

# Cytiva/ Terms and Conditions of Sale (incl. Customized Equipment)/ USCAN

## 1. GENERAL

1.1. In these Terms and Conditions:

The **Buyer** means the person, firm, company or other organization who or which has entered into the Contract for purchase of Products and/or Services from Cytiva;

**Cytiva** means the Cytiva group company referred to in the final written offer, quotation or order acknowledgement or, if none, the Cytiva group company making the supply;

The **Contract** means the contract for the sale and purchase of Products and/or Services between Cytiva and the Buyer as may be further evidenced by Cytiva's final written offer, quotation or order acknowledgement and no prior proposals, statements, representations or conditions will be binding on either party;

The **Acceptance Criteria** means the performance specification which is specified in the Contract or, if not so specified, Cytiva's published performance specifications or other relevant standard generally applied by Cytiva;

The **Customized Equipment** means equipment that is (i) manufactured according to properly documented specifications agreed with the Buyer and (ii) is not allocated an article/code number in Cytiva's catalogue, (excluding any consumables and spare parts sold separately); For avoidance of doubt, FlexFactory® systems, KUBio™ and certain other equipment not listed in Cytiva's catalog shall be subject to a separate agreement

The **Delivery** means the delivery of the Products in accordance with the terms set out in Section 7.

The **Equipment** means all electronic equipment, hardware and other electronic, air driven or mechanical items including Customized Equipment and/or Standard Equipment and excluding any consumables and spare parts sold separately;

The **Factory Acceptance Testing or FAT** means the inspection of the Equipment before Delivery as per Section 6.3-6.4;

The **Goods** means all items agreed to be supplied by Cytiva in the Contract other than the Equipment and Software;

The **Installation** means uncrating, assembly as well as any subsequent performance of tests at the Buyer's Site by Cytiva to demonstrate that the Equipment meets the Acceptance Criteria. Installation is only included if specifically agreed upon in the Contract;

The **Products** means any Goods, Equipment or Software agreed to be supplied by Cytiva;

The **SAT** means final Site Acceptance Test as per Section 9;

The **Services** means all advice given and services, including Installation, performed by Cytiva;

The **Site** means the place where the Equipment is to be installed and/or finally taken into operation;

The **Software** means any firmware, software or data compilations, to be provided in executable form, (i) identified in the Contract or (ii) provided to Buyer by Cytiva in connection with installation or operation of the Equipment;

The **Standard Equipment** means equipment that is manufactured according to Cytiva specifications and is either allocated an article/code number in Cytiva's catalogue or is configured by Cytiva, excluding any consumables and spare parts sold separately;

The **Take-Over** of the Equipment occurs upon Delivery or, if Installation shall be conducted by Cytiva, upon completion of Installation; and

**Working Day** means a day that is not a Saturday or Sunday or a public holiday in the country where the Cytiva group company (or relevant branch) office referred to in the Contract is situated.

1.2. These Terms and Conditions shall be incorporated into the Contract and shall apply to the exclusion of any terms and conditions of the Buyer. These Terms and Conditions may not be varied or waived except with the express written agreement of Cytiva. The failure of Cytiva to enforce its rights under the Contract at any time, for any period of time, shall not be construed as a waiver of any such rights.

## 2. SUBJECT OF THE CONTRACT

2.1. Cytiva undertakes to deliver to the Buyer, and the Buyer undertakes to take delivery of, the Products. Cytiva undertakes to perform Installation, if agreed upon in the Contract. The Equipment, Installation and other Services shall adhere to Cytiva's standard technical specifications, design, models and solutions, unless otherwise agreed.

2.2. Cytiva undertakes to:

2.2.1. to the extent agreed in the Contract, to furnish Buyer with the information required for the normal operation and maintenance of the Equipment, which Cytiva possesses at the time of its design;

2.2.2. deliver the technical documentation and manuals for the Equipment in English language or as specified in the Contract;

2.2.3. provide a list of qualities and estimated quantities of raw materials, consumables, utilities and testing equipment necessary for Installation and start-up, if Installation is included in the Contract;

2.2.4. to the extent agreed, to train on Site Buyer's operators and maintenance personnel in the operation and maintenance of the Equipment; and

2.2.5. perform Installation and other Services solely when agreed upon in the Contract.

2.3. The Buyer undertakes to:

2.3.1. together with Cytiva or its representatives, if Cytiva so desires, to open and inspect each shipment upon arrival at the Site to ascertain whether damage or loss have occurred during transport;

2.3.2. have available at the Site testing equipment reasonably required by Cytiva;

2.3.3. provide training as required by the Buyer to allow access for Cytiva personnel to Buyer's Site;

2.3.4. ensure that adequate and safe facilities exist at the Site and that Cytiva is properly notified of any relevant safety and operational regulations;

2.3.5. , to ensure that the end-user complies with the requirements of the Contract and the Buyer shall be fully responsible towards Cytiva for the acts and omissions of such end-user;

2.3.6. at its own expense, provide support, including, but not limited to, documentation, as required for Cytiva to obtain all visa, work permits for the personnel sent by Cytiva to the Site as well as any other licenses necessary for the Installation; and

2.3.7. assist Cytiva in obtaining all permits necessary for importation and re-exportation of all Cytiva's tools and other items necessary to perform Installation.

