

## STANDARD TERMS AND CONDITIONS OF PURCHASE OF PRODUCTS FOR VIETNAM

The purchase of the Products by Medtronic Vietnam Company Limited (Enterprise Registration Certificate No. 0313651200) (**Medtronic**) from the Supplier will be subject to these terms and conditions of purchase.

### 1. Definitions

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In this document:

**Affiliate** means, as to any individual, corporation, partnership, limited liability company, association, trust, unincorporated entity or other legal entity (each a "Person"), any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or under common control with such Person. As used in this definition, "control" (including, with correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of the power to direct or cause the direction of the management and policies (whether through ownership of securities or partnership or other ownership interests, by contract or otherwise).

**Agreement** means a Purchase Contract incorporating these Medtronic standard terms and conditions of purchase.

**Delivery** means the Supplier completing the supply of the required Products.

**Delivery Date** means the time frame for supply of the Products as set out in the Purchase Order or, if no time frame is stipulated by Medtronic, the usual time frame for delivery to Medtronic shown in the Supplier's Medtronic records.

**Delivery Point** the place for supply of the Products, as set out in the Purchase Order or, if no such place is stipulated by Medtronic, the usual place for delivery to Medtronic shown in the Supplier's Medtronic records.

**GST** means Goods and Services Tax.

**Insolvency Event** has the meaning given in clause 20.6.

**Laws** means any statute, ordinance, code or other law including Federal, State, territorial or local government legislation, regulations under them and any code of practice, membership rules or standards issued by relevant regulators or industry bodies, whether or not having the force of law, applicable to or which affect the Goods, these Medtronic Standard Terms or any obligations performed under these Medtronic Standard Terms.

**Loss** means any loss, liability, costs (including legal costs on a full indemnity basis) or expense incurred by Medtronic relating to the Purchase Contract.

**Price** is defined in clause 3.1.

**Products** means the goods purchased or to be purchased by Medtronic from the Supplier which are the subject of a Purchase Order or Purchase Contract.

**Purchase Contract** is defined in clause 2.1.

**Purchase Order** means a purchase order issued by Medtronic or other form of written request or written agreement by Medtronic to the Supplier for the Supply.

**Representative**, in respect of a party or other person, means an officer, employee, contractor or agent of that party or person and, in the case of a Medtronic Affiliate, includes any officer, employee, contractor or agent of that Medtronic Affiliate but excludes the Supplier and the Supplier's Representatives.

**Specifications** means the description and specifications (if any) in respect of the Products as set out in the Purchase Order.

**Supply** means the supply of the Products, as applicable, set out in the Purchase Order.

**Supplier** means the person or legal entity by or on behalf of whom the Supply is made.

### 2. Purchase Orders and Purchase Contract

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2.1 Medtronic may issue a Purchase Order to the Supplier in respect of the Supply. A purchase by Medtronic must not occur unless Medtronic has issued a Purchase Order. Medtronic is not obliged to issue any Purchase Orders or Purchase Orders for any minimum quantity of Products.

2.2 Upon Medtronic's issue of a Purchase Order, a contract will form between Medtronic and the Supplier for the sale by Supplier, and the purchase by Medtronic, of the Supply (**Purchase Contract**). Each Purchase Contract will incorporate and be governed by these Medtronic standard terms and conditions of purchase (Medtronic **Standard Terms**) to the exclusion of any other terms and conditions that the Supplier attempts or purports to stipulate or incorporate in connection with a Purchase Order (including any terms and conditions specified or referred to in or with the Supplier acceptance of the Purchase Order, a Supplier invoice or in any other document provided by the Supplier).

2.3 Neither Medtronic's acceptance of the Supply nor its failure to object to any conflicting, different or additional terms and conditions proposed by the Supplier will constitute, or be taken to constitute, an acceptance of those terms and conditions or a waiver of these Medtronic Standard Terms.

- 2.4 The Supplier is an independent contractor of Medtronic and nothing in these Medtronic Standard Terms or the Purchase Contract constitutes any other type of relationship between the parties, including the Supplier as Medtronic's agent.

