

(a) SALE - PURCHASE AGREEMENT (The "Agreement")

**BETWEEN**

**MEDIQ NEDERLAND B.V.**

**and**

**DE STAAT DER NEDERLANDEN, DE MINISTER VAN VOLKSGEZONDHEID WELZIJN EN SPORT**

**AND**

**TRYUS N.V.**

**FOR IIR MASKS ("Product").**

**3242524-1013793-GMT**

## SECTION I: SALE - PURCHASE AGREEMENT

## The parties:

1. **MEDIQ NEDERLAND B.V.**, a limited company organized and existing under the laws of the Netherlands and registered with the Dutch trade registry under number [...], having its registered office at Rijnzathe 10, 3454 PV de Meern, the Netherlands, duly represented by [...], acting as part of the Landelijk Consortium Hulpmiddelen,

hereinafter referred to as "Seller";

AND

2. **The State of the Netherlands**, with its registered office in Den Haag, duly represented in this matter by the State Secretary for Health, Welfare and Sport, on their behalf 5.1.2e

5.1.2e a.i.,

hereinafter referred to as "VWS";

AND

3. **TRYUS N.V.**, a limited company organized and existing under the laws of Belgium, registered in Belgium under company number 0429.377.527, having its registered office at Louizalaan 500 Stratenplan bus 5 1050, Elsene, duly represented by 5.1.2e

5.1.2e

hereinafter referred to as "Purchaser";

Seller, VWS and Purchaser jointly referred to as the Parties and each separately as a Party.

## RECITALS

- A. Seller is a Dutch company engaged in the delivery of medical devices and associated care at home and to institutions. Seller is acting as part of the Landelijk Consortium Hulpmiddelen ("LCH"). LCH is a Dutch consortium charged with the national purchasing and distribution of medical aids and protective equipment during the corona crisis in the Netherlands. The LCH is founded by the Ministry of Health, Welfare and Sports.
- B. Purchaser is a Belgian international trader, including medical PPE.
- C. Seller has available quantities of product described as IIR masks from the brand Lemoine ("Product");
- D. Seller wants to sell 35 million available quantities of the Product, and Purchaser wishes to purchase the Product of Seller under the terms of this Agreement;
- E. Purchaser received samples of the Product on July 29th. By signing this Agreement, Purchaser declares to agree to and accept the quality of the Product based on the samples and inspection of the Product as referred to here;
- F. Purchaser has received and accepted the relevant quality reports from Seller;

5.1.2e

- G. The Parties have entered into consultations on the basis of the above. These consultations have led to agreement;
- H. Therefore, the Parties wish to document the terms and conditions of their agreement.

## THE PARTIES AGREE AS FOLLOWS

### 2 DEFINITIONS

Capitalised words and phrases use in this Agreement have the meanings:

“Agreement”	means this agreement, including the FHI General Conditions of Sale.
“Price”	means the price to be paid for the Products as further set out in this Agreement.
“Product”	The Product under this agreement as described in Appendix 1 (Description of goods).

### 3 SCOPE

- 3.1 The Agreement is entered into on August 6<sup>th</sup> 2021.
- 3.2 Purchaser shall purchase and Seller shall deliver 35 million Products.
- 3.3 This Agreement contains the following sections:
- Section I: this Agreement;
- Section II: FHI General Conditions of Sale;
- 3.4 Any ambiguity or contradiction will be resolved by reading the Agreement as a whole so that each provision will have effect. If a reading of the Agreement as a whole does not resolve the ambiguity or contradiction, then precedence will be given to Section I and then to Section II. Any general conditions of Purchaser are hereby expressly excluded.

### 4 DELIVERY AND RISK TRANSFER

- 4.1 The Products shall be delivered and transferred first at Eindhoven, FlightForum 1500, The Netherlands; later deliveries and transfer will take place at Vianen and Beuningen.
- 4.2 A separate delivery schedule will be drawn up for the delivery and transport of the Products, assuming about 2 truckloads per week. The Products will be delivered within 4 months after the conclusion of this Agreement.
- 4.3 The deliveries always take place under the Incoterms Ex Works, whereby whereby Purchaser is responsible for the export of the Products from the Netherlands and for the import of the Products into the country of destination.
- 4.4 The Products shall be purchased and delivered ‘as is’ and Seller shall not accept any liability in relation to the Products.
- 4.5 The risk of the Products transfers from Seller to Purchaser from the time the contract is entered into.