## 3. PRICES AND QUOTATIONS

3.1. The price of the Products and/or Services will be Cytiva's quoted price. All quotations issued by Cytiva for the supply of Products and/or Services shall remain open for acceptance for the period stated in the quotation or, if none is stated, for sixty (60) calendar days from the date the quotation was issued. If no quotation has been issued by Cytiva, prices payable are those currently in effect in Cytiva's then current pricelist, which may include charges for handling, freight, packaging, insurance and minimum orders. The price does not include Installation or other Services, unless expressly agreed. If there is no specific price agreed for Installation or for any other Services ordered by the Buyer, then Cytiva may charge a fee at its current rate for the Services performed.

3.2. **Taxes.** (a) All payments due and payable by the Buyer to Cytiva under the Contract are exclusive of any Value Added Tax ("VAT"), sales and use tax, goods and services tax and similar indirect taxes. In the event that any VAT, sales and use tax, goods and services tax and similar indirect taxes are properly due under any applicable law, regulation or otherwise, this shall be charged by Cytiva in addition to any other payments due hereunder and shall be payable by the Buyer on receipt of a valid invoice issued by Cytiva, unless the Buyer provides Cytiva with valid exemption documentation allowing Cytiva not to charge the relevant indirect taxes. In addition and in the case of US domestic transactions only (i) in the event Cytiva is assessed taxes, interest and penalty by any taxing authority, Customer agrees to reimburse Cytiva for any such taxes, including any interest or penalty assessed thereon; and (ii) each Party is responsible for any personal property or real estate taxes on property that the party owns or leases, for franchise and privilege taxes on its business, and for taxes based on its net income or gross receipts. (b) All payments shall be made by Buyer in full, free and clear of all deductions (including but not limited to withholding taxes). Buyer shall gross-up the amounts due hereunder in order that the payments provided for under the Contract are paid fully such that Cytiva is in the same position as if no withholding had taken place. Buyer shall furnish to Cytiva within one (1) month accurate official receipts from the appropriate governmental authority for all deducted or withheld taxes.

3.3. Cytiva shall not have the right to modify prices, unless, as regards Customized Products, to (i) reflect costs resulting from any alteration in or addition to Buyer's requirement or (ii) any other circumstances beyond the reasonable control of Cytiva including, but not limited to, increased steel alloy costs or (iii) to reflect currency fluctuation between the date of the Contract and the date of payment, provided that the fluctuation between the quoted currency and the currencies relevant to Cytiva's production cost for the Customized Equipment, including, but not limited to, costs for external supplies and to subcontractors, causes a total impact of more than 5% of the purchase price.

3.4. If the parties have agreed in the Contract that the Buyer shall issue a "Letter of Credit", such letter shall be executed on terms and conditions expressly approved by Cytiva and not later than thirty (30) calendar days after signing of the Contract. The Letter of Credit shall be issued or confirmed by a first class international bank. Any costs in connection with the execution or confirmation of the Letter of Credit shall be borne by the Buyer.

## 4. PAYMENT

4.1. Unless otherwise agreed in writing in the Contract, the Buyer shall make payment to Cytiva in full without any set-off as follows:

4.1.1. For any Products and Services other than Customized Equipment, in the currency invoiced, no later than thirty (30) calendar days from the date of invoice;

4.1.2. solely via electronic funds transfer originating from or cheque drawn on Buyer's account held in the country of Buyer's principal place of business. and

4.1.3. For Customized Equipment:

- a) 30 % of the total agreed contract price within thirty (30) calendar days after signing of the Contract;
- b) 60 % of the total agreed contract price within thirty (30) calendar days after Cytiva's notice to the Buyer that the Customized Equipment or the main part thereof is ready for shipment; and
- c) 10 % of the total agreed contract price within thirty (30) calendar days after the Take-Over and in any event at the latest 60 calendar days after Cytiva's notice according to b) above
- d) and for payments in 4.1.3 a)-c) solely via electronic funds transfer originating from or cheque drawn on Buyer's account held in the country of Buyer's principal place of business.
- e) .

**4.2.** In the event of late payment, Cytiva reserves the right to:

4.2.1. suspend deliveries and/or cancel any of its outstanding obligations; and

4.2.2. charge interest at the lower of (i) an annual rate equal to twelve (12)% and (ii) any applicable maximum statutory rate on all unpaid amounts calculated on a day to day basis until the actual date of payment.

## **5. CHANGES**

**5.1.** Cytiva reserves the right to make any change in the specification of the Products, which does not materially affect the Installation, performance or price thereof. Cytiva shall inform Buyer of such alterations as soon as reasonably practicable, except for minor alterations not affecting the Acceptance Criteria or agreed upon specifications.

