

LABU23

MAINTENANCE CONTRACT

Medical Device

General Terms and Conditions

1 APPLICABILITY

These General Terms and Conditions shall apply unless otherwise agreed in writing by the Parties.

2 DEFINITIONS

2.1 Cancelled

Refers to the period when the Device is parked in order for the Supplier to perform scheduled maintenance.

2.2 The Contract

The Parties' written Contract regarding maintenance of the Device, including all appendices and amendments and supplements agreed in writing.

2.3 The Client

The entity who is to receive maintenance under the Contract.

2.4 Contact Person

Unless the Parties notify each other otherwise in writing, the person specified in the Contract, Appendices 2 and 3, as the contact person for the Client and the Supplier.

2.5 Supplier

The legal entity or natural person who has agreed to carry out maintenance under the Contract.

2.6 Party/Parties

Party

The Supplier and the Client, individually

Parties

The Supplier and the Client, jointly

2.7 The Site

The location of the Device as specified in the Contract or, where appropriate, the specific location where the maintenance is to be carried out.

2.8 The Device

The Device to be maintained under the Contract.

2.9 Downtime

Downtime is the time that the Device cannot be used. Planned time for preventive maintenance is not a basis for calculation.

The period of unavailability of the Device depends on the degree of utilisation of the Device according to the Contract 2.2. *(For example, if the Device is only used during the daytime between 08:00-17:00 and the downtime is 24 hours, the Device will be unavailable for 9 hours.)*

The downtime is calculated on the whole Device/system unless otherwise agreed between the Parties.

3 SUPPLIER'S UNDERTAKING

3.1 The Supplier undertakes to perform the services on the Device and to the extent set out in the Contract.

The services shall be performed in accordance with the manufacturer's instructions and recommendations.

3.2 The Supplier shall continuously inform the Client of any circumstances which may cause damage to persons or property and which the Supplier has become aware of during the performance of services for the Client.

Corrective Maintenance

3.3 Unless otherwise agreed, Corrective Maintenance shall include the following:

- (i) troubleshooting and taking action to remedy malfunctions detected in the Device during the performance of preventive maintenance,
- (ii) troubleshooting and taking action to remedy malfunctions detected in the Device and notified by the Client at a time other than when carrying out preventive maintenance,
- (iii) rectification of faults notified by the Client in connection with preventive maintenance, and
- (iv) actions in response to information provided by the Supplier in connection with preventive maintenance.

4 PERFORMANCE OF MAINTENANCE

4.1 Unless otherwise specified in the Contract, the Supplier shall notify the Client's Contact Person of preventive maintenance visits at least 30 days in advance.

4.2 After consultation with the Client's Contact Person, the Supplier shall carry out corrective maintenance in conjunction with preventive maintenance and with the required urgency.

4.3 Corrective Maintenance under Clause 3.3 (ii) shall commence upon notification to the Supplier's Contact Person or under the terms and conditions set out in respect of accepted Downtime in Clause 2.2 of the Contract. Such maintenance shall be carried out with the urgency specified by the Client.

4.4 The Client is responsible for the work environment at the Site and the Supplier shall follow the Client's instructions regarding the coordination of work environment issues.

If requested by the Supplier's personnel, the Client shall provide personnel to avoid working alone on Devices at voltages exceeding 50 V, as well as during maintenance in other working environments where circumstances require the same, e.g. magnetic fields, vapour pressure, etc.

4.5 The Supplier shall have access to the Site at the agreed time and the Client shall ensure that the Device is available at that time. If necessary, the Supplier shall be given the opportunity to load and unload materials to be used during the maintenance visit at the Site.

The Supplier shall notify the Client's Contact Person of the time of arrival at the Site which, at the request of the Supplier, shall be confirmed in writing by the Client's Contact Person.

4.6 Preventive maintenance including travel to and from the Site shall be carried out during the Supplier's normal working hours, unless otherwise stated in the Contract or agreed between the Parties' Contact Persons.

4.7 In case of corrective maintenance, where spare parts are not included in the agreed price, the Supplier shall obtain approval from the Client's Contact Person before replacing parts. The Supplier is required, when requested by the Client, to discontinue corrective maintenance that has been started.

4.8 The maintenance shall be carried out in a professional manner by trained/certified and competent personnel and with the care for personal safety and materials necessary for the fulfilment of the maintenance.

4.9 If the Supplier finds a need for maintenance actions in addition to those agreed or finds deficiencies or abnormal conditions, this shall be reported to the Client as soon as possible and stated in the documentation in accordance with clause 5.3 below.

4.10 Measuring instruments used during maintenance shall be calibrated and traceable in the reporting documents.

5 DOCUMENTATION

5.1 The Supplier is responsible for ensuring that up-to-date documentation is used during maintenance.

5.2 In addition to the Supplier's own documentation, the Client shall provide other documentation required to perform the maintenance, e.g. documentation of previously performed maintenance on the Device and other noted conditions.

