

Purchase Agreement
Contractnumber:
Verplichtingennummer:

PURCHASE AGREEMENT

BETWEEN

MEDIQ NEDERLAND B.V.

for and on behalf of

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

AND

AFPRO FILTERS B.V.

FILTERING HALF MASKS

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SECTION I PURCHASE AGREEMENT

THIS CONTRACT IS MADE ON April 24th, 2020 BETWEEN

1. **MEDIQ NEDERLAND B.V.**, a limited company organized and existing under the laws of the Netherlands (KvK 56038062), having its registered office at Rijnzathe 10, 3454 PV de Meern, the Netherlands for and on behalf of **DE STAAT DER NEDERLANDEN**, with its registered office in Den Haag, represented by the Minister van Volksgezondheid, Welzijn en Sport, hereinafter referred to as "**CUSTOMER**";

AND

2. **AFPRO FILTERS B.V.**, a limited company organized and existing under the laws of the Netherlands (KvK 37053830), having its registered office at Berenkoog 67 (1822 BN) Alkmaar, the Netherlands, hereinafter referred to as "**CONTRACTOR**";

CUSTOMER and CONTRACTOR jointly referred to as the PARTIES and each separately as a PARTY.

RECITALS

- A. CUSTOMER wishes to order the necessary goods in order to fight and contain the virus called COVID-19 for the benefit of, among others, hospitals, care homes and other care personnel in the Netherlands;
- B. CONTRACTOR is willing to enter into an agreement with CUSTOMER to contribute to the fight and containment of the virus in the Netherlands;
- C. Due to the unforeseen urgency and quick spread of the virus which is beyond the control of CUSTOMER, CUSTOMER is exempt from following the tender rules and invokes clause 2.32, lid 1, sub c AW 2012 to be able to directly enter into an agreement with CONTRACTOR in relation to the supply of certain goods;
- D. CUSTOMER wishes to purchase filtering half masks that comply with the required CE certifications and qualifications for mouth masks to be used in the healthcare sector by healthcare professionals dealing with COVID-19 patients and CONTRACTOR has subsequently issued an offer;
- E. Therefore, CUSTOMER and CONTRACTOR agree as follows.

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THE PARTIES AGREE AS FOLLOWS

1 DEFINITIONS

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

"CONTRACT"	means this contract, its Schedules and Annexes, including but not limited to the General Purchase Conditions.
"CONTRACT PRICE"	means the price to be paid for the PRODUCTS as further set out in Section IV Pricing Schedule.
"PRODUCT(S)"	means FFP2 Respiratory protective devices (filtering half masks), PPE of category III, with an appropriate CE/ PPE certification in accordance with Regulation (EU) 2016/425 as further detailed in Scope Schedule Section III.

2 SCOPE

2.1 Customer purchases PRODUCTS through Purchase Orders.

2.2 This CONTRACTS contains the following sections:

Section I:	Purchase Agreement;
Section II:	General Purchase Conditions;
Section III:	Scope Schedule;
Section IV:	Pricing Schedule.

2.3 Any ambiguity or contradiction will be resolved by reading the CONTRACT as a whole so that each provision will have effect. If a reading of the CONTRACT as a whole does not resolve the ambiguity or contradiction, then precedence will be given to Section I Purchase Agreement, including Its Annex and then to Section III Scope Schedule, subsequently to Section IV Pricing Schedule and lastly to Section II General Purchase Conditions.

3 DELIVERY

3.1 The PRODUCTS shall be delivered as detailed in the Purchase Order issued by CUSTOMER and accepted by CONTRACTOR.

3.2 CUSTOMER shall have a right of first refusal to buy any PRODUCTS beyond the first PURCHASE ORDER of 3.000.000 PRODUCTS.

4 CONSIDERATION

4.1 In consideration of the obligations undertaken and fulfilled in accordance with the terms of this CONTRACT by CONTRACTOR under the CONTRACT, CUSTOMER agrees to pay the CONTRACT PRICE for the delivered PRODUCTS.

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5 PURCHASE ORDERS

This CONTRACT provides for separate PURCHASE ORDERS for PRODUCTS.

6 EFFECTIVE DATE

The CONTRACT has an effective date of April 24nd, 2020 and will terminate by operation of law on April 24nd, 2021.

7 ADDITIONAL TERMS

- 7.1 PARTIES have agreed on additional terms which are set out in Annex A to this Section I Purchase Agreement.

