – and to charge these partial deliveries separately to the Client. The Client is obliged to pay these individual invoices.

Art. 8. Pricing provisions

8.1 Unless expressly agreed otherwise, prices are in euros and in principle:

a. based on the conditions prevailing at the time of the Quote or, if no Quote is issued, at the date of the Agreement, such as official currency parity, purchase price levels, the quantity of Goods or Services to be delivered, wages, labour costs, social security and government charges, transport costs, insurance premiums and other costs;
b. exclusive of VAT, import and export duties and all other taxes, levies and duties;
c. exclusive of the costs of packaging, loading and unloading, disposal fees, transport, shipping and insurance;
d. exclusive of the costs of assembly, installation, adjustment, regulation, calibration and commissioning.

8.2 If not expressly agreed otherwise, costs associated with delivery within the Netherlands shall be borne by the Client. If delivery takes place outside the Netherlands, it shall be according to the most current version of the Incoterms, ex works manufacturer, at the time the offer is made.

8.3 The Contractor is authorised, if necessary for the execution of the Agreement, to engage third parties and to charge the costs thereof to the Client.

8.4 The Contractor is entitled to adjust prices in the event of changes in the circumstances (mentioned in paragraph 1 of this article) that determine the cost price, taking into account applicable legal regulations. Any future price increases known to the Contractor at the time of concluding the Agreement should be mentioned at that time.

8.5 An increase in prices on the basis of this article shall not affect the payment terms agreed upon with the Client.

8.6 If the price for the delivery of Goods or Services does not exceed the minimum order value, the Contractor is entitled to charge the Client for handling costs.

Art. 9. Payment provisions

9.1 Payments must be received no later than thirty calendar days after the invoice date. If the Contractor has reason to doubt the Client's fulfilment of payment obligations, such as when the latter is subject to suspension of payments, bankruptcy or an application for bankruptcy, seizure, suspension or liquidation of the business, or an application on the basis of the Court Approval of a Private Composition (Prevention of Insolvency) Act, previous late payments, etc., then the Contractor may demand full and/or cash payment in advance or upon delivery.

9.2 If the Client does not pay an invoice within five business days after a payment reminder, demand or notice of default, the Client shall be in default (unless default has occurred earlier on other grounds). In that case, the Client shall owe statutory commercial interest on the outstanding amount, calculated cumulatively per month from the due date of the relevant invoice. Unpaid interest shall also bear interest after one year. The judicial and extrajudicial costs associated with any collection for the Contractor shall be borne by the Client. In the event of late payment, including failure to comply with the above demand for cash payment in advance or upon delivery, the Contractor shall be authorised to suspend the execution of the Agreement until full payment is received and, in the event of incomplete payment after written demand, to dissolve the Agreement in whole or in part. This does not affect the right to compensation for damages.

9.3 The Client is not authorised to offset any claim against the Contractor with a debt to the Contractor. In the event that the Client is subject to bankruptcy, suspension of payment or seizure, everything it owes to the Contractor at that time shall become immediately due and payable in full. The Contractor is authorised to settle accounts.

Art. 10. Additional/less work

10.1 If the Client wishes to make additions or changes to the Goods and/or Services that the Contractor must deliver under the Agreement and the Contractor considers that the Agreement will thereby be more demanding or extended, this shall be regarded as additional work even if a fixed price was previously agreed. The Contractor may consider the Client's personnel who give such instructions as being authorised to do so.

10.2 If the Contractor believes that an addition or amendment to the Agreement is necessary or reasonably desirable in connection with the execution thereof, it shall inform the Client in writing. If the Client does not agree to the proposed addition(s) and/or amendment(s) and the associated price change in writing within 14 calendar days, the Contractor is entitled to suspend the fulfilment of its obligations towards the Client. In that case, the Client is obliged to pay the Contractor for the Goods and/or Services already provided on the basis of the Contractor's applicable rates without prejudice to the Contractor's right to compensation for damage suffered.

10.3 Costs associated with changes requested by the Client in the execution of the Agreement or as a result of postponement of delivery or changed circumstances on the Client's side shall be charged as additional work to the extent reasonable and, unless otherwise agreed, invoiced separately by the Contractor after it deems the additional work completed.

Art. 11. Situations beyond accountability

11.1 If the Contractor is unable to fulfil its obligations towards the Client due to a non-attributable failure (hereinafter referred to as force majeure), the fulfilment of those obligations shall be suspended until the circumstance causing force majeure no longer exists. The consequences of force majeure take effect from the moment that the circumstance, cause or event leading thereto has occurred. If the Contractor wishes to invoke force majeure, it shall inform the Client as soon as possible.

11.2 Failure to fulfil an obligation is not attributable if and insofar as the non-fulfilment is the result of, or at least related to, a foreseeable or unforeseeable circumstance beyond the Contractor's control. Such circumstances in any case include, but are not limited to: war or similar situations, mobilisation, riot, sabotage, terrorism and the threat of terrorism, fire, lightning strike, implosion or explosion or release of hazardous gases or substances, natural disasters, extreme weather conditions, strike, occupation, boycott or blockade, and measures by domestic or foreign governments such as an import, export, delivery or production ban, the failure of third parties engaged by the Contractor to properly fulfil their obligations, defects in third parties' items, equipment, software or materials, power cuts, disruption to the internet, service providers, computer network or telecommunications facilities, general transportation problems, the unavailability of one or more staff members, epidemics and pandemics, a financial crisis, the malfunctioning of the payment network, or the absence or limited availability of necessary consumables or components.