5.3 Immediately after completion of the maintenance measure, the Supplier shall report in writing the functional status of the respective Device to the Client's Contact Person.

5.4 Documentation regarding the contractual maintenance/measure performed shall consist of a protocol of measures and observations made in electronic format or paper form and shall be submitted to the Client no later than five working days after the maintenance has been performed. In this connection, the Supplier shall also report observations made regarding the handling of the Device by the Customer's personnel.

6 CONFIDENTIALITY

6.1 The Client's activities are subject to confidentiality and professional secrecy in accordance with the law, and in particular provisions concerning information on individuals' personal circumstances in the healthcare sector. The Supplier undertakes to comply with the provisions of the law on public access to information and secrecy, provisions on trade secrets or other applicable statutes that apply to the Client and, by entering into a confidentiality agreement with its staff or others who deal with such information, to ensure that confidentiality as described above is observed.

6.2 The Supplier is responsible for ensuring that it has signed confidentiality agreements with the persons concerned who carry out assignments for the Client and for whom the Supplier is responsible. The Supplier shall be able to provide a list of these confidentiality agreements if requested by the Client.

6.3 The Client is entitled to conclude confidentiality agreements with the above-mentioned persons concerned, who may have access to information subject to confidentiality through the assignment. The confidentiality applies even after the Supplier's assignment for the Client has ended.

7 PERSONAL DATA PROCESSING

Each Party is responsible for complying with applicable data protection legislation and for signing the necessary data processing agreements.

8 PRICE

8.1 The price for the maintenance obligation excluding VAT is stated in the Contract.

8.2 If a variable price is to be applied, the Supplier's hourly rate normally applied at the time the work is carried out shall apply.

8.3 If the Contract does not specify Corrective Maintenance, the Supplier shall submit a cost estimate upon completion of troubleshooting but before any maintenance is carried out. The maintenance shall begin after the Client's approval.

8.4 If the Contract specifies compensation for traveling time, travel costs and daily allowances are not included in the price, the Supplier shall submit a cost estimate of such compensation before any travel. Compensation for defects in Devices and services is subject to the provisions of Clause 10 below.

8.5 If no spare parts price list has been appended to the Contract, the Supplier's current prices for spare parts apply.

8.6 Unless otherwise stated in the Contract, the Supplier shall notify the Client of new fixed prices for an extension of the Contract no later than three months before the end of the contract period.

8.7 If the price change for the extension of the Contract is to be based on an index, this shall be stated in the Contract.

8.8 Costs for waiting time and overtime, extra travel with daily allowances for extended visiting hours, caused by the Client or by an agreement between the Parties' Contact Persons under clause 4.6, will be charged according to the current agreed price list for services in addition to the price stated in the Contract.

9 PAYMENT

9.1 Payment shall be made against an invoice within 30 days of the invoice date, unless otherwise specified in the Contract.

9.2 The fixed price per year shall be invoiced by the Supplier on the invoicing dates specified in the Contract.

9.3 In the case of invoicing on a running account basis, the invoice shall be issued after receipt of all the records referred to in clause 5.4.

9.4 In case of late payment, interest will be charged in accordance with the Interest Act.

10 FAULTS IN DEVICES AND SERVICES

Liability for defective maintenance

10.1 The Supplier shall, at its own expense, as soon as possible rectify any defects and faults that have arisen due to failure to carry out maintenance in accordance with the Contract or if the maintenance has otherwise not been carried out professionally.

Liability for faulty spare parts

10.2 The Supplier shall, at his own expense, replace or repair as soon as possible any spare part and, unless otherwise agreed for a particular consumable, any other material supplied by the Supplier which is defective in design, material or workmanship.

Complaints

10.3 The Client shall make a complaint in writing within a reasonable time, but no later than 3 months, after the service or spare part has been provided.

11 DELAYS

Delays caused by the Supplier

11.1 If the Supplier fails to appear at the agreed time when the Device has been Cancelled for the performance of agreed maintenance, and the delay is neither due to the Client nor to force majeure under Clause 15 below, the Client may, after having informed the Supplier in writing, perform the maintenance itself or through another party at the Supplier's expense. The other operator must have the appropriate competence and carry out the maintenance according to the manufacturer's instructions.

11.2 In cases where the Contract includes availability requirements according to clause 2.2 of the Contract, the time when the Device has been Cancelled for maintenance shall be considered as Downtime, which affects the calculation basis for accepted Downtime. In cases where the Contract does not include availability requirements according to clause 2.2 of the Contract, the Client shall be entitled to compensation.

Delays caused by the Client

11.3 If the Client does not have the Device available at the Cancelled time for maintenance, the time from the Cancelled time to the time of completed maintenance shall not be counted as downtime and the Supplier shall be entitled to reasonable compensation for any additional costs.

12 PENALTIES

12.1 If the accepted Downtime in accordance with Clause 2.2 of the Contract is not fulfilled, the Client shall be entitled to a penalty payment equivalent to 1/12 of the annual contract cost according to:

- Per hour started beyond the number of hours accepted in the matrix for 1A, 1B and 2A.