### 3. Price, invoicing and payment

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- 3.1 The purchase price for the Supply (**Price**) will be:
- (a) the price set on the Purchase Order for the relevant Supply;
  - (b) if no price is set out in the relevant Purchase Order, the price for the Supply quoted in writing by the Supplier to Medtronic (or otherwise agreed in writing between the parties) in connection with the Purchase Order; or
  - (c) if there was no price set out in the relevant Purchase Order or quote given or price agreed, the price set out in the Supplier's prevailing price list for the supply of the relevant Supply, as in effect at the time the Supply is supplied to Medtronic.
- 3.2 The Supplier will issue an invoice to Medtronic for the Supply, calculated in accordance with the Price.
- 3.3 Subject to clause 3.7, Medtronic must pay all correctly rendered invoices, within ninety (90) days of the invoice date, by electronic funds transfer of cleared funds (in the currency nominated by the Supplier) to the Supplier's nominated account.
- 3.4 For the purposes of clause 3.3, an invoice is not correctly rendered unless:
- (a) the invoice is a tax invoice;
  - (b) the Supplier is entitled to issue the invoice under clause 3.2 and the amount claimed is correctly calculated; and
  - (c) the invoice includes details of the relevant Purchase Order(s) and such other information reasonably required by Medtronic.
- 3.5 Payment under clause 3.2 is not evidence that:
- (a) Medtronic accepts all or any part of the Supply;
  - (b) the Supplier has carried out its obligations under the Purchase Contract; or
  - (c) of any waiver by or estoppel against Medtronic in relation to any right or action which Medtronic may have at any time against the Supplier.
- 3.6 In the event Medtronic has agreed in writing to:
- (a) delivery of the Supply by instalments; and
  - (b) undertake progress payments,
- the Supplier may invoice Medtronic for each instalment.
- 3.7 If Medtronic pays any undisputed portion of the applicable invoice according to the terms of the Purchase Contract, Medtronic will not be taken to be in default with respect to failure to pay the disputed portion of the invoice during such time as the disputed portion is unresolved.
- 3.8 The Supplier expressly authorises Medtronic (or any other relevant Medtronic Affiliate) to deduct or withhold any amount (whether on account of tax or otherwise) from any payment to be made to the Supplier under a Purchase Contract where Medtronic or the relevant Medtronic Affiliate is required by or under any applicable law to do so.
- 3.9 The Price:
- (a) covers all obligations of the Supplier under a Purchase Contract; and
  - (b) unless otherwise provided in the Statement of Work or the Purchase Order, is deemed to include all costs of labour, materials, packaging, freight, assembly, installation and insurance, inspection, labelling and sales, excise, or other taxes (other than GST), charges, levies, assessments or fees of any kind imposed on the Supplier in any jurisdiction in respect of the Supplier's Supply to Medtronic under this Agreement.
- 3.10 The Price is fixed and shall not be subject to adjustment for inflation, currency exchange fluctuation or any other adjustment whatsoever, unless otherwise specifically provided in the Purchase Order.
- 3.11 Medtronic shall have the right to offset from any payment payable to the Supplier any monies due from the Supplier to Medtronic, regardless of whether such monies are due under a Purchase Contract or not.

### 4. GST and taxes

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- 4.1 If a party (**the Supplying Party**) makes a supply under or in connection with a Purchase Contract on which GST is payable (not being a supply for which the consideration is expressly described in a Purchase Contract as "GST inclusive"), the consideration payable or to be provided for that supply under a Purchase Contract but for the application of this clause 4.1 (**GST Exclusive Consideration**) is increased by, and the recipient of the supply (**Recipient**) must also pay to the Supplying Party an amount equal to, the GST Exclusive Consideration multiplied by the GST rate prevailing at the time that the supply is made (**GST Amount**).
- 4.2 The Recipient need not pay the GST Amount for a taxable supply made under or in connection with a Purchase Contract

until the Supplying Party has given the Recipient a tax invoice for that taxable supply.