11.3 If a party fails to fulfil the Agreement without this being attributable to that party and fulfilment is permanently impossible, the Agreement may be dissolved in writing with immediate effect. If fulfilment is not permanently impossible, written dissolution can only occur after a period of 90 consecutive calendar days during which fulfilment was not possible has elapsed. In such a case, the Client shall not be entitled to any compensation for damages.

11.4 If the Contractor incurs additional costs for fulfilling the Agreement in connection with circumstances beyond its control, it is entitled to pass these on to the Client in a reasonable manner. In the event of force majeure, in any form, the Contractor is entitled to modify the order in such a way that the obstacles to execution are completely or largely eliminated or the impossibility of execution is removed if possible. The increased or reduced costs resulting from the change to the order shall be settled, while in addition, any costs that have already been incurred but proven unnecessary and deliveries made shall be immediately reimbursed to the Contractor.

Art. 12. Scope

12.1 The Contractor's liability is limited to compensation for direct damage attributable to it up to a maximum of the amount claimable in the respective case under the (liability) insurance policies taken out by the Contractor. In any case, the Contractor's contractual and statutory liability is at all times limited to the amount paid (excl. VAT) for the Goods or Services from which the liability arose. A series of related events is considered a single event. Other damage shall only be compensated by the Contractor insofar as it concerns personal injury or property damage and insofar as this damage is caused by the execution of the activities to be performed according to the Agreement and caused by persons whom the Contractor uses in the execution of the Agreement.

12.2 The Contractor's liability for indirect or consequential damage is excluded, including but not limited to:
- loss of working hours and/or labour costs incurred in vain, additional costs of purchasing elsewhere, damage due to reconstruction of lost information, missed savings or agreements, discounts or penalties;
- damage due to lost profits, missed savings, damage due to production downtime or degradation of Goods due to production downtime, business stagnation or reduced goodwill;
- damage from external causes, such as theft, fire, explosion, water and storm damage, etc.;
- damage resulting from claims of the Client and/or customers of the Client;

- damage related to the use of Goods prescribed by the Client to the Contractor, including but not limited to: installations, tools, machines, materials or data, information or software from third parties;
- damage related to the engagement of suppliers, programmers, advisers or inspectors prescribed by the Client to the Contractor;
- damage due to the Client's non-compliance with legally prescribed security regulations, the absence of safeguards prescribed by law or by the Contractor, or non-adherence to usage instructions prescribed by the Contractor;
- damage to or loss of Goods, data or documents sent by the Client to the Contractor in connection with the execution of the Agreement;
- damage as a result of mutilation, destruction or loss of data, settings of digital equipment, software, information, data or documents;
- damage other than that for the Contractor to remedy the direct consequences of the non-fulfilment.

12.3 The Contractor's liability is also excluded for:
- the direct and indirect consequences of the Client's non-timely compliance with the usage or operating instructions;
- normal wear and tear, and damage and/or wear caused by improper use and as a result of overloading or any other form of abnormal use;
- abnormal or unforeseen circumstances, or circumstances that the Contractor did not reasonably need to take into account based on the data provided to it when the Agreement was concluded;
- damage that the Client could have insured against.

12.4 The exclusions and limitations of the Contractor's liability, as described in this article, do not affect the other exclusions and limitations of the Contractor's liability under these Terms and Conditions.

12.5 The exclusions and limitations mentioned in paragraphs 1 to 4 of this article shall lapse if and insofar as the damage is the result of intent or deliberate recklessness on the part of the Contractor's management. The provisions of paragraphs 1 to 4 of this article do not affect the Contractor's liability under Title 3, Section 3, Book 6 of the Dutch Civil Code (product liability).

12.6 If a delay occurs or is going to occur during the execution of an Agreement, including due to the non-approval or non-timely approval of activities carried out by or on behalf of the Contractor, the Contractor is in no way obliged to compensate any damage or costs directly and/or indirectly incurred or to be incurred by the Client.

12.7 The Client indemnifies the Contractor against all damage resulting from third-party claims due to the use of or a shortcoming in Goods delivered by the Contractor to the third party, unless the damage is caused by gross negligence or intent on the part of the Contractor.

12.8 The provisions of this article, as well as all other limitations and exclusions of liability mentioned in these Terms and Conditions, also apply for the benefit of all (legal) persons whom the Contractor uses in the execution of the Agreement and for the benefit of the group of companies to which it belongs.

12.9 Regarding Goods and Services that the Contractor has obtained from a third party, the provisions applicable to the respective Agreement also apply to the Agreement, if and insofar as the Contractor invokes them.
The Contractor is not liable for damage resulting from the performance of Services on or in connection with Goods delivered by third parties or Goods of which Goods delivered by third parties form part.

12.10 Any claim the Client has against the Contractor shall lapse by the mere passage of twelve (12) months after the claim arose and in any case after three years following delivery by the Contractor, regardless of the legal basis of the claim.

Art. 13. Premature termination

Premature termination is only possible if the Parties reach a joint written Agreement about this.

Art. 14. Transfer of risk

14.1 The risk related to the Goods to be delivered by the Contractor to the Client shall be transferred at the time of delivery of the respective Goods to the location agreed upon in the Agreement (except for an earlier time as specified in other paragraphs of this article).

14.2 If Goods are to be delivered outside the Netherlands, the risk associated with transport shall be divided in accordance with the agreed or (failing this) customary version of the Incoterms. In any case, the risk shall transfer to the Client after the Contractor has fulfilled its obligations under the respective Incoterms.

