

TERMS AND CONDITIONS Mediate Holding BV

DEFINITIONS

The following terms are used in these Terms and Conditions, written with capital letters. For terms that are included in the singular, the plural thereof is also included and vice versa. The following definitions apply:

Acceptance:	confirming by the Customer that the delivered Products and Services meet what has been agreed upon, over time or by signing an acceptance document
Equipment:	the by Mediate to deliver based on the Agreement on Customer (medical) devices
Appendices:	the documents which are included as appendix to the Agreement and which form an integral part of that Agreement
Services:	the services to be provided by Mediate to the Client on the basis of the Agreement, work to be performed and services to be performed in the context thereof
Documentation:	the user documentation belonging to the Products, including for example the user instructions, manuals, maintenance documentation, technical documentation, which Mediate supplies to the Customer and in accordance with which Customer must use and maintain the Products
Installation:	Installation and use of the product delivered Products by Mediate at the location designated by Customer
Customer:	the customer with whom Mediate Agreement entered
Delivery:	the by Mediate at the location designated by Customer delivery of the Products or Services
Quotation:	the by Mediate offer made for the supply of Products and Services
Maintenance:	the by Mediate held on the basis of the Agreement on Customer provide services relating to the maintenance and continue to function properly from the equipment
Maintenance Agreement:	the agreement between Mediate and Customer which contains the specific agreements for the delivery of Maintenance and which, if applicable, is included as an Annex to the Agreement
Agreement:	the agreement between Mediate and Client of which these Conditions form part
Parties:	the parties to the Agreement, namely Customer and Mediate

Mediate:	Mediate Holding BV, trading under the name Mediate Medical, established at Magna Porta, Twentepoort West 10-5, 7609 RD Almelo, registered in the Commercial Register of the Chamber of Commerce under number 6997738, which is Customer Agreement entered into
Products:	the Equipment and Software to be supplied by Mediate to the Customer on the basis of the Agreement
Software:	the user rights to software to be delivered by Mediate on the basis of the Agreement to software (system software)
Rates:	the prices of the Products and Services to be supplied by Mediate in the context of the Agreement as included in the Offer
Terms and Conditions:	these general terms and conditions that apply to the Agreement
Working days:	Monday to Friday, excluding recognized holidays

ARTICLE 1 - SUBJECT MATTER OF THE AGREEMENT

- 1.1 Mediate provides the Customer with the Products and Services, as specified in the Offer and further defined in the Agreement and the Appendices.
- 1.2 Mediate is entitled to engage third parties for the implementation of the Agreement, subject to the obligations of Mediate to comply fully and correctly with the Agreement.
- 1.3 Mediate only delivers the Products and Services in accordance with the requirements and specifications as explicitly laid down in the Agreement and in accordance with the legal requirements. Customer is not entitled to additional functionalities, options or rights other than as described above. Mediate will have no further obligations and / or bear costs, other than stipulated in the Agreement.
- 1.4 Customer's own expense and risk charge (ensure the availability of) the necessary equipment and infrastructure (such as computers, power and network facilities) and, if appropriate links thereto, unless explicitly stated otherwise in the Agreement or attachments is determined .

ARTICLE 2 - CONCLUSION AND DURATION

- 2.1 An Offer from Mediate is valid during the period stated therein or, in the absence thereof, 30 calendar days after the date of drawing of the Offer. Mediate is entitled to change or withdraw the Offer as long as it is not unconditionally accepted. Orders or orders from the Client are only binding after they have been confirmed in writing by Mediate.
- 2.2 The Agreement binds a Party from the moment of signature thereof. The Agreement is concluded after it has been signed by both Parties.
- 2.3 The Agreement ends when both Parties have fulfilled all their obligations under the Agreement towards the other Party. This does not affect the fact that provisions may continue to work after the Agreement has ended. This only applies to those provisions that are explicitly stipulated in the Agreement.

