Nederlandse Vereniging van Ziekenhuizen

General Purchase Conditions (GPC)

General Purchase Conditions for Nederlandse Vereniging van Ziekenhuizen (NVZ), Vereniging Gehandicaptenzorg Nederland (VGN), ActiZ, organisatie van zorgondernemers, GGZ Nederland, Nederlandse Vereniging voor Inkoopmanagement (NEVI), Intrakoop, de inkoopcoöperatie van de zorg, InkoopAlliantie Ziekenhuizen (IAZ) and Santeon. These general purchase conditions may be extended to agreements yet to be concluded between institutions and suppliers that are part of the aforementioned trade associations. These "General Purchase Conditions in Healthcare" were filed by the above parties at the District Court in The Hague on 21 February 2017 under file number 16/2017.

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Nederlandse Vereniging van Ziekenhuizen

Article 1 Definitions

In these General Purchase Conditions in Healthcare, capitalised terms shall have the meanings attributed to them in article 1 and in the General Purchase Conditions in Healthcare.

A. Call-off order: An Agreement where Institution shall on demand order predefined amounts with the Supplier (called off) for predefined prices and conditions.
B. Consignment: An Agreement whereby the Supplier shall place a Product in custody of the Institution for a duration that is agreed in writing and where the risk of the concerned Product only transfers to the Institution when the Product is actually being used (up) by the Institution. Ownership is transferred at the moment of payment by Institution.
C. Services: Products that are intangible, immaterial goods.
D. Continuing performance agreement: An Agreement that is subject to continuing or recurring rights and obligations.
E. Manufacturer: the manufacturer of a medical device as included in the Decision for medical devices.
F. Defect: A defect or a partial or non-compliance of the Performance with the agreed specifications, or a non-satisfactorily functioning of the Performance, or the Institution being ill-suited to properly use the Performance.
G. Purchasing association: The partnership between a number of Institutions for the joint procurement of Performances at more favourable conditions.
H. Purchase conditions: These General Purchase Conditions in Healthcare.
I. Institution: One or more care institutions that use these General Purchase Conditions in Healthcare as a legal entity.
J. Supplier: The counterparty of the Institution.
K. Medical Devices: A Product that is governed by the Medical Devices Act and all its subsidiary regulations.
L. Quotation: The written offer to supply a certain Product or Service against certain conditions.
M. Order: The order placed by Institution with the Supplier to have a Performance supplied to Institution for a certain price.
N. Agreement: Any agreement established between the Institution and Supplier as regards the supplying of a Performance by Supplier to Institution, and any change or addition hereof and all (legal) acts required for entering into or performing the Agreement.
O. Parties: The Institution and Supplier.
P. Performance: The Product or Service.
Q. Products: The Products to be delivered by Supplier to Institution, including goods and property rights.
R. Recall: Recalling or removing Products from the Institution after a defect or quality issue detected by the Supplier or Institution. A Recall shall occur with respect to a detected deviation in quality, safety, functioning and processing of a Product that leaves it short of the safety and/or functioning that can reasonably be expected.
S. Safety Notification: A notification by the Supplier, warning that in some situations the safety or quality of a method or Product can fall short. By taking the measures prescribed (in the Safety Notification), the reported safety or quality issue can be controlled.
T. Associated Agreement: The Agreement that would not have been closed without the Agreement that Parties aim to rescind.
U. UDI: a unique numerical or alphanumerical code allowing identification of the Product through their distribution and use by means of implantation in the patient.
V. Consignment on Approval or Trial consignment: An Agreement whereby a Product is made available by Supplier to Institution for a period of time that was agreed to prior in writing, whereby the ownership of the concerned Product remains fully with Supplier and is returned to Supplier after the agreed period.

IntraKoop
De inkoopcoöperatie van de zorg

Article 2 Applicability

2.1 These General Purchase Conditions in Healthcare shall govern all requests, Quotations, offers, order confirmations, Agreements and all other legal acts between Institution and Supplier.

2.2 Deviations from these General Purchase Conditions in Healthcare shall expressly be possible in writing.

2.3 If any provision is deemed not applicable or invalid in the opinion of the court, both Parties shall open talks to replace the involved provision with a substitute provision, which shall as far as possible reflect the object and import of the void or nullified provision.

