



Maintenance contract

Medical device

LABU12

Appendix No. 1

1(4)

General Terms and Conditions

- 1 SCOPE**
These General Terms and Conditions shall apply unless otherwise agreed in writing between the parties.
- 2 DEFINITIONS**
- 2.1 Equipment**
The equipment to be maintained under the Contract.
- 2.2 Site**
The location of the Equipment referred to in this Contract, or where applicable, the specific site where maintenance is to be carried out.
- 2.3 Contractor**
The business, person or company that undertakes to carry out maintenance under this Contract.
- 2.4 Client**
The entity that will receive maintenance services under this Contract.
- 2.5 Contact Person**
Unless the parties inform each other otherwise in writing, the person designated as the Client's and the Contractor's contact person in Appendix 2 to this Contract.
- 2.6 The Contract**
The written contract between the parties on maintenance of the Equipment, including all appendices and amendments agreed in writing.
- 3 CONTRACTOR'S UNDERTAKING**
- 3.1** The Contractor undertakes to carry out preventive and corrective maintenance of the Equipment to the extent stated in this Contract.
- Preventive Maintenance*
- 3.2** Preventive maintenance should be performed in accordance with the manufacturer's maintenance instruction(s).
- 3.2.1** The Contractor should inform the Client on an ongoing basis about circumstances that could cause harm to person or property and which the Contractor has become aware of during a maintenance visit to the Client.
- Corrective Maintenance*
- 3.3** Unless otherwise agreed, corrective maintenance should comprise the following:
- (i) fault-finding and action in order to rectify a defect that has been found in the Equipment while performing preventive maintenance,
 - (ii) fault-finding and action in order to rectify a defect that has been found in the Equipment and reported by the Client at a time other than while performing preventive maintenance,
 - (iii) correction of a defect that has been reported by the Client in connection with preventive maintenance, as well as
 - (iv) actions taken as a result of information received from the Contractor as per Section 3.2.1 above.
- 4 PERFORMING MAINTENANCE**
- 4.1** Unless otherwise stated in the Contract, the Contractor should notify the Client's Contact Person no later than 30 days in advance of a visit for preventive maintenance.
- 4.2** In consultation with the Client's Contact Person, the Contractor should carry out corrective maintenance in connection with preventive maintenance with the level of urgency required for the issue.
- 4.3** Corrective maintenance under Section 3.3 (ii) should commence after notifying the Contractor's Contact Person or according to the terms and conditions on "acceptable unavailability" in Section 2b of the Contract. Such maintenance should be performed with the level of urgency required by the Client.
- 4.4** The Client shall be responsible for the work environment on Site and the Contractor must follow the Client's instructions concerning coordination of work environment issues.
- 4.5** At the request of the Contractor's staff, the Client must make available personnel to avoid lone working on Equipment with voltages exceeding 50 V and for maintenance in other work environments where circumstances also require that lone working be avoided, e.g. magnetic fields, high pressure steam systems, etc.
- 4.6** The Contractor should be granted access to the Site at the agreed time and the Client should ensure that the Equipment is available at that time. If required, the Contractor must be able to load and unload materials to be used during the maintenance visit near the Site.
- 4.7** The Contractor should notify the Client's Contact Person of the time of arrival at the Site, which at the Contractor's request should be confirmed in writing by the Client's Contact Person.
- 4.8** Preventive Maintenance, including travel to and from the Site, should be carried out during the Contractor's ordinary working hours, unless otherwise stated in the Contract or agreed between the parties' Contact Persons.
- 4.9** In the case of corrective maintenance where spare parts are not included in the agreed price, the Contractor must seek authorization from the Client's Contact Person before replacing any parts. The Contractor has an obligation to stop corrective maintenance that has already begun, should the Client request it.
- 4.10** Maintenance must be performed to a professional standard by trained/certified and competent staff and with the regard for personal safety and materials required to complete the maintenance task.

4.11 The Client must make available any documentation required for maintenance of the Equipment and the Contractor must adhere to the supporting documentation to the extent required for the maintenance task, while also taking into account information relating to maintenance carried out previously. Should the Contractor find that maintenance actions other than those agreed will be necessary, or discovers deficiencies or unusual conditions, this must be reported to the Client as soon as possible and documented in accordance with Section 5.3 below.

5 DOKUMENTATION

5.1 The Contractor should be responsible for ensuring that correct documentation is used for maintenance.

5.2 The Client should ensure that at every maintenance visit the Contractor has an opportunity to view documentation relating to previously performed maintenance on the Equipment and any other observations on conditions.

5.3 As soon as maintenance has been completed, the Contractor must submit a written report on the function status of the relevant Equipment to the Client's Contact Person.