- 4.3 If a payment to a party under or in connection with a Purchase Contract is a reimbursement or indemnification of, or otherwise calculated by reference to, a loss, cost or expense incurred by that party, then the payment is first reduced by the amount of any input tax credit to which that party is or was entitled in respect of that loss, cost or expense, and then increased in accordance with clause 4.1 (where applicable).
- 4.4 The Supplier will be responsible for paying any income tax, capital gains tax, and any other taxes, charges, levies, assessments or fees of any kind imposed on the Supplier in any jurisdiction in respect of the Supplier's supply and sale of Products to Medtronic.
- 4.5 Either party may deduct or withhold any amount (including on account of any tax, charge, duty or levy) from any payment to be made to the other party if legally required to do so.

## 5. Supply of Product

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- 5.1 In respect of the Products, the Supplier must:
  - (a) supply the Products to Medtronic in the quantities, at the delivery time and in accordance with the deliver terms specified in the relevant Purchase Order or Purchase Contract;
  - (b) deliver the Products in the manner and at the place specified in the relevant Purchase Order or Purchase Contract, properly labelled and packaged so as to ensure no damage occurring during transportation and delivery to Medtronic, accompanied by a delivery note and a packing slip describing the contents of each package and the names of the shipping company and the ship if applicable; and in accordance with any special instructions contained in the relevant Purchase Order or Purchase Contract.
  - (c) provide Medtronic with a detailed dispatch note on the date of dispatch of each shipment of Products;
  - (d) deliver the Products by separate instalments only with Medtronic's prior written consent.

## 6. Defective Products

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- 6.1 If Medtronic determines that the Supply delivered to Medtronic does not conform with any of the Supplier's obligations or warranties contained in a Purchase Contract, Medtronic may, within ninety (90) days of the Delivery Date and without prejudice to any other rights or remedies available to it, reject the Supply (**Rejected Supply**) by giving written notice to the Supplier (**Rejection Notice**).
- 6.2 Medtronic's acceptance of the Supply does not waive Medtronic's rights. If Medtronic accepts any Supply, this does not extinguish any of Medtronic's rights if the Supply does not comply with a term of the Purchase Contract.

## 7. Additional obligations

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- 7.1 The Supplier will act in good faith in its dealings with Medtronic.
- 7.2 The Supplier will maintain for no less than seven (7) years (or other extended period as may be required by applicable law), complete and adequate records of all its operations relating to the Purchase Order and the Products.
- 7.3 The Supplier will at all times keep Medtronic fully informed of the progress of the Supply.
- 7.4 The Supplier will from time to time when requested by Medtronic deliver written reports and data to Medtronic and Medtronic shall at all times have complete access to all records and such other data as may be compiled relating to the Supply.
- 7.5 The Supplier must at its own cost, obtain and maintain any licences and/or other approvals required for the lawful provision of the Supply.

## 8. Subcontracting

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- 8.1 Except as expressly provided in the Statement of Works or the Purchase Order, the Supplier may not sub-contract any obligations under a Purchase Contract without the prior written consent of Medtronic. Where the Supplier sub-contracts any of its obligations under a Purchase Contract, the Supplier remains liable for the carrying out and completion of those obligations.

## 9. Warranties

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- 9.1 The Supplier warrants that:
  - (a) it has all rights, title, licences, interests and property necessary to provide the Supply;
  - (b) the Supply complies and conforms with:
    - (i) all Laws that are related in any way to the Supply and all requirements under a Purchase Contract; and