14.3 The Client bears the risk for the destruction, damage or loss (each in the broadest sense of the word) (except in cases of intent or gross negligence on the part of the Contractor) of:

a) tools, equipment, materials and other items of the Contractor that are transferred to the Client's premises or location or to a location designated by the Client;
b) items that the Contractor holds for the Client or items of the Client that the Contractor holds for repair or other purposes;
c) items related to the execution of the activities related to the Agreement, such as but not limited to assembly, commissioning, etc.;
d) items returned by the Client to the Contractor during transport to and from the Contractor;
e) items during transport on the Client's premises or on the premises of the location designated by the Client.

14.4 If the Client changes delivery times or other arrangements, as a result of which the Contractor has to hold Goods for the Client longer, the risk for these Goods transfers to the Client and the Contractor is entitled to charge any additional costs.

Art. 15. Warranty after fulfilment of arrangements

15.1 The Contractor provides a one-year warranty for a new item for twelve (12) months for items that are not consumables, or are otherwise consumed by normal use within a shorter period of time. The Parties can agree on a different term. No warranty is provided for used Goods. The warranty is valid for product specifications of the Goods and usage characteristics confirmed in writing by the Contractor in the Agreement. The warranty only applies for the period from the delivery of the (initially) contractually obligatory Goods by the Contractor until the end of the warranty period. The warranty is not extended by the delivery and processing of spare parts or replacement Goods.

15.2 If the Client has reason to make a claim under the warranty, it must inform the Contractor in writing immediately with a substantive description of the reason for invoking the warranty.

15.3 In the case of incorrect, unusual or improper use of the Goods under warranty, damage due to external effects, or modifications or repairs made to the Goods by third parties outside normal use, the warranty cannot be invoked against the Contractor.

15.4 The Contractor shall fulfil the warranty within a reasonable term. If the Contractor fulfils the warranty obligation, it shall not owe any damages or compensation to the Client concerning all matters related to the set of facts applicable to the warranty claim.

Art. 16. Contractor's right of retention

16.1 The Contractor has a right of retention on all the Client's Goods that it has in its possession, regardless of the cause or reason, as long as the Client has not fulfilled all its obligations towards the Contractor.

16.2 If the Contractor exercises its right of retention, the Client shall not be entitled to any compensation in the event of damage to or the complete or partial destruction or loss of the Goods.

16.3 If the Client creates a new item (in part) from Goods supplied by the Contractor, the Client shall create the new item for the Contractor until the Client has fulfilled all its obligations towards the Contractor under the Agreement. In that case, the Contractor shall have all rights of ownership of that created item until the Client fully satisfies its obligations. By entering into the Agreement with the Contractor, the Client grants the Contractor permission to enter its premises and buildings to take possession of its property.

Art. 17. Contractor's reservation of ownership

17.1 All Goods delivered by the Contractor remain the property of the Contractor until the Client has fully paid all amounts owed to the Contractor.

17.2 In the event of non-compliance by the Client or dissolution of the Agreement (other than completion), the Contractor is entitled to reclaim ownership of the Goods subject to reservation of ownership, without further notice of default or judicial intervention, and take all necessary related measures, offsetting the amount already paid for the Goods and without prejudice to the Contractor's claims for compensation and costs.

17.3 Upon the Contractor's first request, the Client shall provide a full statement of the Contractor's Goods that are under the Client's control, and provide their location and a written authorisation for immediate retrieval of the not yet fully paid Goods, wherever they may be located. The Client undertakes to fully and unconditionally cooperate upon the Contractor's first request to enable the Contractor to exercise its reservation of ownership.

17.4 The Client is only entitled to sell, deliver or use Goods subject to reservation of ownership in favour of the Contractor as part of the normal course of business. No security right may be established on these Goods and the Client shall not perform any acts whereby these Goods would become part of or a component of one or more other Goods. If Goods subject to reservation of ownership in favour of the Contractor are resold, the Client is required to reserve the ownership thereof and, upon the Contractor's first request, assign all claims against the Client's debtor, up to the amount owed to the Contractor, to the Contractor.

17.5 If and as long as the Contractor is the owner of the Goods, the Client shall immediately inform the Contractor when the Goods are (threatened to be) seized or a claim is otherwise made on (any part of) the Goods. Furthermore, the Client shall disclose the whereabouts of the relevant Goods to the Contractor upon first request.

17.6 In the event of seizure, (provisional) suspension of payment or bankruptcy, the Client shall immediately inform the seizing bailiff, the administrator or the trustee of the Contractor's property rights. The Client shall ensure that a seizure of the Goods is lifted immediately.

17.7 Upon the Contractor's first request, the Client is obliged to:
- mark all Goods subject to reservation of ownership as the property of the Contractor;
- insure and keep insured all Goods subject to reservation of ownership against theft, fire, explosion and water damage and provide the Contractor with access to the respective insurance policy(ies);
- provide all necessary cooperation with the establishment of a pledge in favour of the Contractor on all claims the Client has against its insurance company under the aforementioned insurance policy(ies);
- cooperate fully with any reasonable request from the Contractor to protect its property that does not unreasonably hinder the Client in the normal exercise of its business.

17.8 If and insofar as the Client has not paid the agreed price for the delivered Goods and has resold the Goods delivered by the Contractor to a third party, the Client is obliged to provide all necessary cooperation, upon the Contractor's first request, to establish a pledge in favour of the Contractor on all of the Client's claims against those third parties resulting from that resale, without prejudice to the Contractor's other rights under the Agreement or the law.