2.4 Upon the Supplier accepting these Purchase conditions, the Supplier shall automatically agree with the applicability of these General Purchase Conditions in Healthcare on future requests, Quotations, offers, order confirmations, Agreements and all other legal acts between Institution and Supplier. Parties are not required to explicitly (repeatedly) agree to this.

2.5 In the event of a dispute arising regarding the meaning of the Dutch text of these General Purchase Conditions in Healthcare and versions translated into other languages, the Dutch text shall prevail.

Article 3 Establishing the Agreement

3.1 The request for a Quotation is deemed an invitation to produce an offer and shall be non-binding for the Institution. A request for a Quotation by Institution shall be followed up by a Quotation from the Supplier. This Quotation is free of charge and may be seen as an offer. Quotations are unconditional and definitive.

3.2 The Institution is entitled to at all times cancel the assignment or Order if the Supplier has demonstrably not yet started with performing the Agreement. In that case, the Institution shall reimburse the Supplier costs incurred by the latter insofar these costs are demonstrable and reasonable. These costs may be demonstrated by means of invoices, issued Orders or demonstrably performed activities.

3.3 If a Quotation issued by the Supplier results in an Order, then the Agreement will come into force at the moment the Order is submitted by Institution and may be deemed to have been received by the Supplier. Non-written orders and orders by unauthorised persons are non-binding for the Institution unless the Institution endorses these orders.

3.4 If an Order is placed by Institution without an offer by Supplier preceding it, the Agreement will come into force when the Supplier accepts this Order provided that this acceptance occurs within 14 days after placement of the Order. In the absence of a written acceptance by the Supplier, the Agreement will come into force when the Products are delivered as per the order and the Products are accepted by Institution, so long as this delivery occurs within 21 days after date of the order.

3.5 For Call-off orders, the Agreement for (partial) delivery comes into force at the moment that the written order for delivery is sent by the Institution, unless otherwise agreed.

3.6 If the performance of the Agreement makes use of auxiliary Hardware approved or made available by Supplier, including drawings, models, specifications, instructions, inspection regulations and so forth, these shall be part of the Agreement.

3.7 The Supplier is deemed to be sufficiently aware of the Institution's objectives pertaining to the Agreement and the Institution's organisation.

Article 4 Changes

4.1 Institution is authorised, in consultation with Supplier and within a reasonable timeframe, to change the scope and capacity of the Products and Services to be delivered, unless these changes bear such consequences that the Supplier cannot reasonably be expected to cooperate without good cause. Supplier shall then present new conditions that Institution in all reasonableness can accept or reject.

4.2 Supplier shall notify Institution as swiftly as possible in writing, though in any case not exceeding 8 days after notice of change of the prior paragraph.

4.3 Changes shall be documented in writing.

Article 5 Prices

5.1 The agreed prices are fixed for the duration of the Agreement and therefore cannot be subject to revision.

5.2 Prices are denominated in Euro (€), excluding sales tax and are based on the delivery condition "delivered duty paid" (D.D.P.) pursuant to the Incoterms® 2010 at the agreed place of delivery. All costs are included in the price, unless expressly specified otherwise in the Quotation or Agreement. The Supplier is required to specify his applicable sales tax percentage.

Article 6 Purchasing Associations

If Institution partakes in a Purchasing Association and can thus obtain what Supplier has offered directly to Institution at more favourable conditions, the Institution shall be entitled to make use of the Purchasing Association and in all reasonableness and in consultation with the Supplier change active Agreements for the benefit of the Institution.

Article 7 Delivery

7.1 Delivery shall take place as D.D.P. pursuant to Incoterms®2010 at the agreed place(s) of delivery as specified in the Order.

7.2 If Supplier expects that delivery cannot proceed in line with agreements, Supplier shall immediately notify Institution and shall promptly suggest adopting a bridging measure. The bridging measure shall at least be equivalent to the agreed Performance and shall not result in additional costs for Institution. A bridging measure shall only substitute the concerned Performance pending written approval of Institution. Institution may refuse the bridging measure proposed by Supplier and arrange one by himself, provided Institution has serious and reasonable grounds to do this. In that case, Institution may even temporarily demand a Performance from another Supplier as a bridging measure. The costs for this bridging measure are borne by the Supplier.