8 NOTICES AND CONSULTATION

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

To CUSTOMER:	To CONTRACTOR:
MEDIQ NEDERLAND B.V.	AFPRO FILTERS B.V.
Name: 5.1.2e	Name: 5.1.2e
e-mail address: 5.1.2e@mediq.com	e-mail address: 5.1.2e@afprofilters.com
(mobile) phone number: 5.1.2e	(mobile) phone number: 5.1.2e

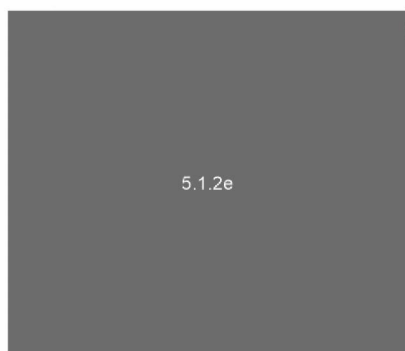
- 8.2 PARTIES will have structural and regular consultation (in principle on a weekly basis unless otherwise agreed) about the execution of the CONTRACT. The above mentioned contact persons will be the focal points for such consultation. Topics that may be discussed are: (i) reporting on the status of the production and delivery of the PRODUCTS, (ii) development of the virus and the state of emergency in the Netherlands, (iii) expected demand and delivery within a foreseeable timeline, iv) prediction of cost price development. In case of a substantial increase of the projected (total) cost price (starting at 20%), Parties shall discuss in good faith any consequences for the Contract.
- 8.3 During the consultations definitive numbers of ordered PRODUCTS that are required to be delivered shall be determined, with a minimum of 3.000.000 PRODUCTS.

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9 GENERAL PROVISIONS

- 9.1 Amendments to this CONTRACT shall not be binding unless they are made in writing and signed by both PARTIES.
- 9.2 This CONTRACT 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.
- 9.3 This CONTRACT may be executed in a number of identical separate counterparts, each of which for all purposes is deemed to be an original, but all of which shall collectively constitute one CONTRACT.

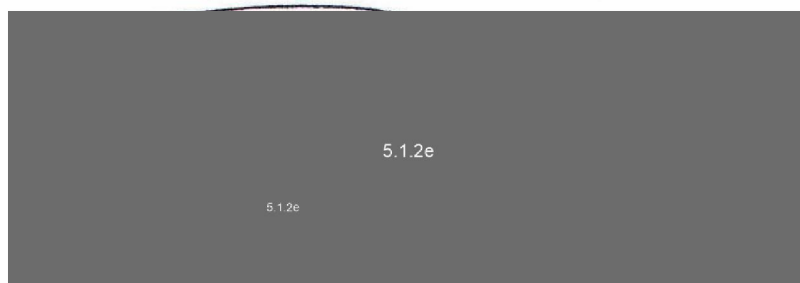
Signatories



D B.V.



For and on behalf of DE STAAT DER NEDERLANDEN,
DE MINISTER VAN VOLKSGEZONDHEID, WELZIJN EN SPORT



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ANNEX A

The PARTIES have additionally agreed the following:

1. LIABILITY

- 1.1 CUSTOMER shall not hold CONTRACTOR liable for the event the CE/PPE certification for the PRODUCTS is not obtained. CONTRACTOR guarantees that the PRODUCTS are produced, supplied, and delivered in conformity with the specifications set out in SECTION III SCOPE SCHEDULE . In case the PRODUCTS do not comply with the specifications set out in SECTION III SCOPE SCHEDULE, CONTRACTOR shall either repair or replace the PRODUCTS concerned within a reasonable period after the non-conformity has been discovered, upon its sole discretion. In no event shall CONTRACTOR be under any further obligation, including obligations to pay for any costs other than the costs in relation to the repair and/or re-delivery of replacement PRODUCTS. However in case CONTRACTOR is not able to repair or redeliver such PRODUCT in conformity with the required specifications set out in SECTION III SCOPE SCHEDULE then CONTRACTOR shall refund the purchase price of any such PRODUCT on the condition that such PRODUCT has been returned to CONTRACTOR. This is an explicit deviation of article 6 sub d of the General Purchase Conditions, as a result of which article 6 sub d of the General Purchase Conditions is not applicable.