Art. 18. Measures to prevent damage

18.1 The Client is obliged to take adequate measures and set up processes to prevent unnecessary damage to the Goods it has purchased from the Contractor.

18.2 The Client is therefore also obliged to immediately inform the Contractor in writing and in full if it notes any irregularities and to engage in consultation.

Art. 19. Arrangements for intellectual property

19.1 In its business operations, the Contractor makes use of the know-how it has developed. The Contractor shall make the Documentation available to the Client under confidentiality in the context of the execution of the Agreement, and only for the duration thereof. All intellectual and industrial property rights, whether based on the Trade Secrets Protection Act or the Database Act, on the (knowledge and information) products developed or made available by the Contractor for the Client, including but not limited to software, Data Files, Diagrams, Equipment, Technical Descriptions, Documentation, Reports, Quotes, as well as preparatory material for them, and all information provided to the Client in connection with the Agreement in the form of but not limited to brochures, catalogues, price lists, pamphlets, correspondence and digital storage media and all data provided therein or thereby, are exclusively vested in the Contractor, its licensors or its suppliers. Unless otherwise agreed, the Client shall only acquire the rights of use explicitly granted to it by these Terms and Conditions and by law. These rights of use are non-exclusive and not transferable to third parties. Any other or more extensive right of the Client is excluded.

19.2 The Client shall keep the Documentation provided by the Contractor confidential. The Client is prohibited from copying or reproducing, in whole or in part, the information described in paragraph 1 of this article or making it known or having it made known to third parties, and/or allowing third parties to use it and/or reselling it or making it available, directly or indirectly, in the broadest sense of the words. The Client is also obliged to impose this prohibition on employees, temporary workers or equivalent persons to be engaged by it. The Client is only allowed to use said information to the extent necessary for the performance of the Agreement, after obtaining explicit written permission from the Contractor. Upon the Contractor's first request and if the Agreement is not concluded or is dissolved or terminated, the Client must immediately return all such information to the Contractor and/or destroy it.

19.3 If it unexpectedly turns out that a Good sold by the Contractor to the Client infringes a third party's industrial or intellectual property right established in the Netherlands, and the Client is held liable in this regard, the Client is obliged to immediately inform the Contractor in writing. In that case, the Contractor may, at its discretion, modify the Good so that it no longer infringes, or deliver a replacement Good that does not infringe, or refund the purchase price to the Client after receiving the Good back from it, minus a reasonable fee for the period the Client had the Good at its disposal. The Client cannot make any claim against the Contractor nor have any demand regarding the infringement of an industrial or intellectual property right established outside the Netherlands.

19.4 The Contractor is not liable for infringement of any industrial or intellectual property right or any other exclusive right resulting from:

- any modification to or on a Good sold or delivered by or on behalf of the Contractor without the Contractor's intervention;

- any use or application of such a Good other than as prescribed by the Contractor or which the Contractor could assume based on the Agreement;
- integration, use or application with Goods not sold and delivered by or on behalf of the Contractor, including (parts of) systems and networks;
- a software modification not made by or on behalf of the Contractor.

Art. 20. Termination of the Agreement

20.1 The Contractor may dissolve the Agreement without notice of default and with immediate effect if:
a) the Client's assets are seized;
b) suspension of payment is granted to the Client, or an application for this is submitted;
c) an application by the Client under the Court Approval of a Private Composition (Prevention of Insolvency) Act (WHOA) is prepared or submitted;
d) the Client is declared bankrupt, or an application is submitted to this end;
e) the Client proceeds with an assignment of estate;
f) (part of) the Client's business is suspended, liquidated, terminated or transferred in whole or in part;
g) a majority interest in the Client is transferred or if the Client otherwise comes to be effectively controlled by others.

20.2 If the Agreement is dissolved, the Contractor is not obliged to compensate the Client for any damage or costs, except in cases of intent or deliberate recklessness on the part of the Contractor. Upon dissolution, all amounts owed to the Contractor on the basis of the Agreement shall become immediately due and payable. The Contractor's right to invoke its right of retention, the claim for cooperation in establishing a pledge, or the validity or enforcement of its retention of title remains unaffected.

Art. 21. Transposition of provisions

If one or more of these provisions are found or declared to be wholly or partially invalid or non-binding in one or more concrete situations, or otherwise become non-binding in the broadest sense of the word, the Parties declare and choose – which consent cannot be revoked without mutual approval – that it shall be replaced by a provision of the same extent, with possibly limited scope or extent of the rights or obligations contained therein or expansion or limitation thereof, with the same objective as the invalid or non-binding provision.

Art. 22. Applicable law and jurisdiction

22.1 These terms and conditions and the Agreement are governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) and Title 1 of Book 7 of the Dutch Civil Code is excluded.

22.2 Disputes arising from or related to these Terms and Conditions and the Agreement shall be exclusively submitted to the competent court in The Hague, without prejudice to the Contractor's right to seize assets and take or initiate other provisional measures at such place(s) and before such judicial bodies as the Contractor deems desirable.

Art. 23. Interpretation of the Agreement and general terms and conditions

23.1 These general terms and conditions have been drawn up by FMed for use by its members. The members of FMed are involved in various distinct specialisations and in different types of transactions with very different products. Where a provision in these general terms and conditions does not (fully) correspond to the legal

relationship or the relationship between the Parties or the products or Services to which these general terms and conditions apply, and the operation and interpretation of aspects of the underlying legal relationship and these general terms and conditions come up, in or out of court, the interpretation of the legal relationship in the broadest sense of the word shall take into account that these general terms and conditions are intended to protect the Contractor's position and shall, if possible, be made along that line as much as possible.