### 5 PRICE AND PAYMENT

5.1.2e

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### 5 PRICE AND PAYMENT

5.1.2e

- 5.1 The Price for each Product will be [REDACTED] 5.1.1c (excl. VAT), which amounts to a total price of € 175.000,- (one hundred and seventy five thousand)(excl. VAT) for the batch of goods to which this Agreement relates. This price is the complete purchase price, but excluding the applicable VAT.
- 5.2 The Products are supplied and transported on Europallets, Europallets can be returned upon transport or paid for by Purchaser. An amount of € 10,- will be charged for the quantity of pallets that were not returned. Seller will send an invoice to Purchaser for the total costs of the pallets.
- 5.3 Seller shall have no liability whatsoever for any additional taxes, duties, royalties or other financial impediments or import taxes.
- 5.4 The Purchaser will pay 100% per advance payment as follows:
- (a) 30% - for an amount of [REDACTED] 5.1.1c (excl. VAT) will be paid before the first transport on Monday 9 August, 2021.
- (b) Before each transport the price of the truckload of the transport will be paid, which is [REDACTED] 5.1.1c for each truckload, these payments will be done until the total of 175.000 has been paid in full.

Seller will send an invoice to Purchaser for the amounts to be paid on the agreed days. Seller will only proceed with the transport and transfer of the Products if 100% payment or proof of payment acceptable to Seller has been received from Purchaser for the Products and Transports in question.

- 5.5 Purchaser is responsible for transport and for the export documents. Purchaser is responsible for the costs of transportation, for the import and for the customs clearance for the import into the country of destination.
- 5.6 All the funds used by Purchaser for the payment for the Products or for any other payment due under this Agreement will have its origin in lawful and licit operations in accordance with the applicable law of the jurisdiction where they come from. Purchaser shall indemnify and defend Seller and its affiliates and their respective representatives against, and shall hold each of them harmless from and against, and shall pay and reimburse each of them for, any and all losses incurred or sustained by, or imposed upon, Purchasers indemnities based upon, arising out of, or with respect of any problem or situation regarding the funds that are used by Purchaser for the payment for the Products.

## 6 WARRANTIES AND CLAIMS

- 6.1 Purchaser waives any right of return of the Product and will not be able to invoke any warranty and other clauses.
- 6.2 Purchaser shall at all times defend, indemnify and hold Seller harmless from and against any and all damages, claims (including third party (product liability) claims and any claims and/or costs relating to Purchaser's failure to comply with its obligations under the Medical Device Regulation), liabilities, costs and expenses, including but not limited to court costs and reasonable attorneys' fees, in connection with any third party claims arising out of the supply and use of the Products or resulting directly or indirectly from any breach by Purchaser of an order or agreement and from any negligent act or omission of Purchaser, except to the extent caused by the gross negligence or intentional misconduct of Seller.

[REDACTED] 5.1.2e

- 6.3 Notwithstanding anything contained in this Agreement to the contrary, Seller's total liability will, regardless of the nature of the claim or theory of recovery, not exceed the Price of the Products involved in the claim and in no event shall Seller be liable for any incidental, consequential, statutory, punitive or exemplary damages including without limitation, loss of property, personal injury, and loss of business or profits or other economic losses, regardless of the nature of the claim or theory of recovery.

## **7 FORCE MAJEURE**

- 7.1 Neither Seller nor Purchaser shall be liable for any failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; epidemics; riots; and any such circumstances beyond its reasonable control; accidents; labour disputes; acts of civil or military authority; governmental actions; or inability to obtain labour, material, equipment or transportation; provided, however, that in such events the Parties shall use its best efforts to ameliorate the effects of any such failure or delay.
- 7.2 In case of force majeure, the fulfilment by Seller and / or Purchaser of the obligations arising from this agreement will be fully or partially suspended for the duration of such force majeure, without the parties being obliged to pay any compensation in this respect. The other party will be notified in writing of a case of force majeure, together with the necessary supporting documents.
- 7.3 Force majeure with regard to this agreement also includes non-compliance or late fulfilment by a third party of its obligations towards Seller or Purchaser.
- 7.4 If the force majeure situation lasts longer than 30 days, the other party has the right to terminate the agreement.

