

**GENERAL TERMS AND CONDITIONS OF SALE OF PRODUCTS AND SERVICES
OF NCARDIA SERVICES B.V.**

1. Definitions

- (a) "Agreement" means an agreement setting out the purchase and sale of a number of Products or Services agreed between Ncardia and Customer.
- (b) "Customer" means the private person or legal entity purchasing Products or Services from Ncardia.
- (c) "General Conditions" means these General Terms and Conditions of Sale of Products and Services of Ncardia Services B.V. used by Ncardia in relation to the Customer, irrespective of the form in which they are presented.
- (d) "Manual" means the manual of use
- (e) "Ncardia" means Ncardia Services B.V., a limited liability company, incorporated under the laws of the Netherlands, with its statutory and registered address at Galileiweg 8, 2333 BD, Leiden, the Netherlands.
- (f) "Products" means all products that are subject to any offer or Agreement between Ncardia and the Customer.
- (g) "Services" means all services with an associated work order that are subject to any offer or Agreement between Ncardia and the Customer

2. Applicability

- 2.1. The General Conditions cover and form part of all offers, agreements and other acts, either made orally, in writing, electronic or in any other form, concerning the sale by Ncardia of Products or Services to the Customer.
- 2.2. Deviations from the General Conditions will only apply if and to the extent that they have been explicitly agreed upon in writing between Ncardia and the Customer.
- 2.3. Ncardia explicitly rejects the applicability of any general (purchase) conditions used by the Customer. Failure by Ncardia to object to the terms and conditions set by the Customer will in no event be construed as an acceptance of any of the terms and conditions of the Customer.
- 2.4. If and to the extent that any provision contained in these General Conditions should prove invalid for whatever reason, the other provisions of these General Conditions remain in full force and effect.
- 2.5. The General Conditions supersede any and all terms of prior oral and written quotations, communications, agreements and understandings of the parties in respect of the sale and delivery of the Products or Services and apply in preference to and supersede any and all terms and conditions of any order placed by the Customer and any other terms and conditions submitted by the Customer.
- 2.6. The current version of the General Conditions is available at www.ncardia.com.

3. Purchase Orders

- 3.1. Before completion of the sale of any Products or Services a purchase order will be issued. In the case of Products, this purchase order will take the form of a quotation. In the case of Services, this purchase order will further either constitute or make reference to a work order specifying the services to be rendered. This work order will specify the Study Plan, the Deliverables, the Budget, and the Timeline for any given Service.
- 3.2. All purchase orders issued by Ncardia are without any obligation, unless explicitly approved otherwise stated in writing. All purchase orders issued by Ncardia are revocable and subject to change without notice. Ncardia is entitled to refuse a received purchase order without indicating the reasons.
- 3.3. Any electronic communication between Ncardia and the Customer will be effective as originals and is considered to be a 'writing' between the parties. The electronic communication system used by Ncardia serves as sole proof for the content and the time of delivery and receipt of such electronic communications.
- 3.4. All purchase orders are valid for the period mentioned in the purchase orders concerned. If no period is mentioned, the offer is valid for thirty (30) days after the date of the purchase order.
- 3.5. All prices and fees mentioned in purchase orders are in Euro, unless explicitly stated otherwise.

4. Agreement

- 4.1. An Agreement with respect to the purchase and sale and delivery of Products or Services is concluded as soon as the Customer accepts the purchase order of Ncardia in writing and Ncardia has subsequently confirmed acceptance of the purchase order. The Customer may cancel the Agreement if Ncardia has not confirmed acceptance of the Agreement in writing within two weeks of receipt.
- 4.2. All Customer's instructions in view of the ordering of Products and Services are accepted and carried out exclusively by Ncardia with the exclusion of article 7:404 of the Dutch Civil Code, that "The client intends that the service is to be performed by a specific person."
- 4.3. Ncardia is entitled to request that the Customer places orders for Products or Services having a certain minimum quantity or value.
- 4.4. Any party other than Customer cannot derive any rights from a purchase order placed by Customer with Ncardia.
- 4.5. If, according to the Agreement concluded between the parties, the Customer consists of several legal entities, each of these legal entities is and will be jointly and severally liable towards Ncardia for performance of the Agreement.
- 4.6. Information from Ncardia's records count as conclusive evidence with respect to the performance delivered by Ncardia and the amounts owed by Customer for delivery of this performance, without prejudice to the Customer's right to produce evidence to the contrary.