- Per 24 hours started beyond the number accepted in the matrix 1C, 2B, 2C and 3A.

- Per 48 hours started beyond the number accepted in the matrix regarding 3B and 3C.

12.2 Maximum penalties according to this Clause 12 is 6/12 of the annual contract cost unless otherwise agreed by the Parties.

13 EXCLUSIVE RIGHT

13.1 The Supplier has the exclusive right to carry out agreed maintenance on the Device. The exclusive right does not restrict the Client's right to carry out maintenance in accordance with Clause 11.1, such maintenance as is necessary to avoid downtime or to eliminate safety risks, and to take actions specifically agreed in the Contract.

13.2 When the Client carries out maintenance or work on the Device itself or through another party, this must be carried out by trained/certified personnel. If this is not the case, the Supplier's liability for the affected parts is cancelled.

14 LIMITATION OF LIABILITY FOR FAULTS AND DEFECTS

14.1 The Supplier's liability is limited to what is stated in Clauses 10 - 13 above, and as stated below in this Clause and in Clause 15, below.

The Supplier's liability does not include circumstances caused by the Client.

14.2 Subject to the exceptions set out in Clause 15 below, the Supplier shall not be liable for any damage resulting from a defect or fault other than

(i) personal injury, if it can be shown that the injury was caused by the negligence of the Supplier or someone for whom the Supplier is responsible; and

(ii) damage to the Device, where applicable, up to the maximum amounts of compensation specified in the Contract.

The limitation of liability under Clause 14.1 above applies even if the Contract is terminated under Clause 15.

14.3 If the Supplier is guilty of gross negligence, the Supplier shall be liable for the Client's damage in excess of the stated maximum amount, for example for loss of profit or other consequential financial loss and damage to property other than the Device.

14.4 The Client shall indemnify the Supplier against claims from third parties for damage resulting from faults or defects. The Supplier's liability is limited as set out above in this clause.

14.5 If a third party makes a claim against the Supplier or the Client for compensation for damage referred to in this Clause, the other Party shall be informed immediately.

15 EARLY TERMINATION DUE TO CONTRACTUAL BREACH

15.1 A Party is entitled to terminate the Contract with immediate effect if the other Party materially fails to comply with a provision of the Contract and does not rectify the situation within a reasonable period of time after written notification.

15.2 The Party that terminates the Contract by invoking Clause 15.1 above is entitled to compensation from the other Party for the damage it has suffered. The total amount of damages shall not exceed the total compensation to which the Supplier is entitled under the Contract, without prejudice to any right of the Client to receive additional damages under Clauses 14.2 and 14.3 above.

16 RENEGOTIATION

16.1 If circumstances arise during the contract period that change the Client's need for the function or availability of the Device, the Parties are entitled to request in writing a renegotiation during the current contract period. Any new Contract will enter into force on a date to be determined by the Parties.

16.2 If the Parties are unable to agree upon renegotiation, each Party is entitled to terminate the Contract with a notice period of three (3) months. Such notice of termination must be made in writing. During the notice period, the agreed remuneration shall remain unchanged.

17 FORCE MAJEURE

17.1 The following circumstances shall constitute force majeure events if the performance of the Contract is thereby prevented or becomes unreasonably onerous: industrial disputes and any other circumstances beyond the control of the Parties or which could not have been foreseen by them, such as fire, natural disaster, war, requisition, seizure, trade and currency restrictions, insurrection and riot, and major disruption of the Parties' operations or failure or delay of a subcontractor due to a circumstance referred to in this clause.

The above-mentioned circumstances constitute force majeure events if they occur after the conclusion of the Contract, or if they occurred beforehand and their consequences could not be foreseen before the conclusion of the Contract.

17.2 A Party wishing to invoke a force majeure event shall, without unreasonable delay after the Party realised or should have realised that such force majeure event that can be invoked as a ground for exemption exists, inform the other Party in writing that such an event has occurred, as well as of its cessation.

17.3 If the force majeure event does not cease within 30 days, either Party may - if it can be assumed that the Contract cannot be fulfilled later without significant inconvenience to the Party - terminate the Contract with immediate effect by written notice to the other Party. In the event of such termination by either Party, the Supplier shall be entitled to compensation for maintenance performed, but shall otherwise be obliged to repay any additional compensation received.

18 ASSIGNMENTS, SUB-SUPPLIERS

18.1 The Parties are not entitled to assign the Contract to another party.

18.2 However, the Supplier is entitled, with the written consent of the Client, to use another subcontractor to carry out the agreed maintenance. The Supplier is responsible for the subcontractor hired, as for himself.

19 DISPUTES

Any dispute arising from the Contract shall be resolved in the first instance by negotiation between the Parties. If these negotiations do not lead to a result acceptable to the Parties, the matter shall be finally settled by a Swedish court in accordance with Swedish law.