**5.2.** Any changes or modifications of the Customized Equipment requested in writing by the Buyer shall be jointly reviewed and agreed upon and shall not be unreasonably rejected by Cytiva. Cytiva shall not be under an obligation to commence any such work until any price changes are settled. Cytiva may revise the conditions with regard to price, date of Delivery and performance due to any agreed upon modification.

## **6. PRE-DELIVERY INSPECTION AND TESTS**

**6.1.** Pre-delivery inspections and tests will be carried out in accordance with Cytiva's standard procedures. If additional inspections and tests are required by the Buyer, Cytiva may revise the conditions with regards to price and date of Delivery.

**6.2.** Subject to at least seven (7) calendar days written notice to Cytiva the Buyer may send, at its own cost, representatives to Cytiva's and its subcontractors' premises to inspect the Equipment during normal working hours.

**6.3.** If it is agreed in the Contract that the Buyer shall perform an FAT, the following shall apply: Such tests will be carried out in Cytiva's or its subcontractor's workshop on the dates specified in the agreed time schedules; The Buyer shall bear its own costs in connection with the FAT; If requested, Cytiva will prepare a standard form that may be used by the Buyer to record the results from such testing; Should the result show that the Equipment does not conform with the Contract, the Buyer shall notify Cytiva in writing at the latest before any FAT protocol is signed by the parties following the completion of the FAT; Unless the Buyer confirms, at least seven (7) calendar days prior to the planned date of the FAT, that it intends to attend and perform the FAT, the FAT shall be considered as completed.

**6.4.** The completion of pre-delivery inspections and tests according to Cytiva's standard procedures and the completion of the FAT, if any, shall be considered authorization for Delivery, unless the Buyer has notified Cytiva in writing about any non-conformity before the FAT protocol is signed by the parties.

## **7. DELIVERY**

**7.1.** Any term of delivery shall be construed according to the latest edition of Incoterms. If no other term of delivery has been specified in the Contract, the Products will be delivered according to FOB Destination, Freight Prepaid and Added (UCC).

**7.2.** Partial deliveries and related invoicing shall be permitted. If the Buyer fails to accept delivery of the Products within a reasonable period after receiving notice from Cytiva that they (or any part of these) are ready for Delivery, Cytiva may dispose of or store the Products at the Buyer's risk and cost and shall have right to a compensation for expenses and other losses.

7.2.1. During the storage period, Cytiva shall, at Buyer's expense, ensure proper storage conditions and carry out maintenance of the Equipment as necessary to ensure compliance with Cytiva's published performance specifications.

**7.3.** Cytiva will use all reasonable endeavors to avoid delay in Delivery on the notified dates of Delivery. Failure to deliver by the specified date will not be a sufficient cause for cancellation, nor will Cytiva be liable for any loss or damage due to delay in Delivery.

**7.4.** The Equipment shall be delivered in a packaging suitable for transportation. The Buyer shall provide Cytiva with all information necessary

for relevant marking of the Equipment together with shipment instructions at least thirty (30) calendar days in advance of the planned date of shipment.

**7.5.** The Buyer shall notify Cytiva in writing within ten (10) Working Days of Delivery of any short delivery or defects reasonably discoverable upon careful examination. Cytiva's sole obligation shall be, at its option, to replace or repair any defective Products or refund the purchase price of any undelivered Products.

**7.6.** Where Delivery of any Product requires an export license or other authorization before shipment, Cytiva shall not be responsible for any delay in Delivery due to delay in, or refusal of, such license or authorization.

**7.7.** Upon the request of Buyer, Cytiva may, at its sole discretion, and subject to Section 7.2.1, agree to store the Equipment in the event that the Buyer is unable to take Delivery of the Equipment. All costs in connection with such storage, including, but not limited to, storage and insurance costs, shall be borne by the Buyer.

**7.8.** Products may only be returned with prior written authorization from Cytiva.

## **8. INSTALLATION BY CYTIVA**

**8.1.** Where the Contract includes Installation by Cytiva, the Buyer shall be responsible at its own cost for making the place where the Equipment will be located ready for Installation in accordance with Cytiva's instructions. Installation will not begin unless such responsibilities are completed. The Buyer shall, unless otherwise specified in the Contract, at its own expense (i) follow any reasonable instructions of Cytiva in connection with the Installation, (ii) provide for the quantities and qualities of raw materials, consumables, water and electricity and other connecting utilities necessary for the Installation and start-up.

**8.2.** Cytiva will provide personnel to perform the Installation. The number of persons and their qualifications will be determined by Cytiva.

**8.3.** The Buyer's personnel shall work under the technical supervision of Cytiva. Except where Cytiva has been grossly negligent, Cytiva shall not be liable for any injury to or death of any person or for damage to or loss of raw materials, end products or any property during the Installation.

**8.4.** Cytiva shall not, under any circumstances, be liable if the Buyer makes or allow use of Equipment that requires Installation or training by Cytiva prior to such Installation or training.