5. Prices and Payment

- 5.1. Customer shall pay Ncardia for in accordance with the budget and schedule set out in each purchase order or work order.
- 5.2. All prices and fees are excluding value-added tax ("VAT") and duties, such as import duties, permits and licenses, freight or insurance and inspection and any other taxes or government levies, as well as costs for transport and delivery, which are borne by the Customer unless explicitly otherwise stated.
- 5.3. If in consultation with the Customer deviations from the Agreement between Ncardia and the Customer are made, the costs deriving from such deviations are invoiced to the Customer against the prices and fees that apply at such time.
- 5.4. The purchase order number as well as the number of each individual modality are detailed in invoices.
- 5.5. Unless otherwise agreed upon between Ncardia and the Customer, Ncardia's invoices must be paid within thirty (30) days after the date of the invoice.
- 5.6. If any portion of an invoice is disputed, then Customer shall pay the undisputed amounts and the parties shall use good faith efforts to reconcile the disputed amount as soon as practicable.
- 5.7. Invoices are irrevocably deemed accepted by the Customer failing protest by registered letter within thirty (30) calendar days. Invoices for the sale of Products and Services are due on the date as stated therein. Invoices must be settled on Ncardia's bank account as a cleared payment on the due date indicated in the invoice. Settlement of all Ncardia's invoices is required as a condition to initiate shipment of Products, or in the case of Services, to initiate shipment of any Deliverables requiring physical delivery.
- 5.8. All payments made by the Customer to Ncardia are first applied against the oldest of any outstanding invoices, irrespective of any counterclaim by the Customer except to the extent these counterclaims are uncontested by Ncardia and enforceable under Dutch law.
- 5.9. Ncardia is entitled to, without prejudice to any other rights of Ncardia, charge interest on any overdue payment at 2% (two percent) per month from the due date computed on a daily basis until all outstanding amounts are paid in full. All costs and expenses incurred by Ncardia with respect to the collection of overdue payments (including, without limitation, reasonable attorney fees, expert fees, court costs and other expenses of litigation) are for the Customer's account.
- 5.10. Every payment made by the Customer will in the first instance serve to pay the judicial and extra-judicial costs and the accrued interest and is afterwards deducted from the oldest outstanding claim regardless of any advice to the contrary from the Customer.