ARTICLE 3 - DELIVERY

- 3.1** Delivery of the Products and Services by Mediate will take place at the location(s) designated by the Customer in Europe. The Delivery shall Incoterm 2010 EXW. Delivery includes - if applicable - the Documentation.
- 3.2** All statements of (delivery) periods, (delivery) dates and (delivery) times are indicative and are provided by Mediate to the best of its knowledge. Although Mediate will observe as much as possible, they are not regarded as deadlines.
- 3.3** The risk on the delivered Products is transferred to the Client from the moment of Delivery. The moment of delivery is the moment that Mediate brings the Products over the threshold of the designated location. From that moment on, Mediate is in no way more responsible for (the costs resulting from) damage, theft or loss of the Products and the insurance thereof. This risk transfer does not affect the Customer's right to inspect the Products after Delivery.
- 3.4** Customer agrees to the Products and any services within five (5) business days after delivery or - if it is later - approve installation and testing and any defects within this period in writing to Mediate . Defects are deemed to exist if the delivery is incomplete and / or the Products and / or Services in question do not comply with the provisions of the Agreement as a result of a circumstance attributable to Mediate.
- 3.5** When the client within the Article 3.4 mentioned period any defects or complaints regarding the delivery or installation is reported at Intermediate or from the moment that is a Customer signed acceptance document or, if earlier, the Products or has taken Services into use, Acceptance of the Products and Services has taken place and any defects are no longer at the expense of Mediate. From the moment of Acceptance or, if earlier, commissioning of the Products or Services, Mediate is exempt from liability arising from (damage as a result of) the clinical use of the Products or Services as well as defects that the Client knew or should reasonably have known upon Acceptance. without prejudice to the provisions regarding the guarantee in Article 5.
- 3.6** The Customer is not entitled to use the Products or Services for Acceptance - other than to inspect and test them. Customer is only entitled to withhold the Products or Services Acceptance based on legitimate, demonstrated and in writing Intermediate communicated defects. Mediate is obliged to repair these defects as soon as possible. Minor defects, defects or deviations that do not impede the proper functioning and normal use of the Products or Services cannot be grounds for withholding Acceptance of the Products or Services.

- 3.7** If and to the extent that this is included in the Quotation and at the Rates determined therein, Mediate will, after Delivery and Installation, provide mutual consultation and training for the operation of the Products to persons to be designated by the Customer in accordance with the conditions as included in the Offer. If nothing about this is included in the Offer, Mediate will provide this instruction and training at the prices and conditions to be determined at that time.
- 3.8** If there is a trade-in of old products, the conditions stated in the Offer apply. Mediate has the right to refuse the trade-in or to pass on all additional costs if the Customer has not met these conditions. This has no influence on the other parts of the Agreement and does not entitle the Client to terminate the Agreement or parts thereof

ARTICLE 4 - OWNERSHIP AND TRANSFER

- 4.1** If the delivery of Equipment is part of the Products to be delivered, Mediate will sell it to the Client. Title to this Equipment will transfer to Customer after Mediate has fully and unencumbered the agreed Rates (retention of title).
- 4.2** In order to exercise the retention of title, the Client must provide Mediate with all assistance with (taking measures) that are necessary to protect Mediate's property rights. As long as ownership has not been transferred to the Client, the latter may not process the Products, remove them from its actual power, dispose of or pledge or grant any other right to them to third parties without the prior written consent of Mediate.
- 4.3** With regard to the Software supplied that is installed on the Equipment (system software), Mediate grants the Customer a non-exclusive, non-transferable right of use for the life of the relevant Equipment. The (intellectual) property rights to the (system) Software remain at all times with Mediate or its licensor(s).
- 4.4** The Client and Institution are not permitted to use the supplied software for purposes other than for the use of the relevant equipment. The Client accepts the applicability of any (end) user conditions and will perform any necessary actions to this end.
- 4.5** The Documentation as well as all other (technical) information regarding the Products, the Services and the maintenance thereof is the property of Mediate. All intellectual property rights to this belong to Mediate and these items may not be copied, reproduced, forwarded or disclosed to third parties without the prior written permission of Mediate.