7.3 If the Performance involves the delivery of goods, a packing list must be present. This packing list shall be clearly attached to the outside of the transport packaging. The packing list must specify the order number(s) of Institution, and also the item number(s), amount(s), item description(s), and if applicable, serial numbers.

7.4 For successive deliveries of Products, the Supplier shall endeavour for the last delivery to have an expiry date that lapses later than, or at the least on the same date as the prior delivery of these products.

7.5 Supplier and Institution may agree for Products to be delivered with a shorter expiry date than agreed. These Products cannot be swapped if the Products are not used within the expiry date. Institution shall endeavour to first use Products with the shortest shelf life.

7.6 Delivery shall also include the making available of all accompanying auxiliary materials and documents as referred to in articles 10 and 13 of these General Purchase Conditions in Healthcare. In case this is required for a correct use of the Product, the Supplier shall arrange to train those Institution employees tasked with using the Product.

7.7 If Institution requests for Supplier to delay delivery, Supplier shall securely and recognisably pack, store, safeguard and insure the Products designated for Institution. Any reasonably incurred associated costs can be charged on to Institution after prior consultation with and written approval by Institution. The Institution shall confirm the agreements as regards these costs within 8 days of them being established.

7.8 Inspection, reviews and/or testing of Products pursuant to provisions in article 16 shall not imply approval of delivery nor purchase. Signing for receipt also shall not imply an approval of delivery.

7.9 If Supplier is intending to suspend the production and/or trading of Products that are ordered regularly by the Institution, Supplier shall notify Institution of this at the shortest possible notice and enable Institution to place a final Order. Products already ordered by Institution shall always be delivered.

Article 8 Packaging and Shipment

8.1 The Product must be properly packed and marked in accordance with European and national regulations and any additional instructions provided by the Institution, in such a way that the Product arrives with the Institution in a good condition.

8.2 Pursuant to the prior paragraph, Supplier shall be liable for any damage caused by non-proper packing. The Supplier shall arrange for pick-up or the taking back of damaged Products and will produce a new (undamaged) delivery of the Product within 2 working days without this resulting in additional costs for the Institution. If Institution finds there is urgency in place, Supplier shall deliver within a shorter timeframe without this resulting in additional costs for the Institution.

8.3 The content of the packing is clearly visible from the outside and has a verifiable description. if the content of the packing is to be cooled, kept sterile or otherwise requires special storage, this will be clearly legible on the packing.

8.4 All packing materials (excluding loaned packing materials) shall be the property of Institution at delivery, unless Parties agree otherwise. In case of the latter, article 7.6 of these General Purchase Conditions in Healthcare shall apply unabated. Supplier must specify in the packing list accompanying the Product if the Product is packed with loaned packing materials. Moreover, the loaned packing materials must be clearly characterised by the Supplier as such. If the materials involve loaned packing materials with a deposit, Supplier must register this.

8.5 Supplier shall strive to have the packing of a medical device equipped with an UDI, insofar this concerns a sterile packed medical device with hazard class III and IIb designated for implantation. This UDI may be filled out using the standard identification system: HIBCC, ICCBBA or GS1. Each UDI must be present on the packing in writing and with a barcode. The Supplier shall verify if the Manufacturer allocated a UDI to the medical device. If the barcode is missing, Supplier shall contact Manufacturer to have the barcode applied. Supplier shall also arrange for the following when applying the barcode:

- the barcode complies with international specifications for barcoding.
- the packing has a minimal number of barcodes.
- information is concentrated within one barcode as much as possible rather than spread out over different barcodes.
- the barcode must be applied on the packing at a suitable spot so Institution can scan it in a user-friendly manner.

8.6 A return shipment of loaned packing materials shall be at the expense and risk of Supplier to a destination specified by the latter. A return shipment of loaned packing materials must occur within 14 days after Institution has notified Supplier of this return shipment in writing.

8.7 If Supplier processes or destroys packing materials by request of Institution, this shall be at the expense and risk of Supplier.

Article 9 Property

The Supplier guarantees that the full and unencumbered ownership of the Product is supplied. The Product is also free from attachments. Property of the Product, including parts of the Product, shall transfer after full receipt of payment, unless otherwise agreed.