- 5.11. All deliveries of Products and Services agreed to by Ncardia are at all times subject to credit approval of Ncardia. If in Ncardia's judgement the Customer's financial conditions at any time do not justify production or delivery of the Products or Services on the above payment terms under the General Conditions, Ncardia may require a full or partial payment in advance or other payment terms as a condition of delivery, and Ncardia may suspend, delay or cancel any credit, delivery or any performance by Ncardia.
- 6. Risk Transfer**
- 6.1. The risk of loss, theft, misappropriation or damage of items, information, documents, software or data files that are created, supplied or used in the context of performing the Agreement will pass to the Customer at the time at which the Customer or an auxiliary person of the Customer comes into actual possession of the items and information referred to.
- 7. Delivery of Products**
- 7.1. At its discretion, Ncardia will deliver the Products in accordance with the modalities (packaging, temperature, etc.) as set out by Ncardia in the Product's Manual of use. The Customer will see to it that the subsequent shipment, storing and handling of the Products at its risk and cost occurs in compliance with the modalities as set out by Ncardia in the Product's Manual.
- 7.2. At Ncardia's discretion, any agreed user documentation is made available in printed or digital form in a language determined by Ncardia.
- 7.3. Delivery to the Customer is made 'DAP' ('Delivered at Place') re. Incoterms 2020.
- 7.4. As the case may be, the Customer may be requested to accept partial delivery of the Products.
- 7.5. Terms of delivery will always remain indicative and non-binding for Ncardia performed outside the indicative term of delivery and will not form part of grounds to refuse the Products by the Customer, nor will they justify a claim against Ncardia for damages, price reduction or otherwise.
- 8. Acceptance of Products**
- 8.1. The Customer must accept the Products in the state that they are when delivered ('as is, where is'), therefore with all visible and invisible errors, without Ncardia's obligations under the terms as set out in article 9. In the aforementioned case, the Products are deemed to have been accepted by the Customer upon delivery.
- 8.2. In these General Conditions, 'error' means substantial failure of the Products to meet the functional or technical specifications of the Products expressly made known by Ncardia in writing and, if all or part of the Products concerns customizations, to meet the functional or technical specifications expressly agreed in writing. An error only applies if it can be demonstrated by the Customer and is reproducible. The Customer must report errors without delay. Any obligation of Ncardia is limited to errors within the meaning of these General Conditions. Ncardia does not have any obligation whatsoever with respect other defects in or on the Products.
- 8.3. The Customer may not refuse to accept the Products for reasons that are not related to the specifications expressly agreed in writing between the parties and, furthermore, may not refuse to accept the Products because of the existence of minor errors, these being errors that do not reasonably prevent the operational or productive use of the Products, the foregoing without prejudice to Ncardia's obligation to fix these minor errors in the context of the guarantee scheme referred to in article 10.
- 8.4. If it becomes clear during delivery or no later than five (5) days thereafter, that the Products contains errors, the Customer must report these errors Ncardia in writing in a clear, detailed and comprehensible manner. Ncardia will strive to the best of its ability to fix the errors referred to within a reasonable term. Ncardia is entitled to furnish temporary solutions and problem-avoiding limitations in this regard.
- 8.5. In case of non-acceptance of the Products, the Customer must take all useful measures to allow inspection by Ncardia and to limit the Customer's possible losses.
- 8.6. If the Products are delivered and tested in phases and/or parts, non-acceptance of a certain phase and/or part will be without prejudice to the acceptance of a previous phase and/or a different part.
- 8.7. Acceptance of the Products in one of the ways referred to in this article 8 serves to discharge Ncardia of its obligations regarding making the Products available and delivering the Products. Acceptance of the Products is without prejudice to the Customer's rights based on article 10.
- 9. Restrictions of use of Products**
- 9.1. The Customer will use the Products acquired for internal research purposes only, subject to the restrictions of use set out herein, solely benefiting the Customer. No other right is granted to the Customer whether expressly, by implication, by estoppel or otherwise. In particular, the purchase of the Products does not include nor carry any right or license to use, develop or otherwise exploit the Products commercially, and no rights are conveyed to the Customer to use the Products for any other purpose than internal research.
- 9.2. The Customer agrees to use the Products in compliance with all applicable statutes and regulations, but not to use the Products for research involving administration and/or use of Products for human or animal therapeutic, diagnostic and/or prophylactic purposes including but not limited to clinical applications, cell therapy, transplantation, and/or regenerative medicine (whether or not such administration and/or use would be authorized under applicable law).
- 9.3. The Customer agrees not to sell, donate or otherwise transfer the Products to a third party, nor to place the Products under the custody of a third party. Furthermore, where such a medium is available, the Customer agrees to apply to the Product only in the appropriate Ncardia culture medium, excluding any other medium or product originated from the Customer and/or a third party.
- 9.4. The restrictions set forth herein apply to the Products, their components and the derivatives of the Products and their components.
- 9.5. These restrictions also apply to any Deliverable of a Service involving delivery of cells to customer.
- 10. Fixing of Errors**
- 10.1. Ncardia strives to the best of its ability to fix errors within a reasonable term if these errors are reported in writing in a detailed manner to Ncardia within five days after delivery.
- 10.2. Ncardia does not guarantee that the Products are suitable for actual use and/or the intended use. Ncardia also does not guarantee that the Products will operate without interruption and/or that all errors will always be fixed. Fixing work will be carried out free of charge unless the Products were developed on the instructions of the Customer other than for a fixed price, in which case Ncardia will charge for the costs of fixing in accordance with its usual rates for Services.
- 10.3. Ncardia may charge for the costs of fixing in accordance with its usual rates if such work is required as a result of user errors or improper use on the part of the Customer, or as a result of causes that cannot be attributed to Ncardia. The obligation to fix errors ceases to apply if the Customer makes changes in the Products or has such changes made without Ncardia's written permission.
- 10.4. The fixing or errors takes place at a location and in a manner determined by Ncardia.
- 11. Provision of Services by Ncardia**
- 11.1. Ncardia shall diligently perform Services, through specific research studies, details of which are described in an approved Work Order, making best efforts to fully exploit the current publicly available scientific knowledge in this area.
- 11.2. Ncardia will provide Customer with a report on the results of the Services upon completion of Work Order.
- 11.3. For the avoidance of doubt, where the Deliverables involve the delivery of cells to customer, the restrictions specified in clause 9 apply to the Deliverables as though they were a Product.

