

# GENERAL TERMS AND CONDITIONS FOR PROVIDING SUPPORT AND SERVICES

## 1. SCOPE, GENERAL

- 1.1 These General Terms and Conditions for providing support and services ("GTC Service") apply to all business relations between Dr. Schenk GmbH Industriemesstechnik ("Dr. Schenk") and its customers ("Customers") who are not consumers in the sense of § 13 BGB (German Civil Code). These GTC Service apply to all contracts between Dr. Schenk and the Customer with the subject of providing support and services for one or more Dr. Schenk inspection system(s) ("Inspection System") purchased by the Customer.
- 1.2 These GTC Service apply exclusively. The applicability of any Customer's General Terms and Conditions is hereby expressly rejected. This shall also apply where the Customer has indicated in standardized order forms or in connection with letters of confirmation that its General Terms and Conditions are applicable, intending by such action to incorporate them into the contract.

## 2. CONTRACT CONCLUSION

- 2.1 The quotations by Dr. Schenk are non-binding. The order placed by the Customer is a binding contractual offer. A contract between Dr. Schenk and the Customer is not concluded until Dr. Schenk confirms the order placed by the Customer in writing.
- 2.2 Changes to the order require the express written consent of Dr. Schenk. Any additional costs incurred as a result are borne by the Customer.

## 3. SCOPE OF SUPPLY / SERVICES

### 3.1 Continuous support and maintenance

- 3.1.1 Dr. Schenk supports the Customer continuously as part of general troubleshooting and in the inspection process. Dr. Schenk also handles the technical maintenance of the software and hardware of the Inspection System. The Customer can choose between various Service Modules or combine them under certain conditions. The scope of services and the exact designation of the Inspection System are specified in the quotation. All quotations are, unless otherwise agreed to, based on the current "Price List Service Modules" in their respective valid version.
- 3.1.2 The Customer can reach the Dr. Schenk Customer Service during general business hours and under the contact information specified in Section 11.
- 3.1.3 If an on-call service outside of the general business hours has been separately agreed in the contract, the Customer can reach the Dr. Schenk Customer Service at a phone number that is to be provided at the time of contract conclusion.  
On-call service is always excluded on the following days: From December 24 at 6:00 am to December 27 at 6:00 am and from December 31 at 6:00 am to January 2 at 6:00 am. All times in these GTC Service are indicated in Central European Time.
- 3.1.4 The scope of services does not include work that is performed outside of the agreed Service Module or work that is necessary as a result of the non-contractual use of the Inspection System, independent modifications by the Customer on same or due to the use of third-party software. The same applies to malfunctions resulting from a violation of the duty of care by the Customer.

### 3.2 Extended warranty

- 3.2.1 Dr. Schenk extends the warranty for the component(s) defined in the quotation for the period of time stated therein. Prerequisite for granting an extended warranty is the conclusion of a maintenance agreement according to Section 3.1, which has to occur at the end of the warranty period for the Inspection System. At a minimum, the maintenance agreement must include phone support during business hours and an annual on-site maintenance visit and be maintained throughout the warranty period without interruption.
- 3.2.2 The extended warranty includes the cost for the spare part and labor for the replacement. This does not cover travel times and costs. The term "spare part" can refer to entire components or a part of a component.
- 3.2.3 The extended warranty does not extend to damages resulting from external influences (such as fire, power surge) or improper use, including the use for a purpose other than the intended purpose or handling other than according to the instructions by Dr. Schenk for proper use, proper maintenance or care.
- 3.2.4 Dr. Schenk reserves the right to review the maintenance documentation in association with any warranty and/or damage claims and to discontinue the warranties entirely in such cases where evidence of improper use is observed.

### 3.3 Repair services outside of the warranty period

- 3.3.1 Dr. Schenk will carry out repairs on the Inspection System outside of the warranty period upon the Customer's request via remote access or on-site. The cost will be billed based on time and materials. Upon request, Dr. Schenk will provide a budgetary quotation specifying the anticipated scope of services and the exact designation of the Inspection System. All budgetary quotations are, unless otherwise agreed to, based on the "Price List Service Modules" in the respective valid version.
- 3.3.2 The Customer can reach the Dr. Schenk Customer Service during general business hours and under contact information as specified in Section 11.

### 3.4 Spare Parts and Upgrades

- 3.4.1 The scope of supply and the corresponding prices for spare parts and upgrades are specified in the quotation.
- 3.4.2 Standard spare parts for the Inspection System will be shipped to the Customer within five working days, subject to prior sale.

### 3.5 Training

- 3.5.1 Dr. Schenk provides training for the operation and set up of the Inspection System. The Customer can choose between various training levels or combine them. An exact description of the contents is available in the Dr. Schenk Course Descriptions, which are sent to the Customer upon request.
- 3.5.2 Depending on the training level, Dr. Schenk offers Customer-specific individual training courses, which are conducted either on-site at the Customer location or at Dr. Schenk. Alternatively, Dr. Schenk offers general group training at its site. The scope of services is specified in more detail in the quotation. All quotations are based on the "Price List Training" in the respective valid version unless otherwise agreed.