CUSTOMER and CONTRACTOR shall be entitled to cancel any remaining tranches of the PURCHASE ORDER in case CONTRACTOR is not able to repair or re-deliver PRODUCTS in accordance with the specifications within a reasonable period. And CUSTOMER shall then fully compensate CONTRACTOR for undepreciated investment cost, made by CONTRACTOR, directly related to this contract, if not already done so by the payments done by CUSTOMER. In case these circumstances occur in the first PURCHASE ORDER CONTRACTOR shall either (i) be required to use its best efforts to minimize these costs and shall proceed to sell any machinery or equipment for which costs have been paid by CUSTOMER and shall pay the resulting proceeds to CUSTOMER, or (ii) CONTRACTOR shall pay to CUSTOMER the market value of the equipment and machinery for which costs have been paid by CUSTOMER, at its sole discretion.

- 1.2 CONTRACTOR shall not be liable for any damage caused, directly or indirectly, which relates to or arises out of or in connection with, in any way whatsoever to the production of or any defect in the PRODUCTS, by any title whatsoever. CUSTOMER shall indemnify and hold harmless CONTRACTOR, its directors and employees, against any third-party claims, by any title whatsoever, which may be asserted against or suffered by CONTRACTOR, its directors and employees and which relate to or arise out of or in connection with, in any way whatsoever, the manufacture of or any defect in the PRODUCTS. Furthermore, CUSTOMER shall indemnify and hold harmless CONTRACTOR against all third-party claims resulting from product liability. CONTRACTOR shall be obligated to use its best efforts to minimize any such damage and take reasonable instructions from CUSTOMER on how to defend itself against any such claims. CONTRACTOR shall not enter into any settlement with any third party claiming damages

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without prior written approval of CUSTOMER (not to be unreasonably withheld) and have CUSTOMER, on its request, handle any claim on CONTRACTOR's behalf.

- 1.3 If CONTRACTOR irrespectively of the foregoing, however, would be liable to CUSTOMER, CONTRACTOR's liability will in any event be limited to the purchase price of the PRODUCTS concerned (taken into account the open book calculation model) and shall not exceed the actual damages caused directly by the damage-causing event.
 - 1.4 In no event shall CONTRACTOR have any liability for any damage due to any unpreventable delays, including without limitations lost profits, opportunity loss or damage to reputation, or for any indirect, immaterial, special, punitive, or consequential damage unless such damages are caused by the gross negligence or wilful conduct of CONTRACTOR. A request for a delay of delivery by CONTRACTOR will not be unreasonably withheld. In case CONTRACTOR is unable to (continue) the manufacturing and/or delivery of the PRODUCTS as a direct consequence of one or more circumstances non-attributable to CONTRACTOR (Force Majeur) (such as but not limited to unforeseen problems with its own suppliers or subcontractors in the supply of (raw) materials of the essential, illness of personnel, et cetera), CONTRACTOR cannot be held liable, unless this is the result of gross negligence ("bewuste roekeloosheid") or wilful conduct ("opzet") of CONTRACTOR. In the event the aforementioned situation occurs for a consecutive period of one (1) month, CUSTOMER as well as CONTRACTOR are entitled to terminate this Contract by written notice with immediate effect and without any claim for compensation.
 - 1.5 Articles 1.1 up to and including 1.4 of this Annex are an explicit deviation of article 11 of the General Purchase Conditions, as a result of which article 11 of the General Purchase Conditions is not applicable and article 11 b. of the General Purchase Conditions does not apply in case of the indemnification as mentioned in article 1.2.
- 2. INTELLECTUAL PROPERTY RIGHTS (INCLUDING PATENT INFRINGEMENTS)**
- 2.1. Due to the time pressure and scope of the request of CUSTOMER, CONTRACTOR has executed a quick scan by a patent attorney to investigate potential patent infringement of the PRODUCT design, materials and production. As a result of the timelines and starting date of the production of the PRODUCTS on 20 April 2020 any other, additional and/or more extensively investigation is not possible. CONTRACTOR makes no representation or warranty with respect to any intellectual property rights.
 - 2.2. CUSTOMER shall provide CONTRACTOR prompt written notification as soon as any actual or threatened intellectual property claim with respect to or arising from the production, sale or use of the PRODUCTS comes to its attention and it will provide CONTRACTOR with all cooperation which CONTRACTOR deems necessary.
 - 2.3. CUSTOMER shall defend, indemnify and hold harmless CONTRACTOR, its directors and employees, against all claims, suits, (judicial) proceedings, actions, liabilities, damages, losses, expenses and costs (including legal fees and reasonable attorney fees) arising out of any actual or alleged

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infringement of any patent, copyright and/or other intellectual property rights by CONTRACTOR or arising out of the production, sale or use of the PRODUCTS.