23.2 The headings in the articles of these general terms and conditions are for the convenience of reading, have not been drawn up to expand or limit provisions, and play no role in the interpretation of these provisions.

Art. 24. Activities and Work

24.1 The provisions in this Part B of the GTC 2023 apply to all legal relationships between the Client and the Contractor concerning Activities and the acceptance of Work, notwithstanding the applicability of the other provisions of these general terms and conditions.

24.2 When a provision from Part B of the GTC 2023 is fully or partially in conflict with a provision from Part A of the GTC 2023, the provision from Part B of the GTC 2023 shall prevail, insofar as there is (full or partial) conflict and insofar as necessary to resolve it, and if the Contractor expressly indicates this.

FMed GTC 2023 Part B

Art. 25. Definitions for Part B

25.1 Acceptance of Work: The creation of a material item upon the order of the Client, including but not limited to creating a system, machine, device, switch cabinet, test setup, etc.

25.2 Work Data: All data and information, including but not limited to specifications, requirements, manner of use and environmental conditions, and other conditions on the basis of which the Contractor must deliver a Work or perform Activities that it must otherwise consider in the execution of the Agreement, insofar as these were provided by the Client before or during the conclusion of the Agreement and confirmed to the Client by the Contractor.

25.3 Order: The order to execute Activities and/or deliver a Work as specified in the applicable documents.

25.4 Activities: the execution of activities upon an order or the provision of Services otherwise that do not consist in creating a Work, such as, among other things, research feasibility studies, design of mechanical and electrical installations, servicing and maintenance, calibration, validation, configuration activities, training, workshops and guidance.

25.5 Work: a work of a material nature, such as a building, machine, installation or other object.

Art. 26. Conclusion

26.1 The Agreement regarding the performance of Activities and/or the acceptance of a Work can only be concluded in writing with due observance of Article 3.

26.2 The Order and the specifications with which the Activities or Work must comply are determined by what the Parties have agreed or confirmed in writing.

26.3 The Contractor has an obligation of effort in the performance of Activities, unless it has been explicitly agreed in writing that it is an obligation of result as described in the following paragraph.

26.4 The Parties may agree in writing that the Contractor must achieve a specific result in performing the Activities or in creating a Work. In such a case, there is only an obligation of result if each of the following conditions is met:
- all Work Data needed by the Contractor to achieve the result must have been reported to the Contractor in writing by the Client before the conclusion of the Agreement and confirmed by the Contractor to the Client;
- in the Contractor's opinion, no adverse change has occurred in the information, data and circumstances provided by the Client or otherwise since the Agreement was concluded;
- the agreed criteria for assessing the result must be clearly agreed (not contradictory or open to multiple interpretations) and objectively measurable and verifiable with measurement data;
- the method by which the Parties determine whether the agreed result has been achieved must be confirmed to the Client in writing by the Contractor upon or before the conclusion of the Agreement.

If these conditions are not met, the Contractor has an obligation of effort.

26.5 If the Contractor becomes aware of any other necessary data or information after receiving the Work Data, this shall only be added to the Work Data if confirmed to the Client in writing by the Contractor. During execution, the Parties shall mutually consider the implications of the later availability of this data for the performance of the Activities or the creation of the Work.

Art. 27. Scope of the Agreement regarding Activities and Work

27.1 The Client shall supply the Work Data digitally in the format specified or agreed upon by the Contractor. The Client shall perform adjustments, organisation, conversions and sorting of the Work Data and other activities required to create workable Work Data at the Contractor's first request. If the Contractor has to perform actions necessary to achieve unambiguous Work Data, it is entitled to charge this as additional work.

27.2 If the Contractor needs access to the Client's installations, networks or systems to perform the Activities, the Client shall cooperate at the Contractor's first request. The Client shall always provide the necessary instruction and guidance. The Contractor is not liable for damage or costs associated with the use of the Client's networks, systems or installations unless the damage or costs are the result of intent or gross negligence on the part of the Contractor's management.

27.3 The Client guarantees the accuracy and completeness of the Work Data. If the Work Data contain imperfections, the Contractor is entitled to suspend its Activities until the Client has remedied the imperfections, or a later time, if the imperfection warrants it. The Client shall then owe the Contractor the applicable fee for the work already performed under the Agreement, and additional costs at its standard rates, without prejudice to the Contractor's right to compensation for damage. The Client cannot derive any right to compensation from suspension by the Contractor.

27.4 The Client is obliged to disclose all relevant data and circumstances that may be important for the execution of the Agreement immediately to the Contractor.

Art. 28. Arrangements for delivery

28.1 If a delivery period has been agreed upon by the Parties, this period shall commence the day after each of the following conditions has been met (as applicable):
- the Agreement on the Activities or the Work has been concluded;
- all Work Data necessary for the execution of the Order, in the Contractor's opinion, has been made available by the Client in the correct format;
- insofar as (advance) payment has been agreed, it has been received by the Contractor;
- the day on which, in the Contractor's opinion, all formalities necessary for the execution of the Order have been fulfilled, including obtaining permits;

- insofar as work must be performed in connection with the execution of the Order on premises designated by the Client or on an installation, network or system designated by the Client, this has been prepared for activities and the Contractor has unimpeded access to it. The conditions mentioned in this paragraph must continue to be met during the execution of the Order;
- written confirmation by the Contractor that the delivery period will start.