ARTICLE 5 - MAINTENANCE AND WARRANTY

- 5.1** If Maintenance forms part of the Quotation, Mediate will perform this in accordance with the provisions therein or, if it is concluded as part of the Agreement, the Maintenance Agreement.
- 5.2** If no Maintenance Agreement has been concluded between Parties, Mediate will provide Maintenance at the prices and conditions to be determined at that time as well as the conditions of the Agreement.
- 5.3** Unless another quotation is included in the Quotation, Mediate gives a guarantee for a period of four (4) years on the good quality and operation of the delivered Products, counting from the date of Acceptance.
- 5.4** Mediate exclusively extends to the guarantee as set put in the Agreement and, unless those are hereby excluded all other warranty claims. With regard to the guarantee, it further applies that: - this only applies to defects that arise from correct, correct and judicious use of the Products in accordance with the Documentation the intended use and / or other written instructions from Mediate ; - this does not apply to defects that were known to the Acceptance or, if that is earlier, the commissioning by the Client or should reasonably have been noticed by the Client. - this does not apply to defects that are the result of:
- a. incorrect, improper or unauthorized maintenance, changes or calibration by or on behalf of the Customer;
 - b. software, links or supplies supplied by Customer or third parties;
 - c. misuse, negligence, accident, loss and / or other damage that are not the result of actions attributable to Mediate;
 - d. incorrect preparation of the Installation site;
 - e. damage to the Products or the data stored therein or processed with it caused by an external source, such as a computer crack;
 - f. viruses or equivalent malfunctions in the Software as a result of connecting the Products to a network;
 - g. the use of parts or consumables of the Products other than those approved by Mediate;
 - h. the use of the Products in combination with other than Mediate approved and / or otherwise incompatible (peripheral) equipment or (peripheral) software;
 - i. the Customer's failure to comply with agreements made with regard to maintaining the Products. - this does not apply to replacement parts and other parts for which it is determined in the Quotation or the Documentation that different guarantee conditions apply; - by Mediate offered spare parts are not always new or exactly corresponding to the or I have to be famous for its original parts, but should always be equivalent in performance to new parts; - it is limited to - in the opinion and the choice of Mediate - repairing or replacing the Product or a part thereof, and not to repairing or replacing (a part of) other (whether or not copied) equipment or facilities.
- 5.5** Client is obliged to report defects in the products covered by the guarantee immediately after discovery to Mediate and giving all the information (technical) information and (technical) documentation needed to enable her to perform warranty obligations disposal.

- 5.6 If there is a defect that is covered by the guarantee, Mediate will remedy this (or have it remedied) within a reasonable period of time. In order to be able to resolve the defects and / or to check whether the Client uses the Products in accordance with the Agreement, the Client will at all times provide maintenance personnel designated by Mediate access to the place(s) where the Products are located.
- 5.7 Mediate guarantees that, during the technical life of the Products and with a maximum of seven (7) years after Delivery, it will, at the Customer's request, supply original parts or equivalent alternatives against the prices and Conditions to be determined at that time as well as the terms of the Agreement. If a different period is included in the Quotation for certain Products, then that other period applies. In the event of imminent stagnation of this possibility of subsequent delivery, Mediate will inform the Client of this in order to offer it the opportunity to take measures.
- 5.8 Carrying out maintenance or repair of defects can not constitute grounds for reducing rates, compensation and / or dissolution, other than specified in the Agreement.
- 5.9 The obligations of Mediate with regard to guarantee as described in these Terms and Conditions and otherwise in the Agreement are the only obligations of Mediate and form the sole and exclusive claim of the Customer in the event of a breach of a guarantee on the Products, with the exception of mandatory provisions - these always apply.