- 11.4. Ncardia undertakes to use any Customer Materials transferred to it by Customer solely for the purposes of performing the Services on behalf of Customer and for no other purpose whatsoever. On completion of a Work Order Ncardia shall, at Company's option, return to Customer or destroy any Customer Materials transferred to it by Customer.
- 11.5. Ncardia agrees not to use any person in performing the Services who is not an employee or consultant of Ncardia and who has not entered into a written agreement with Ncardia to assign any intellectual property to Ncardia.
- 11.6. Ncardia may elect to carry out certain Services through one of its Affiliates, if: (i) there is a legally binding agreement between Ncardia and said Affiliate to govern how such services by said Affiliate are performed; (ii) such agreement ensures that all proprietary rights which such Affiliate may have in the services conducted are assigned to Ncardia (iii) Ncardia shall remain responsible for the performance and obligations of such Affiliates under this Agreement.
- 12. Obligations on Customer with regards to Services**
- 12.1. Where appropriate and as described in a Work Order, Customer will provide Ncardia with samples of sufficient quantities of Customer's compounds, cell lines, and/or reagents in a format suitable for performing the Services. Customer will provide Ncardia with enough quantity of each compound for performing the Services, as well as suitable information regarding the storage conditions, and handling specifications, including any relevant safety data.
- 12.2. Customer agrees to keep Ncardia fully informed at all times of relevant information known to Customer which might influence the provision of the Services.
- 12.3. During the term of this Agreement, Customer shall grant to Ncardia a non-exclusive license to use the Customer Materials and Information solely for performing the Services. This licence will be sub-licensable only to those Affiliates of Ncardia which meet the criteria given in clause 11.6, and then only on as needed to for performance of the services. No further sub-licensing rights are granted.
- 13. Ownership of Results of Services**
- 13.1. Any Intellectual Property Right, owned by a party prior to the Effective Date of this Agreement shall remain the sole and exclusive property of that Party
- 13.2. It is understood and agreed that Ncardia has substantial background intellectual property, both patented and non-patented, that it will exploit in delivery of the Services. Ncardia will retain full title and ownership of this Ncardia Background Intellectual Property. No license is granted to Customer to Ncardia Background Intellectual Property other than that required for Customer to exploit the Deliverables.
- 13.3. The Deliverables, including any information, reports, and materials, and any improvements to Customer Background Intellectual Property, whether or not patentable, that are made, conceived or developed by Ncardia, in the course of the performance of the Services or otherwise delivered to Customer, will become the sole and exclusive property of Customer, including any and all patents, copyrights, trade secrets and other proprietary rights therein.
- 13.4. Should Ncardia, while conducting the Services, make improvements to Ncardia Background Intellectual Property, and should such improvements not form part of the Deliverables, such improvements will remain the property of Ncardia, with a license granted to Customer only to the extent required to exploit the deliverables.
- 14. Intellectual Property**
- 14.1. The Products and Services sold hereunder include intellectual property rights developed by Ncardia and (sub)licensed by Ncardia from one or more third parties. Such intellectual property rights are protected by the laws on patents, copyrights, trade secrets, and other laws. The Products may contain cells, and the Services may involve the use of cells, derived from human induced pluripotent stem cells acquired under a non-exclusive license agreement between Ncardia as licensee and iPS Academia Japan Inc. as licensor (the latter holding a license agreement with Kyoto University as ultimate licensor regarding certain intellectual property relating to induced pluripotent stem cell technologies).