**8.5.** In the event the Installation is suspended due to reasons not attributable to Cytiva or outside of Cytiva's reasonable control including, without limitation: (i) lack or shortage of raw materials and/or utilities; (ii) strikes, or any force majeure event in accordance with Section 20; or (iii) any cause attributable to Buyer; and the suspension exceeds or is expected to exceed one full day, then Cytiva has the right to withdraw its personnel from the Site or, charge the Buyer for idle time spent at Site. All costs in connection with such suspension or withdrawal due to circumstances not attributable to Cytiva shall be borne by the Buyer. Cytiva may resume the work after written notification to Buyer. In case the suspension exceeds or is expected to exceed 15 calendar days, the terms and conditions for the Installation shall be subject to re-negotiations.

## **9. ACCEPTANCE AND TAKE-OVER**

**9.1.** If no Installation will be conducted by Cytiva, Take-Over shall occur upon Delivery.

**9.2.** If Cytiva shall conduct Installation, Cytiva will proceed with final SAT against the Acceptance Criteria using Cytiva's standard instruments and procedures.

**9.3.** If the Equipment fails to meet the Acceptance Criteria Cytiva shall make such adjustments as it considers necessary, where after the parties shall repeat such SAT procedures upon reasonable prior notice by Cytiva to the Buyer. Only the test activities that failed will be repeated at this stage.

**9.4.** The appearance of any defect or fault which does not adversely affect the operation of the Equipment for its basic intended purpose shall not obstruct Take-Over and Cytiva shall be obliged to remedy such outstanding item without any undue delay.

**9.5.** Buyer, at its reasonable request, shall be entitled to be present at and to witness the SAT against Acceptance Criteria. If Buyer fails to attend SAT when advised that testing was to take place, Buyer is not entitled to raise any objection to testing carried out or to the results thereof.

**9.6.** Upon the satisfactory completion of SAT demonstrating that the Equipment meets the Acceptance Criteria (with any permitted variations/tolerances) Cytiva may issue a Test Certificate which shall be conclusive evidence of such compliance and thereupon Installation, and Take-Over of the Equipment is complete and in compliance with Cytiva's obligations under the Contract. If Cytiva, by reason of any act or omission of the Buyer, its contractor(s) or any other party for which the Buyer is responsible, is prevented from conducting any agreed SAT against Acceptance Criteria, then SAT, Installation and Take-Over of the Equipment shall be deemed to be complete already upon Delivery and in compliance with Cytiva's obligations under the Contract.

**9.7.** In any event, Buyer agrees that the Equipment is accepted and Take-Over is deemed to have occurred at the earlier of (i) the date when the Test

Certificate is issued; (ii) seven (7) calendar days after the date on which Cytiva notifies Buyer that SAT is successfully completed; or (iii) 60 calendar days after Delivery. If the Buyer, without prior agreement with Cytiva or in conflict with Cytiva's instructions, makes use of the Equipment or takes an action in respect of the use or operation of the Equipment, Take-Over shall immediately be deemed to be complete and in compliance with Cytiva's obligations under the Contract and Cytiva shall not be obliged to conclude Installation, nor carry out any further testing.

**9.8.** As of Take-Over the Buyer shall be solely responsible for the care, safety, operation, service and except if otherwise agreed in writing with Cytiva, maintenance of the Equipment.

**9.9.** For partial deliveries this Section applies to each item of Equipment.

## **10. RISK AND TITLE**

**10.1.** All the risks of loss of and damage to the Products and full legal and equitable title to the Products shall pass to the Buyer upon Delivery to the Buyer. The Buyer hereby agrees not to dispose of or resell the Products until they have been paid for in full. In case of non-payment by the Buyer, Cytiva, without prejudice and in addition to any rights it has under Section 4.2 or otherwise, may take back all or part of the Products and dispose of these in any way it seems fit with a view to mitigating the consequences of the non-payment by Buyer (for the avoidance of doubt all depreciation, de-installation and other costs will be borne by the Buyer).

**10.2.** In relation to any Equipment used for clinical or diagnostic purposes, the Buyer shall keep adequate written records of the identity of any person or entity to whom the Equipment is transferred and of the location of such Equipment and shall procure that any purchaser of such Equipment is subject to the same requirement in respect of any onward sales.

## **11. SERVICES**

**11.1.** Where Cytiva is to provide Services, the Buyer shall ensure that adequate and safe facilities exist at its Site and that Cytiva is properly notified of any relevant regulations.

**11.2.** If the Buyer has purchased a Product or Service including remote access support, the Buyer shall permit Cytiva to connect to the Products by remote access as may be beneficial to the performance of maintenance or repair activities as part of Cytiva's warranty obligations or otherwise. This may include automatic software downloads and proactive monitoring and access to performance data related to the Products, to gather and use products- and resource usage data in various ways such as product development, quality initiatives, benchmarking and reporting services.

## **12. DATA PROTECTION**

**12.1.** The Buyer and Cytiva shall comply with data protection laws applicable to their respective processing of personal data under the Contract.