- 2.4. Articles 2.1 up to and including 2.3 of this Annex are an explicit deviation of article 4 of the General Purchase Conditions, as a result of which article 4 of the General Purchase Conditions is not applicable.

3. PROCUREMENT

- 3.1. In case the CONTRACT is successfully challenged on the grounds that the exemption to tender rules mentioned under Recital C of this CONTRACT does not apply, CUSTOMER shall compensate CONTRACTOR for all damages, losses, expenses and costs incurred as a consequence thereof. This is an explicit deviation of article 11 of the General Purchase Conditions, as a result of which article 11 of the General Purchase Conditions is not applicable in relation to the damages contemplated to be covered by this article.

4. CONFIDENTIALITY

- 4.1 Any information (among which, documents) proprietary to CONTRACTOR with regard to the CE certification of the PRODUCT received by CUSTOMER (regardless of the reason for distribution) is to be treated confidential by her, and is not to be used or to be disclosed to third parties without CONTRACTOR's written consent. Such information shall not be considered as confidential if such information (i) is in the public domain or known by the CUSTOMER prior to disclosure, (ii) becomes known to the public after disclosure, other than through breach of this confidentiality obligation, (iii) becomes known to the CUSTOMER from a source other than CONTRACTOR without breach of any obligation to preserve such information in confidence by such source, or (iv) is required by a court ruling or by law which includes the WOB (*Wet Openbaarheid Bestuur*) and the Parliamentary right to request for information or the obligation by the Government to provide information to Parliament (*Parlementair vragenrecht*) to be disclosed, provided such disclosure is subject to all available protection from further disclosure.

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SECTION II THE GENERAL PURCHASE CONDITIONS

1. GENERAL APPLICABILITY

These General Purchase Conditions apply to (all requests for) offers, orders and agreements where a reference to these General Purchase Conditions is made, or the applicability is agreed in any other way, regarding the supply of goods to and the performance of services (hereinafter referred to as 'Deliveries' or 'PRODUCTS'). The supplier to be referred to as 'supplier' or 'CONTRACTOR'.

2. ORDERS

- a. Deliveries shall be made against purchase orders issued by CUSTOMER. Except in the event of Force Majeure, or if the supplier within one day after receipt of a purchase order rejects the purchase order, the supplier shall be obliged to accept purchase orders issued by CUSTOMER.
- b. Acceptance of a purchase order issued by CUSTOMER implies acceptance of these General Purchase Conditions. No purchase order, acknowledgment form, or other ordering document or communication from the supplier shall vary the terms and conditions of these General Purchase Conditions.
- c. If a purchase order carries an obvious spelling or calculation mistake or if an acknowledgment by the supplier of a purchase order issued by CUSTOMER deviates in any way from the order, CUSTOMER is only bound after it has explicitly declared in writing that it accepts the mistake or deviation. Acceptance by CUSTOMER of Deliveries, as well as payments for them made by CUSTOMER, does not imply any acceptance of any mistakes or acknowledgment of any deviations.

3. PRICE, INVOICING AND PAYMENT

- a. The prices are only valid if mutually agreed and confirmed in writing by CUSTOMER and the agreed prices can only be changed after upfront mutual written agreement between CUSTOMER and the supplier. A price decrease is immediately effective, irrespective of the earlier date of the purchase order. In case of a delay in the delivery, the agreed price for the delivery date remains valid.
- b. The agreed price is fixed in the currency of the country where the designated location of CUSTOMER for Deliveries is established and is excluding VAT. Invoices must be submitted to the designated location of CUSTOMER with reference numbers, be in conformity with the orders and itemised per position and include the position number(s). For as long as any part of these details is missing, CUSTOMER has the right to defer its obligation to pay the invoice in question.
- c. CUSTOMER will pay after errorless invoicing within the agreed payment term. The agreed payment term is not a strict deadline. The supplier shall not withhold deliveries if CUSTOMER fails to make any payment when due.
- d. Payment does not in any way imply the waiver of any right to come back on the performance of the Deliveries and/or invoices. Payment of the invoices of the supplier does not in any way imply the acceptance of any general conditions of the supplier that are mentioned or referred to on the invoices.
- e. CUSTOMER is authorised to offset its debt, which is due and payable, against the debt owed by the supplier. Supplier is not authorised to offset any balances with any amounts owed by CUSTOMER.