- 14.2. The Customer acknowledges and agrees that the present sale does not transfer to the buyer any title in respect of the intellectual property rights incorporated in the Products or the Services, nor does it grant any other intellectual property rights except a limited non-transferable and non-exclusive license to use the Products or to exploit the Deliverables of the Services in accordance with the use restrictions set out in article 9 above.
- 14.3. The Customer hereby grants to Ncardia, iPS Academia Japan Inc. and Kyoto University a non-exclusive, worldwide, perpetual, royalty-free, fully paid up license to use for any purpose any and all improvements made by the Customer to the Products or the Deliverables of the Services covered by Customer's Improvement Patents. For the purpose of this provision, "Customer's Improvement Patents" means any patent or any patent application owned by the buyer that covers any improvements made by the Customer in course of or as a result of the exercise by the Customer of the right granted by Ncardia under this agreement.
- 14.4. In addition, the Customer hereby grants to iPS Academia Japan Inc. a license right with sublicense right under the Customer's Improvement Patents so that iPS Academia Japan Inc. may grant royalty-free licenses under the Customer's Improvement Patents to Kyoto University and other bona fide non-commercial academic institutions in Japan for academic research and educational purposes. Pending the issuance of a patent, the Customer must mark the objects so made (or their containers or labels) with the words "Patent Pending," and following the issuance of one or more patents, with the numbers of any applicable patent(s).
- 14.5. In the event that the buyer believes there is infringement of a patent under this agreement, which is to the buyer's substantial detriment, the buyer may, subject to any of its obligations of confidentiality, provide Ncardia with notification and reasonable evidence of such infringement. If action is taken by the owner to remedy the infringement, the buyer shall provide commercially reasonable assistance as requested by the owner. Nonetheless, Ncardia is under no obligation to bring any action or proceeding against any entity for infringing of the patent.
- 14.6. The Customer may not remove or change any indication concerning the confidential nature of or concerning the copyrights, brands, trade names or any other intellectual property right pertaining to the Products, the Deliverables of the Services, websites, data files, equipment or materials, or have any such indication removed or changed.
- 14.7. Even if not expressly provided for in the Agreement, Ncardia may always take technical measures to protect equipment, Products to which Customer is granted direct or indirect access, and the like in connection with an agreed limitation in terms of the content or duration of the right to use of these items. The Customer may not remove or bypass such technical measures or have such technical measures removed or bypassed.
- 15. Force Majeure**
- 15.1. Action by government, change in legislation or policy, war, riots, strikes, lock-outs, fire, breakdown of machines, inadequate supply of materials or energy, interruption in transport or any other circumstances beyond Ncardia's control, which hinder the normal performance of Ncardia's obligations hereunder, are considered by the parties to constitute force majeure involving suspension or termination of the Agreement, at Ncardia's option and at no cost for either party.
- 16. Limitation of Liability**
- 16.1. The liability of Ncardia due to an attributable failure to perform under any Agreement concluded between Ncardia and Customer is limited to compensation of the direct damages. The liability of Ncardia will, save for willful misconduct, never exceed the sum stipulated for the Products or Services to which the failure pertains (or, in the event of a long term Agreement, the total amount paid by Customer to Ncardia in the twelve (12) months preceding the failure).
- 16.2. Any liability of Ncardia for special, punitive, consequential or indirect damage, including but not limited to loss of profits loss of turnover, loss of prospective profits, incidental, cost or expense, work stoppage, delay in delivery, lost sales or profit, production failure, impairment of other goods, anticipated sales or goodwill or based on any other cause is excluded.
- 16.3. Ncardia's total liability for loss due to death or bodily injury or as a result of material damage to items will never amount to more than EUR 1.000.000 (one million Euro's).