28.2 If not a delivery period but a delivery date has been agreed, the delivery period is equal to the number of days between the conclusion of the Agreement and the agreed delivery date. This period shall not start until all the conditions mentioned in Article 28.1 have been met. In this case, the moment of delivery shall be when the aforementioned delivery period has expired, with due observance of the other provisions of Article 28.

28.3 If a delay occurs during the execution of the Order that is not (entirely) attributable to the Contractor, the delivery period shall be extended by the duration of that delay unless there are circumstances that reasonably warrant a longer extension. If the delay is attributable to the Client, the period may be extended by longer than the duration of the delay if there are reasonable grounds for doing so.

28.4 If during the execution of the Activities or Work, the conditions for the start of the delivery period as described in Article 28.1 are no longer met and this impedes the progress of the agreed Activities or Work, the delivery period shall be extended by the number of days during which the conditions were not met.

28.5 The agreed delivery period is an estimated delivery period, based on the delivery times of suppliers, information and circumstances known to the Contractor at the time the Offer was made. If circumstances beyond the Contractor's control occur during the delivery period that make the agreed delivery period no longer feasible, the delivery period shall be extended to the extent necessary in the Contractor's opinion.

28.6 If the total delay as referred to in Article 28.5 exceeds sixteen (16) weeks, the Client shall have the right to terminate the Agreement. In that case, the Contractor is not obliged to pay any damages or compensation to the Client, whether or not related to the late delivery and/or termination.

Art. 29. Client's obligations

29.1 Unless and insofar as expressly agreed otherwise in writing, the Client shall be responsible for taking care of the following, in a sufficient and timely manner in the Contractor's opinion:

- ground, paving, piling, breaking, foundational, concrete, carpentry and upholstery work or any other ancillary work of any kind;
- good, constant accessibility of the place(s) and guidance to/at the place(s) where the Contractor needs access to execute the Order;
- drawings, Documentation, plans, diagrams and explanations concerning the Client's premises and the items thereon required by the Contractor;
- the necessary help in placing or moving items that cannot reasonably be handled by two people, as well as the operation of lifting and/or hoisting equipment and similar aids;
- the provision, setup and – after completion of the Contractor's Activities – removal of scaffolding, platforms and ladders;
- the supply of fuels, energy and auxiliary materials such as compressed air, gas, water, electricity, diesel and petrol, supply and discharge lines, and the required connection points necessary for the execution of the Agreement and any testing and commissioning;
- the provision of switching and protective equipment and conduits for the electric motors and/or other electrical equipment to be supplied or used, except for starting resistors and rheostats that are part of the electrical equipment;
- the provision, throughout the execution of the Order and in the immediate vicinity of the place(s) where it must be executed, of a dry, heated, lit and separately lockable room of sufficient size to accommodate the workers involved and for storing the materials and tools to be processed or used and the workers' personal

belongings, as well as the provision of a toilet;
- activities required to restore parts that have become dirty, damaged or disarranged or no longer function to a good and usable condition, unless the contamination or damage has been caused by the Contractor's subordinates;
- starting and/or keeping in operation and/or stopping installations under the Client's control, insofar as this is desirable or necessary for the execution of the Order;
- sufficient lighting and, if applicable, bringing and maintaining the place(s) where the Agreement is to be executed to the required or desired temperature and humidity so that the Activities or Work can proceed without difficulty;
- applying for and the timely payment of dues for supply lines, connections, rights to use public land for private purposes (precario rights), permits under the Nuisance Act, permits under the Environmental Management Act and other environmental legislation, (re)construction permits and other legal requirements.

29.2 The Contractor has the right to take ownership of replaced, discarded or removed materials belonging to the Client.

Art. 30. Amendments to the Agreement

30.1 If the Parties agree on an amendment or additional/less work, this shall be considered an amendment to the Agreement as referred to in Article 4.

30.2 In the event that the Parties agree on an amendment to the Agreement, the agreed delivery period or delivery date shall be extended or postponed by the number of days reasonably needed to implement the amendment to the Agreement.

30.3 If the Contractor deems an amendment and/or expansion of the Activities or Work necessary or reasonably desirable in connection with their execution, it shall inform the Client. If the Client does not agree in writing to the proposed amendment(s) and/or expansion(s) and the associated price change within fourteen (14) days or another agreed term, the Contractor is entitled to suspend the fulfilment of its obligations towards the Client. In that case, the Client shall be required to pay the Contractor compensation based on the latter's applicable rates for the Activities already performed and what has already been delivered without prejudice to the Contractor's right to compensation for damage suffered.

30.4 Additional work may be invoiced separately by the Contractor after this additional work has been completed according to the Contractor.

Art. 31. Acceptance provisions

31.1 In the case of phased orders, the Contractor is entitled to postpone the Activities and deliveries related to a subsequent step or phase or any part of those Activities or deliveries until the Client has approved the results of the preceding step(s) or phase(s) in writing according to the agreed testing criteria. If the Client fails to approve a phase despite the Contractor's written request, the Contractor is entitled (but not obliged) to approve the respective phase, possibly with the assistance of a third party.

31.2 The Client shall test the Activities executed or Work completed by the Contractor against the agreed testing criteria within a testing period of eight (8) business days from when the Contractor has indicated that the Activities or Work are ready, unless otherwise agreed in writing.

31.3 If it becomes apparent during the execution of the test(s) that the progress thereof is impeded by a shortcoming in the Activities or Work, the Client shall inform the Contractor in writing with as much detail as possible; in such a case, the testing period shall be interrupted until the Activities or Work are offered for testing again.