Article 10 Auxiliary materials

10.1 Materials, unused or unprocessed raw materials and consumables, tools, drawings, models, instructions, specifications, software and other auxiliary materials that are made available by Supplier or are purchased or produced by Supplier at the expense of Institution shall remain the property of Institution or become property of Institution after payment.

10.2 Supplier is obliged to return the auxiliary materials to Institution as meant in article 10.1 no later than the time of the last (partial) delivery to which the auxiliary materials apply. This is only possible insofar the nature of the material lends itself for this.

10.3 Changes in or deviations of the materials and auxiliary materials meant in article 10.1, and the adoption of these materials and auxiliary materials for, or tied to, any other purpose than the delivery of the Product to Institution shall only be permitted after prior written consent by Institution. This consent shall leave the warranty obligations of Supplier unaffected.

Article 11 Invoicing and payment

11.1 For each delivery, Supplier must submit an accompanying invoice.

11.2 The invoice must specify at the least the following information: reference number and/or order number, item description, item number, amount and price.

11.3 Incorrectly specified invoices will not be paid. Institution shall notify Supplier in a timely manner that payment of the invoice will be halted.

11.4 Payment of the invoice shall occur within 30 days after receipt of the invoice, provided that the delivery is approved. Should a delivery also require the approval of another body or authority, Institution shall be authorised to suspend payment fully or in part until this approval has been obtained.

11.5 Institution is authorised to (in part) suspend payment if Institution detects a shortcoming in the fulfilment of the Agreement by Supplier.

11.6 Part payment and/or advance payment is not applicable unless otherwise agreed in writing. In the event of any advance payment, instead of or next to a transfer of ownership, Institution may request that Supplier at his own expense issues an unconditional and irrevocable bank guarantee or liability statement to guarantee fulfilment of his obligations.

11.7 In the event of partial deliveries by Supplier or partial payments by Institution, instead of or next to a transfer of ownership, Supplier may request that Institution at his own expense issues an unconditional and irrevocable bank guarantee or liability statement to guarantee fulfilment of his obligations.

11.8 Payment by Institution shall in no way imply a waiver of rights.

11.9 Institution is authorised to deduct amounts it owes to the Supplier from claims of whatever nature it has against the Supplier.

11.10 If Institution fails to pay an invoice on time, Supplier shall issue a reminder. Payment by Institution must occur within 14 days after receipt of the reminder. Payment terms are not ruinous.

Article 12 Quality and warranty

12.1 Supplier guarantees that delivered Products:

- satisfy that which was agreed;
- contain the properties that were agreed;
- are appropriate and have no Defects;
- are in accordance with the agreed specifications and accompanying documentation;
- are suited for the (special) purpose for which they are designated;
- comply with statutory requirements and other governmental regulations, including European and national law and that of local authorities;
- comply with the highest safety and quality norms and/or certification applicable within the industry.

12.2 In case of a Safety Notification or a Recall, Supplier must immediately inform Institution of this after the necessity or reason for this becomes clear, though always within 24 hours.

12.3 All resulting costs from a Safety Notification or Recall can be charged on to the Supplier.

Article 13 Documentation

13.1 Supplier warrants that all technical documents, manuals, instruction booklets, safety booklets that are required or prescribed for achieving the goal designated by Institution, are included. This documentation is drawn up in the Dutch language.

13.1 Institution is at liberty to reproduce the documentation for its own use.

13.3 If a Product and/or packaging has safety data sheets, Supplier must always directly include these in the delivery.

13.4 Supplier shall ensure that new versions of the documentation as referred to in paragraph 1 of this article will be sent to the user.

Article 14 Parts

14.1 Supplier is obliged to keep stock and deliver during call-off of sufficient parts, including spare parts and consumables for the delivered Product throughout the usual shelf life.

14.2 Prices of the parts referred to in paragraph 1 of this article shall be determined based on the price during delivery of the Product. A price list of the concerned parts will be added to the Agreement. Prices are only subject to increase based on the agreed indexation.

Article 15 Products

15.1 In consultation with Supplier, Institution shall ensure that all preparations are made and all infrastructural measures (also including all required renovations, piping systems, walls, installations) are taken that are required for the placement, commissioning , operation, use and application of the Products.

15.2 If a correct use of the Products requires consumables and re-usables, Supplier shall include those materials along with delivery of the Product, unless agreed otherwise.