**12.2.** Where Cytiva may process patient personal data stored in Equipment or Software when performing the Services, the following provisions shall apply:

(i) The Buyer has the sole and exclusive authority to determine the purposes and means of the processing of patient personal data by Cytiva. Cytiva shall process such personal data only for the purposes of providing the Services in accordance with the Buyer's instructions.

(ii) The Buyer shall endeavour to limit the disclosure of patient personal data to Cytiva to that reasonably necessary to perform the Services.

(iii) Cytiva shall keep patient personal data confidential and shall implement technical and organizational measures to protect it against accidental unlawful or unauthorized destruction, loss, alteration, disclosure or access.

**12.3** Prior to returning any equipment to Cytiva, the Buyer shall decontaminate it and ensure that all personal data, including but not limited to patient personal data stored in such equipment is deleted. The Buyer acknowledges that, in any case, all data and settings stored in the returned equipment may be deleted by Cytiva.

**12.4** Prior to and during the Contract, the Buyer may provide Cytiva with personal data relating to its personnel or other individuals involved in the use of the Products or Services. The Buyer consents to the processing of this personal data by Cytiva, its affiliates and their respective suppliers, and shall, to the extent legally required, provide appropriate notice to each individual or obtain requisite consent to such processing of his or her personal data for the following specific purposes: (i) performing the Contract; (ii) providing information about Cytiva products and services; (iii) transferring personal data as specified in Section 12.5 and (iv) satisfying legal or regulatory requirements.

**12.5** Cytiva may transfer personal data relating to patients, the Buyer's personnel or other individuals involved in the use of Products and Services to recipients located in countries outside of the European Economic Area and to the extent the Buyer is the data controller of such data, the Buyer will (1) provide appropriate notice to the relevant individuals, (2) obtain any requisite consent, (3) provide individuals with applicable choices with respect to the use, disclosure or other processing of their personal data, and (4) provide individuals with the opportunity to exercise their right to access their personal data. Cytiva has taken steps to provide adequate protection with respect to personal data sent outside of the European Economic Area, and will, upon request of the Buyer, negotiate regarding the applicability of any further data processing or data transfer agreement as may be required to support the lawful transfer of personal data.

**12.6** The Buyer agrees that Cytiva may process certain de-identified and/or aggregated data for the purposes described in Section 7.2.

## **13. RESTRICTED USE**

With respect to certain Products, use restrictions are a condition of the purchase which Buyer must satisfy by strictly abiding by the restriction as set forth in Cytiva's catalogue and/or on the Product and/or accompanying documentation. Buyer is solely liable to ensure compliance with any regulatory requirements related to the Buyer's use of the Products. Any warranty granted by Cytiva to the Buyer shall be deemed void if any Products covered by such warranty are used for any purpose not permitted hereunder. In addition, the Buyer shall indemnify Cytiva and hold Cytiva harmless from and against any and all claims, damages, losses, costs, expenses and other liability of whatever nature that Cytiva suffers or incurs by reason of any such unintended use. Buyer represents that it is purchasing the Products for its own use consistent with the terms of Contract. Buyer shall not at any time, without the express prior written consent of Cytiva, re-sell in roll or sheet format, assign, transfer or distribute the Products to any third party or to export the Products outside the country where the Site is located.

## **14. WARRANTIES**

**14.1.** Sections 14.2-0 shall apply in the event no other specific warranty has been agreed in the Contract. As regards any Products covered by a warranty issued by a third party manufacturer, such warranty terms shall apply to the exclusion of Sections 14.2-0.

**14.2. Goods** - Cytiva warrants that its Goods meet Cytiva's specifications at the time of Delivery. All warranty claims on Goods must be made in writing within ninety (90) calendar days of Delivery of the Goods. Cytiva's sole liability and Buyer's exclusive remedy for a breach of this warranty is limited to repair, replacement or refund at the sole option of Cytiva.

**Equipment** - Cytiva's Equipment of its own manufacture is warranted from Take-Over to be free of defects in workmanship or materials under normal usage for a period of one (1) year and any claim shall be submitted in writing within such period. Extended warranty may be agreed upon separately and included in the Contract. Cytiva's sole liability and Buyer's exclusive remedy for a breach of this warranty is limited to repair, replacement or refund at the sole option of Cytiva. Such repair or replacement will not extend the warranty period. The warranty granted in this Section 0: (i) shall be modified to the extent Cytiva deems it necessary to apply a specific warranty granted by Cytiva for a certain part of a Customized Equipment; and (ii) shall not apply to computers, standard software's and computer accessories covered by a warranty granted by the manufacturer of such goods.

The Buyer shall without delay return to Cytiva parts replaced under the warranty at Cytiva's request and cost.