4. INTELLECTUAL PROPERTY RIGHTS

- a. If Deliveries or accompanying documentation are subject to intellectual property rights, CUSTOMER acquires a free right of its use via a non-exclusive, worldwide, perpetually renewable license. All intellectual property rights that arise as a result of the performance of the Deliveries by the supplier, its personnel or third parties that the supplier involves in the performance of the Deliveries, come to rest with CUSTOMER. On first demand of CUSTOMER, the supplier is obliged to do everything that is required to acquire and secure these rights.
- b. The supplier guarantees that the Deliveries do not infringe the intellectual property rights of third parties. The supplier indemnifies and holds CUSTOMER harmless from and against any and all claims damages, liabilities, costs and expenses, including but not limited to court costs and reasonable attorneys' fees, asserted by any third party owing to (alleged) infringements in this regard.

5. PACKAGING AND SHIPMENT

The supplier will package the Deliveries to be supplied as economically, safely and carefully as possible and such that the shipment is easy to handle during transport and unloading and complies with all relevant laws and regulations. The supplier will ensure that the Deliveries reach their destination in good condition. Without prejudicing the aforementioned, the packaging

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and the shipment must comply with all the applicable EU and national legislation and regulations such as but not limited to the CE PPE recommendation EU 2020/403 (such as labelling and documentation requirements) and the agreed rules and procedures. CUSTOMER may reject Deliveries that do not comply with these requirements. Any return of any Deliveries, as well as any return of special packaging, irrespective of the reason, shall be for the cost of the supplier.

6. DELIVERY

- a. All deliveries will be made to the agreed location according to the agreed delivery terms of the version of the Incoterms that applies at the moment that the order was placed.
- b. The delivery date, dates or term(s) agreed apply as deadlines that must be strictly observed and apply to the whole delivery, including the accompanying documentation and labelling. Early delivery is not allowed unless agreed in writing in advance of delivery by CUSTOMER. Except in the event of Force Majeure, the supplier shall not be entitled to suspend or withhold delivery of the goods ordered by CUSTOMER. If circumstances occur that give cause to anticipate that the agreed delivery date, dates or term(s) will be exceeded, then the supplier must inform CUSTOMER of this immediately in writing. If the supplier exceeds any agreed delivery date, dates or term(s), CUSTOMER is entitled to an appropriate compensation by the supplier, without prejudice to CUSTOMER's other rights.
- c. The supplier guarantees that the Deliveries are: - of good quality and defect free and in the case of performing services that they are performed by expert personnel using new materials; - entirely in accordance with the agreement or order, the specifications given and the reasonable expectations of CUSTOMER for as far as the characteristics, quality and reliability of the Deliveries are concerned; - suitable for the purpose for which the Deliveries are intended (i) in the nature of the case evident to the supplier or (ii) in accordance with the order; and - in compliance with all applicable legislation and regulations, including required technical documentation, including expiry date, instruction for use and labelling, any export license(s) required for the export of the Deliveries.
- d. If any Deliveries are rejected, for whatever reason, CUSTOMER will inform the supplier about this and CUSTOMER can, at the option of CUSTOMER, require its replacement or repair, or terminate or cancel the order, without prejudice to CUSTOMER's other rights.
- e. The supplier shall maintain adequate and accurate books and records with respect to the Deliveries for a period of at least the shelf life, respectively the life cycle of the Deliveries plus one (1) year, including but not limited to, manufacturing records and lot traceability records.
- f. In addition, the supplier will be responsible for and shall ensure that all documentation required under the applicable laws and/or regulations, will be available for inspection by the relevant authorities for a period at least equal to the minimum period required by applicable regulations and/or law.
- g. The supplier shall:
 - comply with all applicable rules and regulations relating to the nature, method of manufacture, packaging, instruction for use the language of the CUSTOMER entity purchasing the Deliveries, and labelling of the Deliveries as well as, at its own expense, obtain and maintain all necessary permits, licenses, manufacturing authorizations and registrations for the Deliveries;
 - keep record from each production lot per Delivery, so that tracing of the Deliveries can be done according to the lot number two (2) years after the production for all Deliveries;
 - give notice to the Distributor without undue delay upon any changes of the Deliveries if the changes affect the agreed specifications and prior to such changes are implemented; and
 - bear the direct costs (including recycling, if applicable) related to a field safety corrective action solely caused by the Deliveries and due to a request by an authorized authority.