- (ii) any representations made to Medtronic or any other person; and
  - (iii) the Specifications.
  - (c) the Supply:
    - (i) are performed with the same or higher level of care and skill as would reasonably be expected of a person qualified and experienced in supplying products the same as or similar to the Products;
    - (ii) will be used with materials that are fit for the purpose for which they are supplied and used and comply with any applicable specifications or requirements; and
    - (iii) are performed in a way that takes all necessary care to avoid Loss or damage.
- 9.2 The Supplier warrants that the Products and their manufacture, supply, distribution, promotion and/or use as contemplated under the Purchase Contract will not:
- (a) result in a breach of any law or mandatory codes, infringe any person's intellectual property rights (including in relation to copyright, registered design, patent, trademark, moral rights or otherwise),
  - (b) constitute a misuse of any person's confidential information; or
  - (c) result in the Supplier breaching any obligation it owes to any person.
- 9.3 The warranties contained in this clause # are in addition to any express warranties given by the Supplier and any warranties implied by Law.
- 9.4 This clause 9 will survive the termination or expiration of a Purchase Contract.
- 9.5 Without limiting any right or remedy available to Medtronic, the Supplier must promptly re-supply any Products that do not satisfy any warranty given in this clause 9 at the Supplier's own expense and any replacement Products will be subject to the same warranties.

## 10. Product Warranties

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- 10.1 Supplier warrants that, at the time of delivery and for a period of twelve (12) months thereafter or such longer period as specified in the relevant Purchase Order or Purchase Contract, all Products supplied by it to Medtronic will:
- (a) be of merchantable quality;
  - (b) be of sound workmanship
  - (c) comply with all specifications, and correspond with all samples, for those Products provided to Medtronic by the Supplier; and
  - (d) Be fit for the purpose for which they are intended.
- 10.2 If a Product does not comply with any of the warranties set out in clause 10.1, without prejudice to other rights or remedies which Medtronic may have, upon Supplier receiving written notice from Medtronic that any Product does not comply with Supplier's warranties, Supplier must, at Medtronic's option:
- (a) collect any such defective Product, or make alternative transport arrangements for such defective Product to be returned to Supplier, repair or replace the defective Product and deliver the repaired or replacement Product to Medtronic within ten (10) Business Days of Supplier being notified of the defect; or
  - (b) pay or reimburse to Medtronic all costs and expenses required for, or incurred by or on behalf of Medtronic to repair or replace all or part of any such defective Products,
- Provided that Supplier will not be liable for a defective Product to the extent the defect arose as a direct result of the improper use or handling of the Product by Medtronic.

## 11. Intellectual Property Rights

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- 11.1 For the purposes of this clause 11:
- Intellectual Property Rights** means each of the following:
- (a) all present and future intellectual property rights conferred or recognised by statute, common law or in equity and subsisting anywhere in the world, including such rights in, or in respect of, patents, inventions, designs, circuit layouts, copyright, trademarks, business and trade names, domain names, technical data, formulae, know-how, confidential information and computer software, programs and databases (in each case, whether or not registered, registrable or patentable);
  - (b) all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967; and
  - (c) any applications, or any rights to apply, for registration (or renewal or extension of registration) of any of the rights referred to in paragraph (a) or (b) above,
- but excludes moral rights and other similar personal rights which by law are non-assignable.

- 11.2 To the extent permitted by law, the Supplier hereby irrevocably assigns to Medtronic, upon creation, all Intellectual Property Rights in any works created by the Supplier in the course of the provision of the Supply to Medtronic.
- 11.3 The Supplier grants to Medtronic a non-exclusive and royalty-free right and licence to use the Supplier's Intellectual Property Rights to the extent necessary for Medtronic to:
- (a) receive the full use and benefit of the Supply;
  - (b) sub-license (in whole or part) the right and licence granted to it under this clause to:
    - (i) any Medtronic Affiliate or to any third party; and
    - (ii) any other person, but only in relation to the use and/or enjoyment of the benefits of any of the Products.
- 11.4 Except as expressly provided by clauses 11.2 and 11.3, nothing in a Purchase Contract grants, or is intended or to be taken to grant, to Medtronic any right, title or interest in or to, or claim in respect of, the Supplier's Intellectual Property Rights owned or licensed by the Supplier or any of its Affiliates.
- 11.5 Except to the extent expressly provided by clause 11.6, nothing in a Purchase Contract grants, or is intended or to be taken to grant, to the Supplier any right, title or interest in or to, or claim in respect of, the Medtronic's Intellectual Property Rights or any other Intellectual Property Rights owned or licensed by Medtronic or any of its Affiliates.
- 11.6 Medtronic grants to the Supplier a right to use Medtronic's Intellectual Property to, and only to, the extent (if any) necessary for the Supplier to provide the Supply.
- 11.7 The Supplier will not be entitled to any lien, charge or other form of attachment or security interest whatsoever in respect of the Medtronic Intellectual Property or any other Intellectual Property Rights owned or licensed by Medtronic.