- 16.4. Furthermore, Ncardia is not liable for damages, including but not limited to the infringement of third-party intellectual property rights, resulting from the use of the Products or Deliverables of the Services by the Customer, save for wilful misconduct or gross negligence by Ncardia.
- 16.5. The Customer must include a provision equal to the wording of this article 17 excluding the liability of Ncardia in the circumstances set out in this article 17, in any agreement to be entered into with a third party in relation to the Products or the Deliverables of the Services. If the Customer fails to comply with this article 17, the Customer is liable in full for any and all (in)direct damages, including but not limited to lost profits, lost savings, loss of goodwill, damage through business interruptions suffered by Ncardia in this respect.
- 16.6. Unless performance by Ncardia is permanently impossible, Ncardia is only liable to an attributable failure in the performance of an Agreement if the Customer declares Ncardia be in default in writing without delay and grants Ncardia a reasonable term to remedy the breach, and Ncardia culpably fails to fulfil its obligations also after this term has passed. The notice of breach must describe the breach as comprehensively and in as much detail as possible in order to give Ncardia the opportunity to respond adequately.
- 16.7. For there to be any right to compensation, the Customer must always report the loss to Ncardia in writing as soon as possible after the loss has occurred. Each claim for compensation against Ncardia will be barred by the mere expiry of a period of 24 months following the inception of the claim unless the Customer has instituted a legal action for damages prior to the expiry of this period.
- 17. Indemnification**
- 17.1. Customer agrees to indemnify Ncardia against any and all claims and/or losses resulting from:
- (i) The exercise of any and all rights granted by Ncardia to Customer under these General Conditions and/or any related Agreement;
 - (ii) Customer's breach of any provision of these General Conditions and/or any related Agreement.
- 17.2. This clause does not apply to death or personal injury to the extent that Ncardia cannot by law exclude or limit its liability for such damages.
- 17.3. Customer agrees to defend, indemnify and hold harmless Ncardia, iPS Academia Japan Inc. and Kyoto University, their affiliated undertakings, the inventors of the licensed patents and their directors, officers, employees and agents (together, the 'Indemnified Entities') from and against any and all claims, liabilities, losses, damages or expenses (including but not limited to reasonable attorneys' fees and other costs of defending any action) that any of the Indemnified Entities may sustain or incur as a result of any claim of a third party based on the negligence, recklessness or wilful misconduct of the Customer or any of its employees or agents in performing its obligations or exercising the rights, including the license to use, as granted pursuant to the Agreement and these General Conditions.
- 17.4. Ncardia agrees to indemnify the Customer against any and all third-party claims in connection with or as a result of
- (i) any failure to perform in accordance with the General Conditions;
 - (ii) any violation of the law applicable to the General Conditions.
- 18. Confidentiality**
- 18.1. Both Ncardia and the Customer undertake to observe strict confidentiality with regard to all confidential information they receive from each other for a period of five years. They must also impose this confidentiality obligation on their employees as well as to third parties who have been contracted by them in connection with any Agreement between Ncardia and Customer.
- 18.2. Ncardia undertakes to use any Confidential Information transferred to it by Customer solely for the purposes of meeting its obligations to Customer under this Agreement and for no other purpose whatsoever. The Customer acknowledges that Products or Deliverables of Services originating from Ncardia may be confidential in nature and that the Products or Deliverables may contain trade secrets of Ncardia and its suppliers.
- 18.3. Information will in any event be regarded as confidential if either Ncardia or Customer indicates such information as confidential.
- 18.4. The confidentiality obligations referred to in articles 19.1 to 19.3 above do not apply or cease to apply to information regarding which the receiving party can prove by documentary evidence that:
- (i) It was in the public domain prior to disclosure to the receiving party;
 - (ii) It was in its possession prior to the disclosure to the receiving party, provided that it was not acquired directly or indirectly from the disclosing party;
 - (iii) After disclosure to the receiving party, it became part of the public domain by publication or otherwise through no act or omission of the receiving party;
 - (iv) After disclosure to the receiving party, it has been lawfully provided by a third party, meaning that this third party was not under any confidentiality obligation regarding the information supplied to the receiving party.