7. TRANSFER OF OWNERSHIP AND RISK

The Deliveries are for the risk of the supplier until they have been delivered to the agreed destination and accepted in writing by an authorised CUSTOMER person stating his name. The ownership of the Deliveries passes to CUSTOMER at the latest at the moment of the aforementioned acceptance.

8. TRANSFER OF RIGHTS AND OBLIGATIONS

The supplier will not subcontract out the Deliveries or parts thereof to third parties and will not partially or wholly transfer the rights and obligations that it acquires by virtue of the agreement to third parties, without prior written permission from CUSTOMER. CUSTOMER may transfer any and all of its rights to third parties without having to obtain the approval of supplier.

9. CONFIDENTIALITY

The supplier shall not disclose to anyone or use, except with the prior written authorization of CUSTOMER any information that is considered confidential, if: (i) it concerns the Deliveries, (ii) it is delivered in written form marked "confidential", (iii) it is

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delivered orally, described as confidential and its confidential nature is confirmed in writing within thirty (30) days and (iv) in any event if the supplier might reasonably be expected to judge it as confidential, provided by CUSTOMER to the supplier or discerned by the supplier from information obtained from CUSTOMER in the course of performing its obligations, provided however, that such information shall not be considered as confidential if such information (i) is in the public domain or known by the supplier prior to disclosure, (ii) becomes known to the public after disclosure, other than through breach of this confidentiality obligation, (iii) becomes known to the supplier from a source other than CUSTOMER without breach of any obligation to preserve such information in confidence by such source, or (iv) is required by a court ruling or by law to be disclosed, provided such disclosure is subject to all available protection from further disclosure.

10. CORRUPT PRACTICES

The supplier shall maintain a high standard of moral and ethical behaviour concerning the Deliveries and shall conduct its business with the highest degree of integrity and in accordance with any law or regulation applicable to it or to its activities. In particular, the supplier undertakes that it has not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind in any way connected to the Deliveries and that it has taken reasonable measures to prevent its related third parties subject to its control or determining influence from doing so. The supplier will prohibit the practices of bribery, extortion or solicitation, trading in influence or laundering the proceeds of any of these corrupt practices, in relation to any public official, a political party or any person (in)directly related to the Deliveries.

11. GENERAL INDEMNITY

a. The supplier shall at all times defend, indemnify and hold CUSTOMER harmless from and against any and all damages, claims (including third party (product liability) claims and any claims and/or costs relating to suppliers' 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 Deliveries or resulting directly or indirectly from any breach by the supplier of these General Conditions or an order or agreement and from any negligent act or omission of the supplier, except to the extent caused by (i) the gross negligence or intentional misconduct of CUSTOMER or (ii) a breach by CUSTOMER of any of the terms of these General Conditions.

b. Notwithstanding anything contained in these General Conditions to the contrary, CUSTOMER's total liability will, regardless of the nature of the claim or theory of recovery, not exceed the price of the Deliveries involved in the claim and in no event shall CUSTOMER 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.

12. APPLICABLE LAW AND COMPETENT COURT

Each of the Deliveries will be governed by the laws of the Netherlands. The applicability of the Vienna Sales Convention is excluded. All disputes between CUSTOMER and the supplier that may arise and for which no solution can be found in consultation with one another, shall exclusively be submitted to the court in The Hague, The Netherlands.

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SECTION III SCOPE SCHEDULE

The **PRODUCT(S)**: means FFP2 Respiratory protective devices (filtering half masks), PPE of category III - will have the appropriate CE/ PPE certification in accordance with Regulation (EU) 2016/425¹. As the **PRODUCTS** fall within the scope of Commission Recommendation EU 2020/403² of 13 March 2020 on conformity assessment and market surveillance procedures within the context of the COVID-19 threat (the "Recommendation EU 2020/403"), the **CONTRACTOR** may also make use of the shortened certification procedure under this Recommendation EU 2020/403 for masks intended for COVID-19 use only (CE COVID-19 Healthcare PPE [Respiratory Protective Devices]). In accordance with article 7 of the Recommendation EU 2020/403, during the period the conformity assessment procedures, including the affixing of CE marking have not been fully finalised according to the harmonised rules, **CONTRACTOR** is authorised to produce and deliver the **PRODUCTS** to **CUSTOMER** (thus without CE/ PPE certification) on the condition that the national market surveillance authority(ies) find that the mask ensures an adequate level of health and safety in accordance with the essential requirements laid down in Regulation (EU) 2016/425.