## **12. Indemnities**

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- 12.1 The Supplier indemnifies Medtronic and its officers, employees, contractors, Affiliates, successors and assigns and holds them harmless from and against any and all claims, suits, actions, liabilities, Losses, judgments or damages, whether ordinary, special or consequential, arising directly or indirectly from or in connection with:
- (a) any damage to or loss of real or personal property of any party to the extent caused by the Supplier;
  - (b) death, illness or personal injury to any person to the extent caused by the Supplier;
  - (c) any claim brought by any person against Medtronic for actual or alleged infringement of intellectual property rights arising out of or in connection with the Supply;
  - (d) the acts, omissions including but not limited to negligence, wilful misconduct unauthorised or wrongful acts or omissions with regards to the use or installations of hazardous materials, of the Supplier or the Supplier's employees, agents and contractors;
  - (e) the provision of the Supply under the Purchase Contract; or
  - (f) the Supplier's performance or breach of the Purchase Contract.
- 12.2 This clause 12 will survive the termination or expiration of a Purchase Contract.

## **13. Insurance**

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- 13.1 For the duration of the Purchase Contract and for six (6) years following the expiry of the Purchase Contract, the Supplier must (at its own expense) maintain appropriate policies of insurance including the following:
- (a) public liability and property damage insurance with a reputable insurer for at least \$1 million for any single occurrence;
  - (b) product liability insurance in connection for any delivered Goods with a reputable insurer for at least \$1 million for any single occurrence; and
  - (c) professional indemnity for any performed Supplies with a reputable insurer for at least \$1 million for any single occurrence; and
  - (d) workers compensation in accordance with applicable Laws.
- 13.2 The Supplier must, at Medtronic's request, provide Medtronic with true copies of certificates of currency with respect to the insurance policies set out in clause 13.1.
- 13.3 This clause 13 will survive the termination or expiration of a Purchase Contract.

## **14. Default and termination**

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- 14.1 If:
- (a) the Supplier breaches any term of a Purchase Contract or these Medtronic Standard Terms; or
  - (b) an Insolvency Event occurs in respect of the Supplier,
- Medtronic may, without prejudice to any other rights Medtronic has under any Purchase Contract, terminate the Purchase Contract and/or any other contracts between Medtronic and the Supplier by giving notice in writing to the Supplier.