ARTICLE 6 - RATES, INVOICING AND PAYMENT

- 6.1 Mediate will deliver the Products and Services at the agreed Rates, which are specified in the Offer. All Rates as mentioned in the Offer are exclusive of VAT.
- 6.2 Unless otherwise specified in the Offer, payment of an invoice must be made by Customer no later than fourteen (14) calendar days after the invoice date. Customer cannot invoke a discount and / or settlement with regard to the payment obligations under the Agreement towards Mediate.
- 6.3 In the event of late payment, Mediate is entitled to statutory interest from the due date. Notwithstanding all her other rights can Mediate for late payment suspend delivery of Products and / or Services, deduct the amount not paid by any amount Mediate due to Customer for keeping and / or to sell. In addition, Mediate is entitled to compensation for all damage it has suffered, including attorney's fees.
- 6.4 Mediate is entitled to demand sufficient security for the Client's compliance with payment obligations. To this end, the Client shall, upon Mediate's first request, issue an unconditional and irrevocable bank guarantee for the benefit of Mediate to the amount to be specified by Mediate or an unconditional and irrevocable guarantee or guarantee from a third party for the fulfillment of all obligations arising from submit the Agreement in accordance with a format to be submitted by Mediate. If the Customer cannot or does not wish to submit this bank guarantee, Mediate is entitled to terminate the Agreement with immediate effect, without any obligation to pay compensation.

- 6.5** All levies, taxes, duties, import and export duties and other charges, whatsoever, now or in the future will be levied on the amounts or the Agreement to be paid by Customer, to (the use of) Products and / or Services are for the account of Customer, regardless of in whose name they are made.

ARTICLE 7 - TERMINATION OF THE AGREEMENT

- 7.1** Each of the Parties is entitled to terminate the Agreement with immediate effect by registered letter in the event that:
- (a) the other Party is culpably in breach of the Agreement and this failure after written notice of default and has not removed a reasonable repair period;
 - (b) the other Party was unable to perform the Agreement for more than thirty (30) days due to a non-attributable shortcoming (force majeure);
 - (c) the other Party goes into bankruptcy or (provisional) suspension of payment or has been applied for, its enterprise is liquidated or discontinued or a substantial part of its assets are seized;
 - (d) the other Party has died, has come under the operation of the Natural Persons Debt Restructuring Act or has otherwise lost control of its assets.
- 7.2** Termination of the Agreement on the basis of the cases as referred to in Article 7.1 does not lead to an obligation to reverse work already performed or an obligation to repay work already performed. In the event of termination on the basis of Article 7.1 under (c), all remaining future payment obligations under the Agreement become immediately due and payable.
- 7.3** Premature termination on grounds other than those stated in this article is only possible if the Parties agree in writing

ARTICLE 8 – LIABILITY

- 8.1** Mediate accepts liability as a result of shortcomings attributable to Mediate in the performance of the Agreement and unlawful act in connection with the Agreement. Mediate's liability arising from Article 8.1 is limited to a maximum amount equal to the net price of the assignment / invoice or limited to the coverage that the insurance offers insofar as this limitation is permitted under Dutch law.
- 8.2** Mediate can in no case be held liable for consequential damage (being all damage that does not result directly from the event that caused the damage, including business damage, reputation damage, loss of data, profit or income) in connection with or arising from the Agreement, the functioning, use by Customer, the inability to use the Products, including (built-in) software, or for any liability on the part of Customer in relation thereto. Mediate is not liable for damage to the hardware, software and data associated with the Products.

- 8.3** All other liability of Mediate is excluded, except in cases where these exclusions and limitations are not permitted by law. This explicitly means claims based on the quantity or value of products and / or services that are generated through the Products or Services or based on the frequency of use of the Products or Services.
- 8.4** The Client indemnifies Mediate against all claims from third parties for compensation for damage (partly) caused by or in connection with (the results of) the use of the Products by the Client or the state in which the Product is located.