In the event that Cytiva modifies the Customized Equipment at the request of the Buyer, the modified parts of the Customized Equipment shall have a warranty period of one (1) year from the date of delivery of such modified part of the Customized Equipment

**Software** - Cytiva warrants, for a period three (3) months from Delivery that the Software substantially conforms to its published specifications and that the media on which the Software resides will be free from defects in materials and workmanship under normal use and any claim shall be submitted in writing within such period. Cytiva does not warrant that the Software is error free or that Buyer will be able to operate the Software without problems or interruptions. Cytiva's sole liability and Buyer's exclusive remedy in the event of breach of this warranty is limited to repair, replacement or refund, at the sole option of Cytiva.

Where the Equipment is intended to be used with a particular licensed computer program supplied by Cytiva the use of any other program will result in Cytiva's warranty being void.

**Services** - Cytiva warrants that all Services will be carried out with reasonable care and skill. Cytiva's sole liability for breach of this warranty shall be at its option to give credit for or re-perform the Services in question. This warranty shall only extend for a period of ninety (90) calendar days after the completion of the Services and any claim shall be submitted in writing within such period.

**14.3.** No claims can be derived from defects, failures and/or omissions unless Cytiva has been notified in writing without delay of such defects, failures and/or omissions.

**14.4.** Unless expressly agreed, Cytiva is not obliged to carry out dismantling or re-Installation of any Product in connection with any warranty claims.

**14.5. ALL OTHER WARRANTIES, REPRESENTATIONS, TERMS AND CONDITIONS (STATUTORY, EXPRESS, IMPLIED OR OTHERWISE) AS TO QUALITY, CONDITION, DESCRIPTION, MERCHANTABILITY, FITNESS FOR PURPOSE OR NON-INFRINGEMENT (EXCEPT FOR THE IMPLIED WARRANTY OF TITLE) ARE HEREBY EXPRESSLY EXCLUDED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CYTIVA HEREBY EXPRESSLY DISCLAIMS, AND BUYER HEREBY EXPRESSLY WAIVES, ANY WARRANTY REGARDING RESULTS OBTAINED THROUGH THE USE OF THE PRODUCTS INCLUDING, WITHOUT LIMITATION, ANY CLAIM OF INACCURATE, INVALID, OR INCOMPLETE RESULTS.**

**14.6.** Notwithstanding anything to the contrary herein, Cytiva shall have no liability under any of its representations or warranties with respect to: (i) the use of the warranted Product in combination with any software, tools, hardware, equipment, supplies, accessories or any other materials or services

not furnished by Cytiva or recommended in writing by Cytiva; (ii) any defect in the Products arising from specifications or materials supplied by Buyer; (iii) fair wear and tear; (iv) fraud, negligence or willful misconduct of Buyer or any of its affiliates or representatives; (v) shipping, storage or working conditions after Cytiva's delivery of the Products to the Buyer; (vi) failure to follow Cytiva's use restrictions, recommendations or instructions; (vii) any alteration, modification, repair or enhancement of the warranted Product by Buyer or any third party without Cytiva's prior written consent; (viii) any misuse of the Products or Buyer's use of the Products not in accordance with Cytiva specifications; (ix) any allegation that Buyer's use of the Products infringes the intellectual property rights of any third party; (x) any Product damaged or lost as a result of a force majeure event; (xi) transfer, installation or use of the Product in a location different than its place of delivery (including, without limitation, outside the country of delivery); or (xii) any Product, if the price payable for such Product has not been paid in full in accordance with the terms of the Contract.

#### **15. INDEMNIFICATION; LIMITATION OF LIABILITY**

**15.1.** Either Party shall defend, indemnify, and hold harmless the other from and against any and all damages incurred or suffered by such indemnified Party arising, directly or indirectly, from any third party claims related to: (i) the breach by the indemnifying Party of any of its covenants, agreements, representations, warranties or other obligations in the Contract; or (ii) fraud, gross negligence or intentional misconduct by the indemnifying Party or its representatives in connection with the Contract. In addition, Buyer shall defend, indemnify, and hold harmless Cytiva and its affiliates, and their respective representatives, from and against any and all damages incurred or suffered by Cytiva or such persons arising, directly or indirectly, from: (i) any misuse or unintended use of the Products; and (ii) any claim that the Buyer's use of the Products infringes the intellectual property rights of any third party. Notwithstanding the foregoing, the indemnifying party shall not be liable for damages caused by the indemnified party. Neither Party will be responsible for any settlement of a suit or proceeding made without its prior written consent.

**15.2.** IN NO EVENT SHALL Cytiva BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND HOWEVER CAUSED (INCLUDING FAULT OR NEGLIGENCE) ARISING OUT OF OR IN CONNECTION WITH THE CONTRACT OR THE PRODUCTS, INCLUDING THE SALE, INSTALLATION, USE OR INABILITY TO USE ANY PRODUCT, INCLUDING WITHOUT LIMITATION, DATA LOSS, LOSS OF PROFITS, GOODWILL OR BUSINESS INTERRUPTION.