31.4 The Client shall immediately notify the Contractor in writing, duly substantiated with relevant supporting material, of any shortcomings that come to light during the tests or the warranty period. The Contractor is only obliged to repair a shortcoming after receiving all necessary data from the Client.

31.5 A shortcoming identified during the tests shall be repaired free of charge when a fixed price has been agreed upon. If there is no agreed fixed price, the Contractor is entitled to a reasonable fee for activities and materials.

31.6 The testing conditions must be agreed in writing by the Parties before or upon the conclusion of the Agreement. Only objective criteria shall be used. Criteria agreed upon later shall only apply insofar as they are confirmed to the Client in writing by the Contractor. The Client cannot claim that the Activities or Work do not meet certain requirements if these requirements are not part of the agreed testing conditions. If the testing conditions are not met, this is considered a shortcoming unless it is unreasonable.

31.7 The Activities or Work shall be deemed duly delivered and accepted at the first of the following moments:
- the moment the Client has inspected the Activities or Work according to the agreed testing criteria and has not identified any serious shortcoming as referred to in Article 31.9;
- the moment the testing period has expired, counting from the day after the Contractor notified the Client in writing that the Activities or Work were ready for acceptance and the Client has failed to test the Activities or Work within the testing period;
- the moment the testing period has expired, counting from the day after the Contractor notified the Client in writing that the Activities or Work were ready for acceptance and the Client has not informed the Contractor in writing of a serious shortcoming (Article 31.9) in the Activities or Work;
- the moment the Client has actually started using the Activities or Work or the installation it forms or has become part of after incorporation;
- the moment the Client has paid the invoices relating to the Activities or Work.

31.8 Insofar as the commissioning and delivery of a Work have been agreed upon and the Contractor still needs to perform Activities in connection with that Work, the Work shall nevertheless be deemed to have been delivered and accepted if one of the situations referred to in Article 31.7 occurs.

31.9 A serious shortcoming refers to a deficiency that severely or very dangerously impedes the normal operation or normal use of the Activities or Work.

31.10 If only minor shortcomings are identified during tests related to acceptance, the Activities or Work shall be deemed to have been delivered. The Contractor is obliged to remedy these minor shortcomings as soon as possible. A minor shortcoming does not give the Client the right to refuse acceptance of the Activities or Work, to dissolve the Agreement in whole or in part or to suspend payments.

31.11 Advice, suggestions, estimates or data provided by the Contractor regarding aspects of or concerning the Activities or Work only have the character of a guarantee if this is explicitly stated in writing as a guarantee.

Art. 32. Arrangements for warranty

32.1 The warranty provisions of Article 15 of the GTC 2023 apply to the delivery of a Work and Activities, insofar as they can be applicable given the specific nature of the Activities or Work.

32.2 The Contractor guarantees to execute the Activities and Work in accordance with the Work Data and to execute them so that they meet the agreed specifications.

32.3 Unless otherwise agreed, the warranty period is based on use during working days of eight (8) hours per day. If the Activities or Work are used during working days exceeding eight (8) hours per day, the actual warranty period is correspondingly shorter.

32.4 The Contractor does not guarantee items not delivered by or on behalf of the Contractor itself, even if the Contractor has performed activities on or with them, unless expressly agreed otherwise in writing with regard to these activities.

Art. 33. Limits of liability

Notwithstanding the provisions of Article 12, the following provisions apply.

33.1 The Contractor is not liable for any damage or costs associated with:
- activities performed by persons designated by the Client;
- incorrect, late or incomplete Work Data submitted by the Client;
- performing Activities for a Work that includes Goods delivered by third parties or wherein such items are mounted or installed;
- performing Activities on a Work that has become part of an item owned by the Client in the period before the delivered Work has been duly delivered and accepted;
- performing Activities on or in connection with Goods delivered by third parties;
- items used on the request, advice or direction of the Client when executing Activities.

33.2 Furthermore, the Contractor is not liable for damage or costs resulting from:
- the use of certain parts in the Work, insofar as these parts are applied on the request, advice or direction of the Client or obtained from a supplier designated or recommended by the Client;
- the design or parts of the design of the Work, insofar as they have not been entirely created by the Contractor;
- the malfunctioning of the Client's machinery, installations or processes that the Activities or Work have become part of.

FMed GTC 2023 Part C

Art. 34. Application of Part C

34.1 The provisions in Part C of the GTC 2023 apply to all legal relationships between the Client and the Contractor regarding the development and/or delivery of Software or modifications thereto, without prejudice to the applicability of the provisions of Part A and Part B of the GTC 2023. 34.2 The provisions of Part C of the GTC 2023 supplement the provisions of Part A and Part B of the GTC 2023. When a provision of Part C of the GTC 2023 is also applicable and wholly or partially conflicts with a provision of Part A or Part B of the GTC 2023, the provision of Part C of the GTC 2023 shall prevail to the extent of the conflict.

34.3 Designing, creating or writing Software and related activities are considered the delivery of Services. Within the GTC 2023, the creation of Software falls under Services and Activities.

Art. 35. Definitions for Part C

35.1 Bespoke Software: Bespoke Software: Software, websites, protocols or operating systems developed by the Contractor on the order of the Client, or modifications to existing software, websites, protocols or operating systems developed on the order of the Client.

35.2 Standard Software: The software that the Contractor markets or marketed as standard software in the general sense of the word, whether or not adapted, set up, configured, modified or expanded for the Client.