ARTICLE 9 - PERSONAL DATA

- 9.1** During the applicable warranty period and any agreed maintenance agreement, Mediate may need to open, view, and / or download computer files of the Product that may contain information (in any form) regarding an identified or identifiable person in within the meaning of article 4 paragraph 1 AVG ("Personal data"). To the extent that Mediate has access to Personal data and to the extent required by applicable mandatory legislation, Mediate will :
- i. process the Personal Data in accordance with all applicable laws and regulations. on the processing of Personal Data and only to the extent necessary to comply with (guarantee) obligations under these Terms when used in this Policy, has "processing" shall have the meaning set out in Article 4 paragraph 2 AVG;
 - ii only process the Personal Data with the aim of fulfilling its obligations under the Agreement or i n otherwise authorized or instructed by Customer;
 - iii. ensure that only persons involved in the implementation of the Agreement have access to the Personal Data and require that these persons protect and maintain the confidentiality of the Personal Data;
 - iv take the appropriate technical and organizational security measures to protect the Personal Data, help the Client to meet its legal obligations and reasonably demonstrate to the Client that Mediate complies with this;
 - v. Inform the customer without undue delay after Mediate is aware that Personal Data has been infringed, unless otherwise prohibited, such as when a law enforcement or supervisory authority requests Mediate not to do so;
 - vi. do not store the Personal Data for longer than necessary for the fulfillment of its obligations under the Agreement and, at the request of the Customer, ensure the safe removal or return of all Personal Data, unless instructed otherwise by the Customer or if Mediate is legally obliged to keep such Personal Data;
 - vii. ensure that Personal Data is transferred to group companies or sub-processors on the basis of a legally recognized transfer mechanism if Personal Data would be transferred outside the European Economic Area in the performance of the obligations under the Agreement.

- 9.2** The Client acknowledges and agrees that Mediate can use sub- processors for the Processing of Personal Data. Mediate will ensure that sub-processors are contractually bound to similar protection obligations with regard to the Processing of Personal Data as those to which Mediate is bound under these Terms.
- 9.3** Each Party will protect business contact information that is classified as Personal Data from unauthorized disclosure and any other unlawful Processing and will only use such information for legitimate business purposes in interaction with each other.

ARTICLE 10 - OTHER PROVISIONS

- 10.1** Customer is responsible for compliance with all applicable laws and regulations regarding export control , bribery and corruption. Mediate is entitled the Agreement without prior notice buitengrechtelijk terminate in the event that Customer violates the foregoing obligation.
- 10.2** Each Party is entitled to suspend the fulfillment of its obligations under the Agreement as a result of delays or impossibilities that are the result of circumstances beyond its control (force majeure). The party failing due to force majeure is not liable for any compensation, reimbursement or compensation, regardless of whether this is direct damage, consequential damage or otherwise.

ARTICLE 11 - FINAL PROVISIONS

- 11.1** The rights and obligations of the Parties with regard to the Agreement are exclusively laid down in the Agreement and the accompanying Appendices. Appointments exploited outside Agreement Mediate only if and insofar as this by the authorized employee Mediate attached to Customer in writing.
- 11.2** In the event of a conflict between the Agreement, the Quotation, the Conditions and all other Appendices, the following ranking applies, whereby a lower numbered document prevails over a higher one (1 above 2 etc.):
1. the Agreement;
 2. the Quotation;
 3. the Conditions;
 4. other Appendices in order of numbering (1 above 2 etc).
- 11.3** The Agreement can only be amended by means of a written Appendix to the Agreement, signed by authorized employees of both Parties. If the Parties cannot reach agreement on a change proposed by a Party, the Agreement will be continued unchanged.
- 11.4** The Agreement can only be fully or partially transferable on the part of the Customer with the prior written approval of an authorized Mediate employee . Mediate is entitled to attach conditions to such a transfer.
- 11.5** Only these Terms and Conditions apply to the Agreement. The applicability of any other general or industry terms and conditions of the Customer is excluded, even if the Customer refers to them in any documentation.

- 11.6** The Agreement is exclusively governed by Dutch law, with the exclusion of the Vienna Sales Convention (CISG). All disputes arising under the Agreement will be settled exclusively by the competent court in the Netherlands.
- 11.7** The parties will treat the information that they receive from each other in the context of the Agreement as confidential. Parties will not disclose this information to third parties and will only provide it to those employees who need such information for the implementation of the Agreement. The obligation of confidentiality does not relate to information that is already in the public domain at the time of publication and / or information that must be made public by law or by a court judgment.