## **8 RETENTION OF TITLE**

- 8.1 All Products delivered by Seller are subject to retention of title by Seller. Ownership of the delivered Products will not transfer until full payment of the invoice corresponding to the Products has been received by Seller.
- 8.2 As long as the delivered Products are still subject to retention of title by Seller, Purchaser is not authorized to dispose of or encumber Products delivered under retention of title, to give the actual control over those Products in whole or in part to one or more third parties or to declare a legal act undertaking to hand over that actual control over these Products in whole or in part to one or more third parties.
- 8.3 Purchaser shall take all necessary measures to individualize the Products and shall take every precautionary measure to disclose Seller's right of ownership in the event of bankruptcy, seizure or recovery by a third party.
- 8.4 After invoking the retention of title, Seller is entitled to retrieve the delivered Products. Purchaser gives unconditional and irrevocable permission in advance to Seller and to third parties to be designated by Seller to enter all those places where Seller's property is located and to take back these properties. Purchaser shall enable Seller to enter the place where the Products are located and will provide all necessary cooperation in this regard, so that Seller obtains or can obtain possession of the Products. Purchaser is obliged to reimburse all costs that Seller reasonably incurs in order to retrieve the delivered Products.

## 9 NOTICES AND CONSULTATION

- 9.1 Notices under the Agreement must be made in writing and delivered to the following address specifications:

To Seller:	To Purchaser:
<b>MEDIQ NEDERLAND B.V.</b>	<b>TRYUS N.V.</b>
Name: .....	Name:  5.1.2e
e-mail address: .....	e-mail address:  5.1.2e
<b>The State of the Netherlands (LCH)</b>	
Name: .....	
e-mail address: .....	

## 10 SUBJECT OF APPROVAL

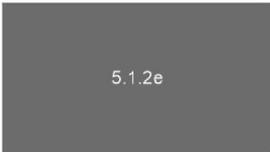
- 10.1 This Agreement is subject to approval of the Ministry of Health, Welfare and Sport and will only be binding if the approval is given by the Ministry of Health, Welfare and Sport. The Ministry of Health, Welfare and Sport will decide on this agreement after this agreement is signed by the Parties. In the event that this agreement is rejected by the Ministry of Health, Welfare and Sport, no agreement has been concluded.

## 11 CONFIDENTIALITY

- 11.1 Parties hereto hereby agree to keep this transaction confidential to the Parties involved herein. No disclosure to any other person, institutions, companies, corporations, etc., shall be made or given access by information without prior consent by either Party unless required by Law. The Parties shall maintain complete confidentiality regarding each other's business and/or their affiliates and shall only disclose knowledge pertaining to these specifically named Parties as permitted by the concerned party, unless agreed and granted by an expressed written Permission of and by the Party who made the source available.

## 12 CHOISE OF LAW AND FORUM

- 12.1 This Agreement and anything related to it will be governed by the Dutch law.
- 12.2 Any disputes in respect of this agreement or in respect of any matters relating to it or arising from it will be submitted to the district court of The Hague.

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**13 GENERAL PROVISIONS**

- 13.1 FHI General Conditions of Sale apply to this Agreement. FHI General Conditions of Sale are stated in Section II. As detailed in article 2.4, this Agreement takes precedent over the FHI general conditions where conditions contradict. Such as in the following articles:
- (a) Article 7.3, Incoterms: Contrary to what is stated in the FHI General Conditions of Sale, the delivery takes place under Incoterms Ex Works.
  - (b) Article 9.3, Notification of transport damage: This article is not applicable.
  - (c) Article 9.6, Return shipments: Returning of shipments are excluded in article 5.3 of this Agreement and are not accepted by Seller.
  - (d) Article 11, Spare parts: These articles are not applicable.
  - (e) Article 14, Warranty: Separate agreements have been made between Purchaser and Seller for the warranty, which deviate from the FHI General Conditions of Sale;
- 13.2 Amendments to this Agreement shall not be binding unless they are made in writing and signed by the Parties.
- 13.3 This Agreement contains the entire agreement of the Parties and supersedes and cancels any prior understandings and agreements of the Parties with respect to the subject matter hereof.

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**Signatories**

**For and on behalf of MEDIQ NEDERLAND B.V.      For and on behalf TRYUS N.V.**

5.1.2e

5.1.2e

**Name:** 5.1.2e

**Position:** 5.1.2e

5.1.2e

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**For and on behalf of DE STAAT DER  
NEDERLANDEN, State Secretary for Health,  
Welfare and Sport,** 5.1.2e

**Name:** 5.1.2e

**Position:**

5.1.2e

5.1.2e

## SECTION II THE FHI GENERAL CONDITIONS OF SALE

## APPENDIX I DESCRIPTION OF GOODS

<u>Brand</u>	<u>Supplier</u>	<u># (mln)</u>	<u>Expiration date</u>	<u>Quality documents</u>	<u>Quality status</u>
Lemoine	Lemoine	35		Yes	Approved

Quality Documents

Declaration of Conformity of Supplier

EN14683 Testreports

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