5.4 Documentation on maintenance/action performed under contract should take the form of a record of actions and observations in either digital or hard copy format and should be made available to the Client no later than five days after maintenance has been performed. As part of the report, the Contractor should submit its observations on how the Client's staff have looked after the Equipment.

5.5 On completion of maintenance the Client's Contact Person should study the documentation and other information under Section 5.4 above and confirm receipt of the report referred to in said Section and indicate whether or not the report has been prepared in accordance with the Contract.

6 CONFIDENTIALITY

6.1 The Contract is subject to confidentiality and professional secrecy under law and particularly provisions concerning information on the personal circumstances of individuals within the health care sector. The Contractor must undertake to observe this statutory obligation of confidentiality and, by entering into non disclosure contracts with the Contractor's staff or others handling such information, to ensure that confidentiality is maintained as above.

The Contractor must also undertake to observe complete confidentiality in other respects and not to disclose information about the Client's business to third parties either during the Contract period or after it has ended.

The Contractor must undertake not to use confidential information or documentation from the Client for purposes other than to perform maintenance according to the Contract.

7 PRICE

7.1 The price of the maintenance service, exclusive of VAT, is shown in the Contract.

7.2 Variable price refers to the normal hourly rate charged by the Contractor at the time of the tasks being carried out.

7.3 If corrective maintenance is not mentioned in the Contract, the Contractor should, at the Client's request, submit a cost estimate once fault-finding has been carried out but before maintenance action is taken.

7.4 If the Contract states that compensation for travel time and travel and subsistence expenses is not included in the price, reasonable expenditure, verified through documentation, should be reimbursed by the Client. For compensation in relation to work done under guarantee, the provisions of Section 9 below shall apply.

7.5 If a price list for spare parts has not been appended to the Contract, the Contractor's prevailing prices at any given time shall apply.

7.6 Unless otherwise stated in the Contract, the Contractor should notify the Client at least three months before the expiry of the contract period of the new fixed prices applicable in an extension of the Contract.

7.7 If an index-linked change in price will apply to an extension of the Contract, this must be stated in the Contract.

7.8 The cost of waiting time and overtime, extra trips with subsistence for extended visits, that have been prompted by the Client or are agreed between the parties' Contact Persons under Section 4.8, should be charged in accordance with the relevant agreed price list for maintenance services beyond the price stated in the Contract.

8 PAYMENT

8.1 Payment should be made against invoice no later than 30 days from the invoicing date, unless otherwise agreed in the Contract.

8.2 Prices fixed annually should be invoiced by the Contractor at invoicing intervals stated in the Contract.

8.3 In an open book contract, invoices should be submitted after the Client has confirmed receipt under section 5.5 above of all records referred to in Section 5.4.

8.4 In the case of late payment, late payment interest will be levied pursuant to the Swedish Interest Rate Act.

9 GUARANTEE

Maintenance

9.1 The Contractor should at own expense, and as soon as possible, rectify any deficiencies and defects caused by maintenance not being carried out in accordance with the Contract or by the maintenance work otherwise not having been performed to a professional standard.

Spare parts

9.2 The Contractor should at own expense as soon as possible replace or repair spare parts and – unless otherwise agreed for specific consumables – other materials supplied by the Contractor which have a design, material or manufacturing defect.



- 9.3** *Complaints*
The Client should submit a complaint in writing within a reasonable time, which means (i) before the maintenance visit for preventive maintenance that follows the maintenance visit that is the subject of the complaint and no later than three months from the latest maintenance visit; (ii) no later than within three months of the date the corrective maintenance was performed; and (iii) no later than within three months from the maintenance visit when the spare part or material was supplied and fitted by the Contractor.

10 DELAYS

- Delay due to the Contractor*
- 10.1** If the Contractor does not arrive at the agreed time when the Equipment has been taken out of action for performance of agreed maintenance, and when the delay is not due to either the Client or to grounds for exclusions of liability under Section 15 below, the Client may, after having informed the Contractor in writing, either perform the maintenance themselves or arrange for it to be performed by a third party at the Contractor's expense.
- 10.2** In the event that the Contract includes provisions on availability under Section 2b of the Contract, the time when the Equipment was taken out of action for maintenance shall be regarded as "downtime", which will affect the basis for calculating "acceptable unavailability". In the event that the Contract does not include provisions on availability under Section 2b of the Contract, the Client shall be entitled to compensation for actual costs incurred.
- "Downtime" in this section refers to time that the Equipment is taken out of action in order for the Contractor to carry out planned maintenance.
- Delay due to the Client*
- 10.3** If the Client does not ensure that the Equipment is available at the agreed time for performance of maintenance, the Contractor will be entitled to compensation for actual costs incurred.