15.3 Prior to the commissioning of new Products, Supplier shall ensure that proper verbal user instructions are provided. These user instructions must also focus on supporting services like technical service and sterilisation department(s).

Article 16 Inspection, Checking and Testing

16.1 Inspection, control and/or testing by Institution or persons or parties authorised by Institution may occur both prior, during or after delivery of the Product.

16.2 Supplier shall to this end provide access to locations where the Product is being produced or stored and shall cooperate with all desired inspections, controls and testing and shall at his expense issue required documentation and information if the inspection occurs prior to delivery.

16.3 Supplier shall promptly notify Institution of the time of the inspection, control and/or testing.

16.4 Supplier is authorised to be present during the inspection, control and/or testing.

16.5 If a post-delivery inspection, control and/or testing results in the Product being rejected fully or in part, Institution shall report this to Supplier in writing. Supplier shall then be tasked with immediately replacing the Product. The risk of the rejected Product transfers to Supplier after Institution sends out the written statement.

16.6 If Institution is of the opinion that the expiry date of the products to be delivered is too close to the actual expiry date, Institution shall be at liberty to reject these products. A rejection of the Product pursuant to this paragraph shall not entitle Supplier to a reimbursement of any damage.

16.7 If the Product, regardless of results from any inspection, control and/or testing, does not comply with the provisions of article 12 (quality and warranty) of these conditions, Supplier shall at his expense repair or replace the Products at Institution's first request and at Institution's choice.

16.8 Institution reserves the right to have a repair or replacement carried out by Supplier or third parties, with costs borne by Supplier. This is possible in urgent cases and following consultation with Supplier, from which may reasonably be assumed that Supplier cannot (timely or properly) provide for repair or replacement.

Article 17 Intellectual Property

17.1 Parties shall refrain from using the other party's name, direct or consequential, for publications and/or advertisements or otherwise without prior permission from the other party.

17.2 Supplier guarantees that the use of the Product, including the resale, or the use of aids purchased or produced by him for Institution will not violate patent law, trade mark law, database rights, brand rights, model right, copyright, know-how rights or other (intellectual property) third party right.

17.3 Whoever develops a specific Performance for Intellectual Property, shall in advance transfer all Intellectual Property to Institution via an Agreement. Supplier shall point out to Institution the development of intellectual property rights and cooperate fully in creating these rights in a way that is favourable for Institution.

17.4 Supplier shall indemnify Institution against all (alleged) infringements of rights as referred to in 17.2 and will reimburse to Institution all costs and damages that are the direct or consequential result of that infringement, including legal aid costs. These obligations continue after ending the Agreement.

Article 18 Confidentiality

18.1 Parties shall apply strict confidentiality towards third parties about information that came to their knowledge in any way, excluding third parties hired for the fulfilment of the Agreement. Parties shall refrain from giving information about delivered Products to third parties, barring prior written permission from the other Party.

18.2 If a legal obligation or court order demands that information is shared that was obtained in the context of fulfilling the Agreement, Parties shall immediately notify each other of this.

18.3 Parties undertake to impose the obligations as specified in the previous paragraph of this article on those who are tasked with fulfilling the Agreement on behalf of Supplier. Supplier guarantees to Institution that this obligation is adhered to.

Article 19 Personal Data Protection

19.1 Supplier guarantees that all laws and regulations as regards the handling of personal data have been met and will be adhered to. Supplier shall immediately in writing provide information requested by Institution.

19.2 Supplier shall, if personal data is being processed (including being viewed) in light of fulfilling the Agreement, close a data processing agreement with Institution.

Article 20 Liability

20.1 Supplier is liable for direct damage caused to Institution or third parties arising from a Defect in a Performance provided by him, which makes the Performance lack the safety and properties that could reasonably have been expected. Direct damage shall comprise all damage suffered by Institution or third parties arising from the attributable non-timely or incomplete performance of any obligation from the Agreement by Supplier. This damage shall also comprise any full extrajudicial and judicial costs incurred by Institution resulting from the Defect or the non-performance. In no case shall direct damage comprise: trading loss, production loss, loss of revenue and/or profit, devaluation of products and amounts that would have been included in the implementation costs if the assignment would have been carried out correctly from the onset.

20.2 Supplier shall be liable for direct damage caused to Institution or third parties arising from acts or omissions of persons acting on behalf of Supplier and matters that are included by him in the fulfilment of the Agreement.