- 18.5. Customer must include a provision equal to the wording of this article 19, in any agreement to be entered into with a third party in relation to the Products or the Deliverables of the Services. If the Customer fails to comply with this article 19, the Customer is liable in full for any and all (in) indirect damages, including but not limited to lost profits, lost savings, loss of goodwill, damage through business interruptions suffered by Ncardia in this respect.
- 18.6. On completion of a Work Order Ncardia shall, at Customer's request, return to Customer or destroy any Confidential Information transferred to it by Customer, save for one copy to be secured stored for compliance purposes.
- 19. Termination**
- 19.1. If and insofar as the Agreement concluded between the parties is a continuing performance contract, the Agreement is entered into for the term agreed between the parties.
- 19.2. The term of the Agreement must be tacitly extended, each time by the period of time originally agreed, unless the Customer or Ncardia terminate the Agreement in writing with due observance of a notice period of three months prior to the end of the current term.
- 19.3. Without prejudice to any right or remedy Ncardia has against the Customer for breach or non-performance of the Customer's obligations, Ncardia has the right to terminate the Customer's order with immediate effect upon written notice:
- (i) in the event that the Customer defaults in the performance of any of its material obligations under the Customer's order, including but not limited to failure to make any payment when due, and fails to remedy the same within 30 days of a written notice of the breach and requiring it to be remedied;
 - (ii) in the event the Customer becomes or is deemed to be insolvent, discontinues its business, is unable to pay its debts, is subject of bankruptcy proceedings, enters into liquidation whether compulsory or voluntarily or has a receiver or administrator appointed over all or any part of its assets, enters into any arrangement or agreement, or assignment with, or for the benefit of its creditors or any of them;
 - (iii) in the event the Customer fails to abide any applicable rule of law; and
 - (iv) in the event the Customer commits an act which damages or may in the opinion of Ncardia damages the intellectual property of Ncardia or any know-how or goodwill associated therewith.
- 19.4. Should Ncardia fail to rectify (i.e. fixing of errors or replacement) any error within a reasonable time period set by the Customer, the Customer is entitled to:
- (i) Cancel the Agreement in whole or in part without being subject to any liability for damages;
 - (ii) Demand a reduction in price;
 - (iii) Claim damages in lieu of performance.
- 19.5. If, at the time termination, the Customer has already received Products or the Deliverables of a Service in the performance of the Agreement, these Products or Deliverables and the associated payment obligations shall not be undone unless the Customer proves that Ncardia is in default with respect to the essential part of such Products or Deliverables. With due regard to the stipulation of the preceding sentence, amounts invoiced by Ncardia prior to termination either in connection with what it already properly performed or delivered in the performance of the Agreement, or in connection with non-cancellable costs it will unavoidably incur after termination takes effect, will remain payable in full and shall become immediately due and payable at the time of termination.
- 19.6. The Customer may not terminate an Agreement that has been entered into for a definite period of time.

20. **Non-exclusivity**

20.1. Neither party shall have any obligation of exclusivity of any nature to the other. Each party shall be free to provide services or conduct any activity for or on behalf of third parties, so long as a party's agreement with any such third party does not prevent it from or creates a conflict of interest with the performance of its obligations under this Agreement.

21. **Invalidity**

21.1. If any provision of the General Conditions is or is held to be invalid or unenforceable, then so far as it is invalid or unenforceable it has no effect and is deemed not to be included in the General Conditions. This shall not invalidate any of the remaining provisions of the General Conditions. The parties shall use all reasonable endeavours to replace the invalid or unenforceable provision by a valid provision, the effect of which is as close as possible to the intended effect of the invalid or unenforceable provision.

22. **Place of fulfillment, Applicable law, Competent court**

22.1. The General Conditions are governed by and construed in accordance with the laws of the Netherlands solely. The United Nations Convention on Contracts for International Sale of Goods (CISG) does not apply.

22.2. All disputes arising out or in connection with the General Conditions will in first instance be settled by the competent court in Amsterdam, the Netherlands, it being understood that Ncardia reserves the right to bring any dispute before the courts of the Customer's place of residence.