11 PENALTIES

- 11.1** If the agreed time for acceptable unavailability under Section 2b of the Contract is not adhered to, the Client will be entitled to a penalty corresponding to 1/12 of the annual contract charge as follows:
- For each hour or part thereof above the acceptable number of hours in the matrix relating to 1A, 1B and 2A.
 - For each day or part thereof above the acceptable number of days in the matrix 1C, 2B, 2C and 3A.
 - For every 2 days or part thereof above the acceptable number in the matrix relating to 3B and 3C.

A penalty under this Section 11 must not exceed a maximum of 4/12 of the annual contract charge.

12 EXCLUSIVE RIGHTS

- 12.1** The Contractor should have exclusive rights to carry out contract maintenance on the Equipment. Exclusive rights do not infringe on the Client's right to itself firstly perform maintenance under Section 10, secondly to perform maintenance that is necessary to avoid operational stoppages or to eliminate safety risks, and thirdly to undertake measures that have been separately agreed in the Contract.

- 12.2** Any maintenance or action performed by either the Client or by a third party at the Client's behest must be carried out by trained/certified staff. If this is not the case, the Contractor's liability for the affected parts shall cease to exist.

13 LIMITATION OF LIABILITY WITH REGARD TO DEFECTS AND DEFICIENCIES

- 13.1** The Contractor's liability is limited to the provisions of Sections 9 – 12 above, as well as to the provisions under this Section and the provisions of Section 14 below.

The Contractor's liability does not extend to circumstances caused by the Client.

With the exception of the provisions of Section 14 below, the Contractor shall not be liable – whether the Contract is terminated under Section 14 or not – for any damage due to deficiencies or defects other than (i) personal injury, if it can be shown that the injury was caused by negligence on the part of the Contractor or a party for which the Contractor is responsible, and (ii) damage to the Equipment, where relevant up to the maximum amount of compensation stated in the Contract.

If the Contractor has shown gross negligence, the Contractor shall be liable for damage caused to the Client over and above the stated maximum amount, for instance, for loss of profit or other financial consequences, and for damage to property other than the Equipment.

In the event that the Contractor is held liable to a third party for damage due to deficiencies or defects, the Client is obliged to indemnify the Contractor to the extent of the Contractor's limitation on liability as above in this Section.

If a third party presents a claim against the Contractor or the Client for compensation for damage referred to in this section, the other party must be notified immediately.

14 EARLY TERMINATION

- 14.1** A party shall have the right to terminate the Contract with immediate effect if the other party is in significant breach of a clause in the Contract and rectification does not take place within a reasonable time after written notification thereof.



- 14.2** The party that terminates the Contract with reference to Section 14.1 above shall be entitled to compensation from the other party for the damage suffered by the party. The total amount of compensation should not exceed the total amount of compensation the Contractor is entitled to under the Contract, however this should not affect any right the Client may have to also receive compensation under Section 13.

15 FORCE MAJEURE

- 15.1** The following circumstances amount to grounds for discharge from liability if they prevent or impose an undue burden on execution of the Contract: industrial dispute and any other circumstance beyond the parties' control, such as fire, natural disaster, war, requisition, seizure, trade and currency restrictions, insurrection and rebellion, as well as extensive operational stoppage at the parties or such defect or delay on the part of subcontractor that is due to a circumstance referred to in this Section.

The above mentioned circumstances are grounds for discharge from liability if they occur once the Contract has been concluded, or if the circumstances occurred beforehand and the consequences thereof could not be foreseen before the conclusion of the Contract.

A party that wishes to plead force majeure should without undue delay after the party realized, or should have realized, that a force majeure situation is prevailing, notify the other party in writing that such a circumstance has occurred, and also of it ceasing to prevail.

If a force majeure even does not cease to prevail within 30 days, each of the parties – if it can be assumed that the Contract cannot be fulfilled at a later date without significant inconvenience to the party – should have the right to notify the other party in writing of termination of the Contract with immediate effect. In the event of such termination by either party, the Contractor should be entitled to compensation for maintenance carried out, but should otherwise be liable for repayment of any additional compensation received.

16 TRANSFER TO SUBCONTRACTOR

- 16.1** A party does not have the right to transfer the Contract to a third party. However, the Contractor shall have the right, with the Client's written permission, to hire another subcontractor to perform the agreed maintenance.
- 16.2** The Contractor shall be responsible for the subcontractor used as if the Contractor had performed the work itself.

17 APPLICABLE LAW, DISPUTES

- 17.1** Swedish law is applicable to this Contract and consequently all issues relating to the conclusion, implementation and interpretation of this Contract and its appendices must be settled in accordance with Swedish regulations.
- 17.2** Disputes arising from the Contract or the legal status of the Contract shall be settled by a general court of law in the Client's country.