- 14.2 Medtronic may terminate a Purchase Contract for convenience at any time by giving the Supplier at least ninety (90) days' notice in writing of termination.
- 14.3 Subject to clause 14.4, if the Purchase Contract is terminated pursuant to clause 14.1 or 14.2:
- (a) the Supplier must, to the extent specified by Medtronic, cease all work in relation to the Supply;
  - (b) Medtronic will only pay the Supplier the reasonable value of the work actually performed as at the date of termination.
- 14.4 Notwithstanding anything in a Purchase Contract or these Medtronic Standard Terms:
- (a) Medtronic will not be liable for the reimbursement of anticipated profits for unsupplied Products;
  - (b) where Medtronic is required to make a payment to the Supplier pursuant to clause 14.3:
    - (i) as a pre-condition to payment, the Supplier must have mitigated the relevant claimed costs or expenses;
    - (ii) in no circumstances will that amount exceed the Price; and
    - (iii) the Supplier will not be entitled to any further costs or damages howsoever arising.
- 14.5 In the event of termination pursuant to clause 14.1:
- (a) the Supplier will refund Medtronic the full amount of any deposit that it has paid; and
  - (b) the rights and remedies of Medtronic under or in respect of these Medtronic Standard Terms are not thereby prejudiced but will continue to bind the Parties without limitation in time.
- 14.6 In this clause 14, an **Insolvency Event**, in respect of Medtronic or the Supplier (the relevant party), means that:
- (a) the relevant party is or becomes insolvent, fails or is unable or admits its inability to pay its debts as they become due or is presumed to be insolvent under an applicable law;
  - (b) the relevant party has bankruptcy, insolvency or winding up proceedings initiated or instituted by or against it;
  - (c) a secured creditor or mortgagee enters into possession or disposes of the whole or any part of the relevant party's assets or business;
  - (d) the relevant party makes any assignment for the benefit of, or proposes, enters into or makes any arrangement, compromise or composition with, its creditors;
  - (e) the relevant party has a liquidator, provisional liquidator, receiver, receiver and manager, trustee in bankruptcy or an administrator or any other similar official appointed (whether or not by a court) to it or in respect of all or any part of its property, assets or undertaking;
  - (f) the relevant party is otherwise wound up or dissolved; or
  - (g) the relevant party ceases to carry on business or any licence or authorisation it requires to carry on business is suspended or revoked.

## 15. Confidentiality and privacy

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- 15.1 Unless stated to the contrary, all information obtained by the Supplier in connection with the Supply will be deemed to be confidential information and the Supplier shall ensure that confidential information is not divulged by the Supplier or its Representatives to any third party. Notwithstanding the foregoing, the Supplier is granted permission to share such confidential information with other parties if, and only to the extent, that:
- (a) such information needs to be shared to enable the Supplier to fulfil its obligations to Medtronic;
  - (b) it receives the prior written consent of Medtronic;
  - (c) such information enters the public domain (other than as a result of a breach of any obligation of confidence owed by the Supplier);
  - (d) such disclosure is reasonably necessary for any purposes described in clause 11.3; or
  - (e) such disclosure is required by law or the rules of any applicable stock exchange.
- 15.2 The Supplier must comply, and must ensure that the Supplier's Representatives comply, with Medtronic's privacy policy (as notified by Medtronic from time to time) and all applicable privacy and data protection laws in relation to the collection, disclosure, treatment, storage, use and security of, and access to, any personal information of any individual to which the Supplier or its Representatives obtains access in connection with a Purchase Contract or these Medtronic Standard Terms or any transactions contemplated by them.
- 15.3 This clause 15 will survive the termination or expiration of a Purchase Contract.

## 16. Dispute Resolution

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- 16.1 Subject to clause **Error! Reference source not found.**, any dispute or difference between the Parties arising from or in connection to the Purchase Contract must be resolved in accordance with this clause 19.
- 16.2 A party claiming the existence of a dispute must give the other party a notice in writing that sets out the matter in dispute; and contains a proposal as to how the dispute can be solved.

- 16.3 If a notice pursuant to clause 16.2 is issued by either party, the parties must refer the dispute for resolution by their nominated representatives, who must:
- (a) have authority to resolve the dispute on behalf of the respective Party;
  - (b) negotiate in good faith on behalf of the respective Party; and
  - (c) seek to resolve the dispute within fifteen (15) business days of a notice referred to in clause 16.2, or such longer period as the Parties mutually agree.