**15.3.** The total liability of Cytiva arising under or in connection with the Contract or the Products, whether in contract, tort (including without limitation negligence and infringement of third party intellectual property rights), statute or otherwise shall, to the extent permitted by applicable law, be limited to damages in an amount equal to the amount paid to Cytiva under the Contract.

#### **16. INTELLECTUAL PROPERTY RIGHTS**

**16.1.** All intellectual property rights in or related to the Products and Services, including but not limited to any improvements thereof as well as any new inventions or other intellectual property rights arising as a result of this Contract related to the Products and Services, shall at all times remain vested in Cytiva or its licensors. Buyer hereby assigns all of its right, title and interest to any inventions related to the Products or Services, and any patent rights or other intellectual property rights therein, to Cytiva. Cytiva and Buyer agree that any Cytiva intellectual property or any improvements thereto which are used, improved, modified or further developed solely by either of the Parties or the Parties jointly during the performance of the Contract, shall be and remain the property of Cytiva.

**16.2.** The Buyer may only use processes, know-how, drawings and other technical documentation, supplied by Cytiva orally, in writing or on electronic media, in connection with the Products and any user licenses as may be granted to the Buyer under the Contract shall be non-transferable and non-exclusive and shall only be used for the Buyer's own internal purposes of operating the Products. Such information shall be kept confidential according to Section 19 below. Any license shall terminate automatically on the termination or expiry of the Contract for whatever reasons.

**16.3.** Where the Buyer supplies designs, drawings, and specifications to Cytiva to enable it to manufacture Customized Equipment or other non-standard or custom made Products, the Buyer warrants that such manufacture will not infringe the intellectual property rights of any third party.

#### **17. HEALTH AND SAFETY**

**17.1.** The Buyer shall ensure that:

17.1.1. the Products (provided such Products comply with its specifications) are suitable and safe for the Buyer's intended use;

17.1.2. the Products are handled in a safe manner;

17.1.3. containers, packaging, labeling, equipment and vehicles, where provided by the Buyer, comply with all relevant national and international safety regulations.

#### **18. TERM/TERMINATION OF THE CONTRACT**

**18.1.** The Contract comes into force when signed by both parties or upon Cytiva's order acknowledgement and shall be valid until each of the parties have fulfilled its obligations of the Contract or it is terminated in accordance with the provisions of the Contract.

**18.2.** Either party may terminate the Contract by written notice to the other party, if the other party commits a substantial breach of its obligations hereunder or becomes bankrupt, goes into liquidation or is insolvent, provided, however, that in case of any breach which is capable of being cured, neither party shall terminate the Contract unless and until the other party shall have failed to cure such default within 60 calendar days after it has received a written notice requiring that such default be cured.

**18.3.** If a party terminates the Contract for any reason other than due to Cytiva's breach of Contract and such Contract includes sale of Customized Equipment then Cytiva shall be compensated for incurred losses. The Parties agree that such losses shall be pre-estimated as an actual incurred loss according to the following: 20% of total order value if terminated after the Order but before Cytiva has initiated production start and 80% of total order value after Cytiva has initiated production start.

#### **19. CONFIDENTIAL INFORMATION**

Either or both parties possess valuable information, technical knowledge, experience and data of a confidential nature (hereinafter "Information"), which may include technical, financial and business information, reports, plans, market projections, pricing, terms and conditions and correspondence. The parties shall keep Information confidential and not disclose to any third party Information furnished by a party to the other party under the Contract, except for information which (i) either is part of the public domain, or becomes part of the public domain other than through fault of the other party; (ii) is already known to the other party at the time of its disclosure; (iii) is required to be disclosed to the authorities; or (iv) is required by a subcontractor or consultant for the execution of the Contract (in such case the subcontractors/consultants shall be obliged to treat the information submitted to them as confidential). The obligation of confidentiality shall survive the termination of the Contract with five (5) years unless it is a trade secret which shall be protected as per applicable law. Confidential Information must: (i) be designated by the discloser as such at the time of disclosure in writing or other tangible form and clearly identified by writing on its face as internal, confidential, restricted, or proprietary; or (ii) when initially disclosed by the discloser in oral or other intangible form, be identified as internal, confidential, restricted, or proprietary at the time of disclosure by the discloser, and reduced by the discloser to a tangible form and provided to the recipient within thirty (30) days from the date of the initial disclosure. The discloser's failure to so designate Information shall not conclusively determine the confidential nature of such Information.

#### **20. FORCE MAJEURE**

**20.1.** A party shall not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to, strikes, lock outs or labor disputes of any kind (whether relating to its own employees or others), fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, riot, civil commotion, war or civil war, acts or threats of terrorism, plant breakdown, computer or other equipment failure and inability to obtain equipment.

**20.2.** If an event of force majeure exceeds one (1) month a party may cancel the Contract without liability, however, Cytiva shall be compensated for the work and deliveries carried out up to the point of termination.