35.3 Software: Standard Software and/or Bespoke Software.

Art. 36. Arrangements for scope

36.1 If the Contractor supplies Software and the modalities of its use are not regulated in a separate licence agreement, service agreement, maintenance agreement or another Agreement, the provisions of Part C of the GTC 2023 shall apply to the deliveries and use of that Software, insofar as applicable. If the use, service or maintenance is regulated in a separate Agreement concerning Software supplied by the Contractor, the provisions of the respective Agreement shall prevail over those of the GTC 2023.

36.2 Upon the delivery of Software, the Client obtains the non-transferable, non-exclusive right to use the Software for its own use, for the application for which the Software has been sold, for the location for which the Software has been sold. Unless otherwise agreed, the aforementioned right of use commences when the Client has fulfilled all its obligations towards the Contractor. The right of use does not include the right to modify or adapt the Software and is not transferable.

36.3 If no duration of the right of use for Standard Software is agreed upon, the right specified in Article 36.2 is of a duration to be reasonably determined by the Contractor.

36.4 The Contractor is entitled to use, apply, further develop and sell the Software developed by it, on its behalf or on its orders to third parties.

36.5 The warranty period for Software is three (3) months from delivery unless otherwise agreed. The Contractor does not guarantee that the Software it supplies is suitable for the intended and/or actual use by the Client.

36.6 The Client shall report a shortcoming to the Contractor in writing, fully documented, as soon as it becomes aware thereof.

36.7 If the Contractor is obliged to take care of repairing a shortcoming, it shall do so to the best of its ability. The Contractor is not obliged to repair a shortcoming unless all available data and access to systems necessary for repair have been provided.

36.8 If a shortcoming is (partly) related to improper use or another cause not attributable to the Contractor or if the shortcoming could have been identified during the tests as referred to in Article 31.2, all repair costs shall be borne by the Client.

36.9 If a maintenance agreement for Standard Software has been concluded with the Contractor, the Contractor shall provide updates of the Standard Software to the Client.

36.10 If the Software has been adapted or modified by anyone other than the Contractor, there shall be no warranty of any kind from the Contractor.

36.11 The Contractor does not guarantee that the Software is error-free, will function without interruption or without shortcomings, or that all shortcomings will be corrected or improved.

36.12 After three months from the launch of a new version of Standard Software, the Contractor shall no longer be obliged to repair shortcomings in or maintain an older version. The Contractor is entitled to demand a fee for providing a new version of Standard Software if, compared to older versions, it offers new possibilities and/or functions.

36.13 When the Contractor does not provide self-developed Standard Software but grants the right to use Standard Software in accordance with the provisions of a usage or licence agreement with a third party, or if maintenance regarding Standard Software is performed based on or in accordance with the provisions in the Contractor's Agreement with a third party, the provisions of Articles 36.1 to 36.14 of the GTC 2023 shall not apply, but rather the provisions of the Contractor's respective Agreement(s) with the third party(ies). By entering into the Agreement, the Client authorises the Contractor to purchase the necessary software for the execution of the Order and to agree to the associated licence terms. The Contractor shall inform the Client about the content of these provisions upon the Client's request.

36.14 The Client indemnifies the Contractor against claims from third parties whose personal data is registered or processed insofar as these claims are related to data and Software supplied by the Contractor to the Client or data processed by the Contractor for the Client.

36.15 By entering into the Agreement, the Client guarantees that insofar as the Contractor has to use software, systems, data and accounts owned by the Client to perform the Activities, the Client has sufficient rights such as licences, access rights and authorisations to permit the Contractor to fully perform the Activities and everything they entail. The Client indemnifies the Contractor against all third-party claims insofar as the Client does not possess the aforementioned rights.

Art. 37. Bespoke Software

37.1 The Contractor shall not charge any costs for repairing the Shortcoming only if a fixed price has been agreed upon for the development of Bespoke Software. If no fixed price has been agreed upon, the Contractor is authorised to charge the Client for the costs associated with the repair.

37.2 Unless otherwise agreed, the source code is not part of the Bespoke Software to be delivered. If the Parties have agreed that the source code forms part of the delivery, the right of use as referred to in Article 38.3 shall also include the right to adapt or modify the Software delivered by the Contractor. If the Contractor is legally obliged to provide the source code to the Client, the Client must pay a reasonable fee for this.

Art. 38. Standard Software

38.1 Standard Software may only be used by the Client on one processing unit (on one computer by one user), on the understanding that the Standard Software may temporarily be used on another processing unit in the event of a malfunction of the processing unit, but only until the malfunction has been resolved.

38.2 The ownership of Standard Software and the intellectual property rights in the broadest sense of the word regarding Standard Software are not delivered by the Contractor to the Client. The Client shall fully respect the property rights and IP rights regarding the Standard Software. The Client shall not remove or render illegible or unrecognisable the indications concerning intellectual property rights regarding the Standard Software, such as copyright notices. The source code of Standard Software shall not be made available to the Client.

38.3 By entering into an Agreement which (also) pertains to Standard Software developed by the Contractor, the Client declares to be aware that the Standard Software contains confidential information and trade secrets of the Contractor. The Client is obliged to keep the Standard Software confidential and not to disclose it or have it disclosed to third parties.

38.4 The Client is entitled to make a maximum of two backup copies of the Standard Software for security purposes, unless otherwise agreed; these copies may only be used to replace original material that has become unusable. The copies must be labelled with the same labels and indications as the original material.