## **17. Compliance with law**

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- 17.1 In carrying on the Supplier's business, the Supplier must comply with its obligations under all Laws including without limitation, the Supplier must itself, and must procure any person reasonably within its control to:
- (a) not pay, offer or promise to pay, or authorise the payment of, any monies or anything of value, directly or indirectly, to any government official or employee, any official or employee of a state-run or state-owned or controlled enterprise or entity, any official or employee of a public international organisation, any candidate for political or public office, any official or employee of any political party, or any family member or relative of such persons or any political party for the purpose of influencing any act or decision of any such official, employee, candidate, political party, enterprise or entity, public organisation or government to obtain or retain business, or direct business to any person or entity, or for any other improper advantage or purpose; and
  - (b) comply with all applicable export and import laws and regulations, including associated embargo and sanction regulations and, unless authorised by applicable governmental licence or regulation, not directly or indirectly export or re-export any technical information or software subject to these Medtronic Standard Terms (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified in such applicable export regulations, and in the event the Supplier breaches its obligations under this clause, Medtronic may immediately terminate any Purchase Contract and/or other contracts and the Supplier must indemnify and hold harmless Medtronic against any and all claims, losses, damages, penalties or fines related to such breach.
  - (c) Comply with Medtronic's Global Supplier Standards, Global Human Rights and Labor Standards Policy and Global Anti-Human Trafficking and Forced Labor Policy, as communicated by Medtronic to the Supplier from time to time;
- 17.2 This clause 17 will survive the termination or expiration of a Purchase Contract.

## **18. Choice of law and jurisdiction**

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- 18.1 The validity, interpretation and construction of the Purchase Contract and these Medtronic Standard Terms shall be determined by the laws of Vietnam.
- 18.2 Each party submits to the exclusive jurisdiction of Vietnam. Any dispute arising out of or in relation to this Agreement shall be resolved by arbitration at the Vietnam International Arbitration Centre ("VIAC") in accordance with its Rules of Arbitration for the time being in force. The venue of the arbitration shall be Vietnam. There shall be three (3) arbitrators. To the extent possible, the arbitrators shall have experience dealing with disputes similar to the issues disputed by the parties. Each party shall bear its own expenses in connection with the arbitration, except for the arbitrators' fees, which shall be borne equally by the parties. The arbitration award shall be final and binding on the parties and the parties agree to be bound thereby and to act accordingly. Any competent court shall enforce such award. In the course of arbitration, apart from the provisions in dispute, all other provisions of this Agreement shall continue to be implemented.

## **19. General**

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- 19.1 In this document:
- (a) the singular includes the plural and vice versa;
  - (b) another grammatical form of a defined word or expression has a corresponding meaning;
  - (c) a reference to a clause is to a clause of these Medtronic Standard Terms;
  - (d) a reference to a document includes a document in electronic form;
  - (e) a reference to \$ is to US dollars;
  - (f) a reference to any supply or other act by or of Medtronic includes a supply made, or other act done, on Medtronic's behalf by a person or entity acting as Medtronic's duly authorised representative or agent;
  - (g) the terms "including", "includes", "for example", "in particular" and similar expressions are illustrative only and do not limit the meaning of the words preceding them; and
  - (h) a reference to writing includes any mode of representing or reproducing words, figures, drawings or symbols in a

visible form.

- 19.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from these Medtronic Standard Terms, but the rest of the Medtronic Standard Terms are not affected.
- 19.3 The waiver by Medtronic of any provision or breach by the Supplier of any provision of a Purchase Contract will not be construed as a waiver of any other provision or breach of any other provision, or of any subsequent breach of the same or any other provision of the Purchase Contract.
- 19.4 Medtronic's failure to exercise or delay in exercising a right, power or remedy does not constitute a waiver of the right, power or remedy. Any waiver must be agreed in writing by Medtronic.
- 19.5 Where there is more than one Supplier under a Purchase Contract, then the liability of each will be joint and several.
- 19.6 A Purchase Contract and any right or obligation of the Supplier under it cannot be assigned or transferred by the Supplier without the prior written consent of Medtronic.
- 19.7 Medtronic may sub-contract the performance of all or part of its obligations under a Purchase Contract.
- 19.8 A Purchase Contract may be varied only by agreement in writing of each party.
- 19.9 Notwithstanding anything to the contrary in these Medtronic Standard Terms, in the event that the Supplier is supplying a Supply pursuant to a current, written and signed agreement between Medtronic and the Supplier, where there is any inconsistency between these Medtronic Standard Terms and that written agreement, the terms and conditions of that agreement will prevail to the extent of the inconsistency.