#### **21. SOFTWARE LICENSE**

Unless a separate software license agreement has been concluded concerning the Software, the Buyer is hereby granted a non-exclusive, non-sublicenseable, non-transferable license to use the Software for the sole and exclusive purpose of operating the Equipment to which it pertains, subject to the terms contained in this Section. The Software licensed under this Section may only be used in object code format and solely for Buyer's own internal business purposes. Buyer shall not: (i) use the Software for purposes other than those for which it was designed; (ii) use the Software in connection with any other manufacturers' products unless such connectivity is authorized in the Product documentation; (iii) grant, assign, transfer, or otherwise make available to any third party any right whatsoever in the Software; (iv) disclose to any third party any information contained in the Software; (v) copy or reproduce the Software (except for one copy for back-up purposes or as may otherwise be permitted by Applicable Law); (vi) alter or modify the Software; or (vii) reverse engineer (or use sequence(s) or other methods in an attempt to reverse engineer), decompile, disassemble or create any derivative works based upon the Software except as expressly permitted by mandatory law.

#### **22. EXPORT CONTROL**

The Buyer undertakes not to re-export the Products without (i) Cytiva's written consent and (ii) the requisite export license from the relevant body of the United Nations or other similar international organization, the United

States Government, the country of origin or the original country of export. The requirement to obtain a license may vary depending on the country of destination, the end-user, the end use and other factors. Upon request from Cytiva the Buyer shall furnish Cytiva with copies of all documents relating to such re-export.

### **23. WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE)**

**23.1.** Where the Buyer sells, disposes of or otherwise transfers the Equipment to any third party and where this would unreasonably increase the cost of the collection, treatment or recycling of the Equipment for Cytiva under applicable WEEE legislation, Buyer shall be liable to Cytiva and indemnify Cytiva for such increased costs.

**23.2.** Should the Equipment that Buyer acquires from Cytiva be Equipment, which is intended to replace on a 'like for like'-basis, any item of Buyer's existing equipment (e.g. the new Equipment is of an equivalent type or is fulfilling the same function as Buyer's existing equipment) Buyer must in respect of such existing equipment have clearly indicated to Cytiva the following: the brand, type, age, condition, current use and the exact location and all other relevant information. In the event Buyer has not complied with such obligations, Cytiva may charge Buyer such reasonable additional fees to reflect any related obligations it may have under national legislation regarding the recycling, reuse and/or disposal of such existing equipment and related costs it may incur.

**23.3.** Unless the relevant mandatory national legislation provides otherwise, or unless otherwise agreed in writing, Cytiva's obligation does not include without limitation, creation of physical access to the equipment; de-installation; decoupling; disinfecting; craning/lifting; transportation to a ground level loading area or -ramp; packing; or any related similar activities, and Buyer agrees to perform such activities at its own cost as and when required.

### **24. GENERAL**

**24.1.** Cytiva may make use of subcontractors in order to fulfil its obligations under the Contract, but shall in such cases remain fully responsible towards the Buyer.

**24.2.** If, after the date of signing of the Contract, any amendments or changes in the laws or other official regulations occur in the Buyer's country, and if compliance therewith would cause unavoidable delays, losses or expenses in connection with the execution of the Contract, the parties shall re-negotiate the terms of the Contract with regard to the new situation.

**24.3.** Notices required to be given in writing under the Contract shall be in the English language and shall be deemed properly given if personally delivered or sent by registered or overnight mail or by fax or e-mail to the relevant address/number. Such notices shall be effective upon receipt by the receiving party, which shall be deemed to have taken place at the latest seven (7) calendar days after dispatch if sent by registered or overnight mail.

**24.4.** Cytiva may assign or novate its rights and obligations under the Contract, in whole or in part, to any of its affiliates or may assign any of its accounts receivable under this Contract to any party without Buyer's consent. Buyer agrees to execute any documents that may be necessary to complete Cytiva's assignment or novation. The delegation or assignment by Buyer of any or all of its rights or obligations under the Contract without Cytiva's prior written consent (which consent shall not be unreasonably withheld) shall be void.

### **25. SECURITY**

Cytiva is not responsible for: (i) securing Buyer's network; (ii) preventing unauthorized access to Buyer's network or the Product; (iii) backup management; (iv) data integrity; (v) recovery of lost, corrupted or damaged data, images, software or equipment; or (vi) providing or validating antivirus or related IT safeguards unless sold to Buyer by Cytiva. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR DAMAGES CAUSED BY UNAUTHORIZED ACCESS TO THE NETWORK, PRODUCT OR SOFTWARE AS A SERVICE IN SPITE OF A PARTY'S COMPLIANT SECURITY MEASURES.

### **26. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the substantive laws of the country or state where the Cytiva group company (or relevant branch) office referred to in the Contract is situated and the parties hereby submit to the non-exclusive jurisdiction of the courts of that country or state.

### **27. PRODUCT-SPECIFIC TERMS AND CONDITIONS**

Additional terms and conditions govern the sale of certain Products and Services including, but not limited to, Software ("Product Specific Terms and Conditions"). These additional terms and conditions are available from the sales offices of Cytiva and shall take precedence in the event of any inconsistency with the Contract