20.3 For the purpose of this Article, persons acting on behalf of Institution are designated as third parties.

20.4 For damage as described in this article, the obligation of Supplier to pay compensation is maximally €1,250,000 Euro per event with a maximum of €2,500,000 per annum. The maximum amount shall not affect the rights as included in article 12 or damage to the Performance itself.

20.5 Supplier shall arrange for adequate insurance and shall if need be grant Institution insight into the insurance policy to disclose timely premium payments. Supplier is required to assign to Institution all claims as regards insurance sums paid that are tied to a claim submitted to Institution.

Article 21 Annulment

21.1 In the following cases, Supplier shall be deemed in default without any further notice or judicial intervention:

- in the event of a request of suspension of payment;
- in the event of filing for bankruptcy;
- in the event of seizing of assets;
- in the event of suspension of operations, full or partial takeover, merger or an essential change in control rights ;
- in the event of offering a private agreement for debt restructuring.

In the above cases, Institution shall be entitled to immediately, without further notice or judicial intervention, completely or partly annul the Agreement and/or suspend its fulfilment. Annulment of the Agreement shall be without prejudice to the right to claim damages and other rights and without Institution being bound to pay damages.

21.2 Institution is entitled to annul the Agreement based on a defect that arises out of article 16.7.

21.3 If Institution requires a change as referred to in article 4 and the proposal for price and/or delivery time is unreasonable in the opinion of Institution given the nature and scope of the change, Institution shall have the right to annul the Agreement through a written notification to Supplier. Rescinding based on this paragraph shall not give Parties a right to compensation for damage.

21.4 If Institution is entitled to annul, Institution shall also be authorised to annul any Associated Maintenance agreements and other Associated Agreements, even if there are no independent shortcomings in these Agreements.

21.5 In the event of an attributable shortcoming on the part of Supplier, Supplier shall be required to compensate Institution for any extrajudicial and judicial costs.

21.6 Supplier shall not be entitled to appeal towards Institution for a right of suspension or any power to settlement.

21.7 All claims held by Institution over Supplier in cases referred to in this article shall be due and payable immediately.

21.8 If due to changed European or national regulations or a court ruling that has become res judicata the Institution has entered into the present Agreement in violation of applicable tendering rules, Institution shall be entitled to annul the Agreement without legal intervention. In that case, Institution shall not be liable to compensate Supplier for any damage of whatever nature or scope that is the result of this Annulment.

Article 22 Termination

In case of a Continuing performance agreement, Institution shall at all times be authorised to terminate the Agreement provided it adheres to a notice of at least 6 months. Consequently, Institution shall not be liable to pay compensation to Supplier. Unwarranted discounts are exempted from this.

Article 23 Continuing obligations

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

- maintaining a stock of spare parts (article 14);
- indemnification against infringement of intellectual property rights (article 17);
- the obligations arising from confidentiality (article 18);
- personal data protection (article 19);
- applicable law and address for service (article 24).

Article 24 Applicable law and disputes

24.1 The Agreement and all Agreements associated with it or arise out of it will be governed entirely and exclusively by Dutch law. The applicability of the Vienna Sales Convention is excluded.

24.2 Any disputes which could arise as the result of the Agreement or Agreements arising out of it will be brought before a competent judge in the district of the Institution.

APPLICABLE CONDITIONS FOR CONSIGNMENT ON APPROVAL OR TRIAL

Article 25 Procedure

25.1 Institution must submit a written order ("trial installation order") to Supplier. Unless otherwise specified, the applicable "trial installation covenant" shall apply automatically unless parties have agreed otherwise.

25.2 On the "trial installation form", Supplier must specify when the desired or agreed trial period comes to an end, and on which day the trial equipment will be collected if Institution has not yet by then decided to purchase said equipment. Supplier will deliver the equipment in a clean, complete manner and ready for operational use.

25.3 All proposals by Supplier about agreements surrounding consignments on approval shall be presented to Institution in writing. In this, Supplier can only make claims after Institution has accepted these proposals in writing.