1. The **PRODUCT** will be delivered in 2 versions of a foldable type.

- Type 1: TC-2-A
 - Equipped with two elastic straps to be worn around the users head.
- Type 2:TC-2-B
 - Equipped with two elastic straps to be worn behind the users ears.

The **PRODUCT** is built up in 5 layers of material, nose strip, seal and elastic straps. **PRODUCTS** are packaged in boxes with 20pcs. Stacked on a pallet of 80x120x180 (LxWxH). Unless otherwise agreed between parties.

The **PRODUCT** is composed as follows:

- Splash protection material
- Meltblown efficiency layer
- Structural strength material
- Meltblown efficiency layer
- Hygenic / comfort layer

¹ https://ec.europa.eu/growth/sectors/mechanical-engineering/personal-protective-equipment_en.

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2020:079I:TOC>.

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2. The PRODUCT shall fulfil the requirements for the design, manufacturing and placing on the market of personal protective equipment as laid down by Regulation (EU) 2016/425 of the European Parliament and the Council of 9 March 2016 on personal protective equipment, subject to any exceptions under Commission Recommendation EU 2020/403 of 13 March 2020 (and the PPE Recommendation for Use3).
3. CONTRACTOR will ensure that the PRODUCT is certified in accordance with the requirements of EU-regulation 2016/425 by a Conformity Assessment Body⁴ that has been notified to conduct such certifications. CONTRACTOR will submit to CUSTOMER the formal request for certification of the PRODUCT to this Notified Body and will submit all relevant test-reports, certificates and other relevant documentation related to the certification of the PRODUCTS. CONTRACTOR will inform the CUSTOMER on the progress of the certification process on regular basis.
4. The EU declaration of conformity shall have the model structure set out in Annex IX of Regulation EU 2016/425, shall contain the elements specified in the relevant modules set out in Annexes IV, VI, VII and VIII of said Regulation and shall be continuously updated. It shall be translated into the language or languages of the Member State in which the PPE is placed or made available on the market.
5. CONTRACTOR shall ensure that he produces the PRODUCT in an appropriate production location that meets relevant quality standards for the production of CE/ Personal Protection Equipment.
6. Delivery of the PRODUCT will commence as soon as possible after the advanced payment has been received by CONTRACTOR and will be done on a daily/weekly schedule as parties will agree upon separately.
7. Should during the time of this Contract the certification and/or qualification requirements change such that the current CE/PPE certification in accordance with the framework of Recommendation EU 2020/403 is no longer sufficient, CONTRACTOR shall use its best efforts to apply for and obtain the then required certification and/or qualification. Should CONTRACTOR not be able to obtain such updated certification and/or qualification, Parties will consult which each other to discuss any consequences. This clause 7 shall not apply to any issued and accepted PURCHASE ORDERS that are at that time in production. In case such PURCHASE ORDERS are not in production, such PURCHASE ORDER shall be cancelled.

³ https://www.ppe-rfu.eu/app/uploads/sites/10/2020/04/RfU-02.075_01_Regulation.pdf

⁴ https://ec.europa.eu/growth/tools-databases/nando/index.cfm?fuseaction=directive.notifiedbody&dir_id=155501.

