

General Terms for the Loan of Endoscopy Equipment by
FUJIFILM Europe B.V. („FUJIFILM“)

1. Scope

1.1 These General Terms for the Loan of Endoscopy Equipment (hereinafter **“Terms”**) shall exclusively govern the loan of devices and accessories (hereinafter **“Loan Equipment”**). Contrary, different or supplementary contract terms of the Borrower shall not apply, even if not expressly rejected, or if FUJIFILM accepts or lends the Loan Equipment without reservation, though in awareness of them.

1.2 These Terms shall be binding only on companies, business people, entrepreneurs or legal persons in public law or special funds in public law.

2. Subject of the Agreement

2.1 FUJIFILM agrees to lend to the Borrower during the agreed term the Loan Equipment free of charge.

2.2 The Loan Equipment has a CE marking in accordance with the Medical Devices Directive 93/42/EEC of 14 June 1993 or the Regulation (EU) 2017/745 of 5 April 2017 on medical devices and meets the requirements of the German Medical Device Law Implementation Act (*“Medizinprodukte-Durchführungsgesetz”*) and all other applicable safety regulations. The Borrower shall be responsible for compliance with the applicable regulations for the operation of the Loan Equipment. Insofar as certain notices or permits are required for the handling of Loan Equipment, the Borrower shall take the necessary measures to fulfil the corresponding obligations. The Borrower is also responsible for preparing the premises at the installation site for the installation (e.g. connections, structural modifications, transport routes, etc.).

2.3 The Loan Equipment may be used by the Borrower exclusively for the purpose separately agreed.

2.4 The Borrower warrants that the Loan Equipment will be operated in compliance with the instructions for use and other instructions resulting from the user manual or other markings, and exclusively by personnel having any legally required qualifications. The Borrower is not allowed to let third parties use the Loan Equipment, not even temporarily. The Loan Equipment will only be allowed to be moved to a location other than the agreed location after FUJIFILM has been approved in writing. This also applies for the use of the Loan Equipment in another department of the Borrower.

3. Term and Termination

3.1 The parties have separately agreed on the term of the loan. Any extension of the term requires a separate agreement in writing.

3.2 The right to terminate due to good cause remains unaffected.

4. Delivery, Installation, Instruction and Removal

4.1 FUJIFILM will be responsible at its own risk and cost for the delivery of the Loan Equipment to the agreed location and its installation.

4.2 After installation, the Borrower's employees are to be duly instructed by suitable qualified staff of FUJIFILM on the operation of the Loan Equipment. After instruction, the Borrower or a person authorised by the Borrower for this purpose has to sign a handover document.

5. Obligations of the Borrower

5.1 The Borrower has to operate the Loan Equipment properly, with care and in accordance with the operating instructions and any other written instructions of FUJIFILM. For the cleaning and disinfection of the Loan Equipment, the Borrower has to use exclusively the commercially available cleaning agents and disinfectants recommended by FUJIFILM.

5.2 The Borrower bears all costs of any consumables used with the Loan Equipment.

5.3 The Borrower has to ensure that the Loan Equipment is kept securely so that it is protected against damage, destruction and theft.

5.4 Borrower shall report to FUJIFILM any incident or adverse event relating to the Loan Equipment of which it becomes aware. The Borrower shall report such incident or event as soon as possible and in any event within twenty-four (24) hours after becoming aware of it. The report should include the name of the person who reported the incident, the date and time the incident occurred, the name of the user of the Loan Equipment, and the clinical consequences observed.

5.5 The Borrower agrees to procure and continuously maintain, at its own cost, an all risk insurance against destruction, loss, damage, theft and impairment by fire, water or force majeure for the Loan Equipment for not less than the total value of the Loan Equipment communicated by FUJIFILM and shall provide FUJIFILM with a copy of the insurance certificate upon FUJIFILM's request.

6. Maintenance of the Loan Equipment

The service and maintenance of the Loan Equipment are free of charge for the Borrower. Something else shall only apply if the damage to the Loan Equipment was caused by the Borrower, in particular by improper use, negligence or intent, or by a third party which FUJIFILM has not expressly instructed to carry out the service or maintenance of the Loan Equipment. In such cases, the costs shall be borne by the Borrower.

7. Liability

FUJIFILM does not make any warranty for the Loan Equipment, in particular it does not warrant its functionality, quality or usability for a specific purpose. FUJIFILM is only liable for losses or damage caused by wilful intent or gross negligence. The application of the German Product Liability Act (*“Produkthaftungsgesetz”*) remains unaffected by this.

Until the return of the Loan Equipment to FUJIFILM, the Borrower shall bear the sole risk in connection with the loss, damage or destruction of the Loan Equipment. The Borrower is not liable for damage caused by normal wear and tear.

8. Return of the Loan Equipment

8.1 After the end of the loan's term, the Borrower shall return the Loan Equipment immediately to FUJIFILM. The Borrower pays the freight cost and insurance for delivery to FUJIFILM's warehouse.

8.2 The Borrower has to ensure after the end of the term that all personal data stored on the Loan Equipment, including patient data, is deleted from the Loan Equipment. If it is not technically possible for the borrower to delete personal data, FUJIFILM has the right to delete all data. FUJIFILM accepts no liability for lost or deleted data.

8.3 Borrower must return the Loan Equipment cleaned and disinfected as set out in the instructions in the user manual and in the same condition in which it was handed over by FUJIFILM except for normal wear and tear. If the Loaned Item is not in the condition in which the Borrower received it (except for normal wear and tear), FUJIFILM may charge the Borrower (i) for the value of repairs and parts required, to restore the Loaned Item to the same condition in which it was delivered to the Borrower or (ii) if, at FUJIFILM's discretion, repair of the Loaned Item is impossible/uneconomical, charge the Borrower the replacement value of the Loaned Item. In either case, the Borrower shall pay the invoice within thirty (30) days of receipt.

9. Compliance

The parties represent that the loan agreement is entered into independently of any sales transactions or procurement decisions with Borrower. No provision in the loan agreement shall be construed as an offer or payment that directly or indirectly results in the purchase of any item or service. Borrower acknowledges that this loan agreement may be disclosed by it and/or FUJIFILM in accordance with applicable laws and regulations. If required, Borrower and/or FUJIFILM will report the details of the loan agreement in accordance with applicable law.

10. Final Provisions

10.1 Amendments and additions to this loan agreement need to be made in writing. This also applies for the removal of this clause requiring the written form.

10.2 The law of the Federal Republic of Germany applies. Private international law and the UN Convention on Contracts for the International Sale of Goods do not apply. The place of jurisdiction for any disputes arising from this loan agreement is Düsseldorf, Germany.

10.3 If any provision in this loan agreement should be or become ineffective, the effectiveness of the remaining provisions and the loan agreement as a whole will not be effected by this. In place of the ineffective provision an effective provision will be considered to be agreed which is closest to the economic intention of the parties. The same applies if there is a gap in the provisions.