Article 26 Rights and obligations

26.1 Supplier shall make available to Institution free of charge sufficient consumables to be able to adequately use the equipment sent on approval,

26.2 If a correct use of the equipment on approval requires consumables and re-usables or disposables, Supplier shall deliver these materials along with delivery of the equipment sent on approval to Institution free of charge, unless agreed otherwise. Institution shall also have the option, pending permission by Supplier, to use disposables or re-usables that Institution already has in use.

26.3 In consultation with Supplier, Institution shall on its own responsibility and own expense make sure that all preparatory steps are taken and all infrastructural measures (including required renovations, pipe systems, walls, installations etc.) are carried out required for the placement, commissioning, operation, use and application of the equipment sent on approval.

26.4 Only if Supplier has issued a prior statement approved by Institution as regards the costs of decommissioning, dismantling and removal of the equipment sent on approval, and if Institution after ending the agreed period for viewing does not wish to purchase the equipment sent on approval, will Institution be responsible for these costs.

26.5 During the period for viewing, Supplier shall be liable and responsible for the required and ordained maintenance and control of the equipment. Institution shall thus allow Supplier access to the involved equipment sent on approval for this purpose.

26.6 Supplier shall in advance check the equipment on function and must release equipment for use in the manner described in the trial installation form. Supplier shall also be responsible for including the correct user documentation and, if the equipment mandates it, providing proper instructions on how to correctly use the equipment. Institution shall make sure that users of the equipment sent on approval are available for this instruction. For trial installations and installations on approval, the same product liabilities of Supplier apply as with the regular purchase of goods.

26.7 Supplier bears the complete risk over the equipment sent on approval, unless during the viewing period Institution committed an act of gross negligence when using the equipment sent on approval.

26.8 Consignments on approval shall not bind Institution to any purchase obligations or other types of obligations.

Article 27 Property and risk with consignment and loan

27.1 Supplier shall bear the product risk in Consignments until the moment Institution takes the Product into use. The taking into use shall imply delivery was made.

27.2 Supplier shall stock up no later than the following working day, after Institution has submitted an Order specifying that it has taken products into use.

27.3 Supplier commits to insuring the products in Consignment until the moment risk transfers to Institution pursuant to article 27.1.

27.4 Institution shall use the Products during the Consignment responsibly.

27.5 Supplier shall only issue an invoice after a receipt of confirmation by Institution that the Product in case of a Consignment is taken into use.

27.6 Supplier may take back products sent in Consignments after consultation with Institution, or if the agreed period has lapsed.

27.7 If following the approval and taking into use of Products by Institution it has become apparent that the Products do not satisfy set requirements, Institution shall be entitled to complain to Supplier within 14 days after discovering a possible Defect. In this case, Institution shall not be liable for a decrease in value of the Product.

27.8 Supplier shall remain owner of the Products that it loaned to Institution and risk associated with these products thus remains with him. For the loaning, Institution shall owe no reimbursement or compensation, save for the reimbursement of used disposables. In the event of a loan, articles 27.4 and 27.6 of this agreement shall apply. If a loaned product shows defects or wear, Supplier shall at the request of Institution replace or repair the Product at his own expense, unless Institution has failed to take proper care of the Product.

CONDITIONS FOR SERVICE AND ACCEPTING WORK

Article 28 Personnel, equipment and materials

28.1 Personnel hired by Supplier for performing the Agreement shall have to demonstrably comply with special requirements set by Institution and, in addition, with general requirements of proficiency and expertise.

28.2 If Institution is of the opinion that personnel is unqualified, Supplier shall at Institution's first request be obliged to immediately replace this personnel, subject to the provisions in the prior paragraph of this article. In all other cases, Supplier shall only completely or temporarily replace personnel deployed long-term at Institution if there is a genuine need and only after prior consultation with Institution. New personnel shall at least have the same knowledge and experience as the replaced personnel, without this resulting in higher costs for Institution. The replacement shall not result in costs for Institution pertaining to the transfer of work.

28.3 Institution is entitled to inspect all materials and equipment used by Supplier in carrying out the Agreement as well as identify personnel used by Supplier in carrying out the Agreement.

Article 29 Terrain and Institution buildings

29.1 Before fulfilment of the Agreement commences, Supplier must become familiar with circumstances on the terrain and in the buildings of Institution where the work is to be performed that may influence performance of the Agreement.

29.2 Costs relating to delay in the performance of the Agreement caused by circumstances as referred to in the paragraph prior shall be for Supplier.