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SECTION IV PRICING SCHEDULE

1 Price

- 1.1 The price for the PRODUCT will be based on the actual costs made by CONTRACTOR.
- 1.2 The price for the PRODUCT will be calculated in an Open book calculation. CUSTOMER can, at its own expense, audit the Open book calculation of CONTRACTOR.
- 1.3 Prices for the PRODUCT will be reviewed on the basis of the open book calculation and the difference will be settled between CONTRACTOR and CUSTOMER within a month after the last of the 5.1.1c has been delivered, or when delivery of a PURCHASE ORDER is cancelled or cannot be completed.
- 1.4 After completion of delivery of each subsequent PURCHASE ORDER such review shall be repeated. Price adjustments agreed during the review process shall apply to such subsequent PURCHASE ORDER after the Price Review has been agreed in writing.
- 1.5 The PRODUCTS are produced by using several components. The price for the PRODUCT will be calculated using the assumptions as depicted in the Excel sheet set in Table 1 below and will be subject to the open book calculation review.
- 1.6 Deprecation of the Capex Investments will be on the first 5.1.1c
- 1.7 Difference between the actual cost of the PRODUCT and the paid price will be compensated to the other party with a credit note which can be settled with a subsequent PURCHASE ORDER or repaid to CUSTOMER respectively CONTRACTOR within 30 days of such request by CUSTOMER or CONTRACTOR.
- 1.8 Unforeseen cost and risks, products development and certification is set at 15% of the cost price without the deprecation cost for the initial price calculation but this will be part of the open book adjustment.
- 1.9 The margin is set at 0%
- 1.10 The price for labour is estimated at 5.1.1c This amount will be part of the open book calculation.

2 Payment

- 2.1 The Starting Price is set at 5.1.1c /PRODUCT and will be adjusted in accordance with open book calculation as referred to in article 1, after the delivery 5.1.1c to the actual price/PRODUCT.
- 2.2 The difference in price between the starting price and the actual price will be settled between CUSTOMER and CONTRACTOR in accordance with article 1.7.
- 2.3 After the signing of the CONTRACT by both parties, CUSTOMER is due to pay to CONTRACTOR an advance payment of 5.1.1c The amount will be transferred as soon as possible after issuing of the PURCHASE ORDER.

Purchase Agreement
Contractnumber:
Verplichtingenummer:

- 2.4 After delivery of the PRODUCT by CONTRACTOR the remaining part of the Starting Price is due by the CUSTOMER.

For example; [REDACTED] 5.1.1c [REDACTED] is due.

- 2.5 The CUSTOMER guarantees the purchase of [REDACTED] 5.1.1c [REDACTED] provided CONTRACTOR fulfilled the conditions and standards as set in Section III SCOPE SCHEDULE If, at the end of the duration of the CONTRACT or in case of its premature termination, the CUSTOMER has not taken delivery of all the [REDACTED] 5.1.1c [REDACTED] the CUSTOMER is obliged to take delivery of the remainder of the stock. After which, and in case CUSTOMER refuses to take possession of the stock, CUSTOMER is due to pay the (full) Price per PRODUCT, based on the actual cost as indicated in article 1.
- 2.6 All payments are due within 30 days after the invoice is received by CUSTOMER (with the exception of 2.3). Both parties are authorized to offset any balances with any amounts owed.

3. DELIVERY

3.1. Delivery is made by CONTRACTOR Ex Works (incoterms EXW), unless otherwise agreed between PARTIES. CONTRACTOR will deliver (and transfer ownership of) the PRODUCT to the CUSTOMER by handing it over to the carrier (E.g. trucking company). The CUSTOMER is responsible -at her own cost- for the loading, logistics and trucking and bares the risk that the PRODUCT reaches the destination in good condition.

Purchase Agreement
Contractnumber:
Verplichtingenummer:

Main Statistics Face Mask production					
Bill of material	value	unit	waste %	price / unit	price / piece
Spunbond material (outside)	0,00486	kg / mask	10%		5.1.1c
Spunbond material (inside)	0,001215	kg / mask	10%		
Hygienic material	0,00405	kg / mask	10%		
Efficiency layer	0,00405	kg / mask	10%		
Elastic strap	0,4	m / mask	1%		
Metal strip	0,09	m / mask	1%		
Gasket	0,08	m / mask	10%		
Raw material total					
Packaging	value	per # pieces		price / unit	price / piece
small box					5.1.1c
large box					
Foil					
Pallet					
Packaging Total					
Energy					price / piece
heating and electricity					5.1.1c
Labour costs	# employees	hourly rate	shift length	Allowance	Total costs shift
Team 1					5.1.1c
Team 2					
Team 3					
Subtotal day					
Costs / mask					
Investments	Investment	PRODUCTS			price / piece
Depreciation costs			5.1.1c		
Total costs / mask					
Overhead, unforeseen costs and risk				15%	5.1.1c
Sales price					
Output of machine	value	unit			
# masks	28	pcs / minute			
# hours / day	24	hours / day			
Production efficiency	85%				
Output / day	34.272	pcs / day			

Table 1: Example Structure of Excel open book calculation of the PRODUCTS