### 3.6 Inspection Process Ramp-Up Support (IPRS) / Inspection Process Support (IPS)

- 3.6.1 Dr. Schenk supports the Customer in the system parameter setting for the operation of the Inspection System as part of a Customer requested hour allotment. The scope of services and the respective Inspection System(s) are specified in more detail in the quotation. All quotations are, unless otherwise agreed to, based on the "Price List Service Modules" in the respective valid version.
- 3.6.2 The Customer can reach the Dr. Schenk Customer Service during general business hours and under contact information as specified in Section 11.

## **4. OBLIGATIONS OF THE CUSTOMER**

- 4.1 The Customer carries out regular maintenance work independently according to the operator manual and documents them in scope and time.
- 4.2 The regular creation and archiving of current system and application backups according to the operator manual is the responsibility of the Customer. In particular, this must be done before any services are provided.
- 4.3 The Customer will make all information available that is required by Dr. Schenk for the performance of the services and will support Dr. Schenk upon request.
- 4.4 The Customer will provide trained contact persons who act as the initial contact for Dr. Schenk personnel in the event of technical problems.
- 4.5 If the Customer wishes to postpone an expressly confirmed appointment (such as a maintenance appointment, IPRS date), the Customer is obligated to notify Dr. Schenk accordingly at least one week prior. Otherwise, Dr. Schenk reserves the right to charge a fee for futile expenditures of EUR 250 plus travel costs, which are either non-cancelable or have already been incurred. In case the postponement is related to a training date pursuant to Section 3.5, Section 10.3 applies accordingly.
- 4.6 Malfunctions of any kind must be reported to Dr. Schenk immediately upon detection.
- 4.7 During the agreed schedule for support and services, the Customer will provide access to all system components required to perform the service and initiate the decommissioning and commissioning of the complete system.
- 4.8 To the extent that Dr. Schenk provides services according to Sections 3.1, 3.3 or 3.6, the Customer will provide Dr. Schenk with remote maintenance access to the Inspection System as specified in the quotation. This access must meet the requirements listed in the operator manual under "Setting Up a Remote Access Connection" and in the "Dr. Schenk Cyber Security Policy", which are sent to the Customer upon request.

## **5. COMPENSATION AND PAYMENT TERMS**

- 5.1 Services according to Sections 3.1 and 3.5 are paid at a flat rate. The compensation for services according to Section 3.1 must be paid annually in advance. Dr. Schenk is not obligated to provide services until the payment has been received.

- 5.2 The following will be invoiced based on actual hours worked:
- Services according to Section 3.3
  - Travel times for on-site visits of any kind
  - Wait times during regular maintenance that total more than 10% of the total work time
  - Work hours that are incurred as part of a separate contractually agreed availability outside of the business hours
  - Costs for the remedy of defects that are outside of an agreed maintenance schedule
- Travel costs will be billed based on the actual incurred costs.
- 5.3 Hour allotments according to Section 3.6 will be billed in advance and reduced by the number of actual hours worked. Dr. Schenk is not obligated to provide services until the payment has been received.
- 5.4 Costs for any spare parts outside of the warranty period are not included in the scope of services and billed separately.
- 5.5 All prices exclude VAT, Sales or Use tax, Withholding tax, and / or any other applicable taxes and duties. Any taxes, duties or related fees shall not be borne by Dr. Schenk. Any bank charges shall be borne by the Customer.
- 5.6 All Invoices are payable within 14 days net.

## 6. SHIPMENT

- 6.1 (Spare) parts will be shipped FCA Bussardstraße 12, 82166 Graefelfing, Germany (Incoterms 2020), including packaging, but excluding insurance or transport costs.
- 6.2 If the goods have not been picked up on the agreed date or within one week after Dr. Schenk's notification of readiness for shipment, Dr. Schenk reserves the right to charge reasonable storage costs.
- 6.3 To ensure the secure chain of supply in civil aviation according to regulations (EG) No 300/2008 and (EG) No 2015/1998 Dr. Schenk has been maintaining qualification as a "known consignor" since 2013. This facilitates accelerated handling of air freight cargo as extensive security controls can be dispensed with. However, this requires that transportation of the goods from Dr. Schenk's loading dock in Graefelfing to any airport has to be carried out by a "regulated" forwarder. If the Customer assigns or specifies a non-regulated forwarder, the security of the supply chain will be broken resulting in severe consequences: separate security checks will be mandated, which, depending on size and weight, may not be available at the specified airport. All costs resulting from this situation shall be borne by the Customer. Furthermore, Dr. Schenk cannot be held responsible for any delay caused by the corresponding measures.
- 6.4 The Customer assures Dr. Schenk that the right of disposal of the delivered goods, as normally held by the owner, will not be transferred to a third party before the goods have physically left Germany. Otherwise, German VAT has to be applied.

## 7. OBLIGATIONS OF DR. SCHENK

- 7.1 Dr. Schenk warrants that the spare parts and hardware upgrades are free of defects in material or workmanship for a period of six months (spare parts) or twelve months (hardware upgrades) starting with the date of installation and shall within this period assume all costs for labor and material for their repair or replacement in case of a defect. The warranty period commences no later than four weeks after shipment. Sections 3.2.3 and 3.2.4 apply accordingly.
- 7.2 Dr. Schenk ensures that all contractually agreed services are performed by qualified personnel. Defects in the Inspection System resulting from previous repairs that are proven to be incomplete must be remedied by Dr. Schenk.

## 8. LIABILITY

- 8.1 Dr. Schenk shall be liable for any damage caused through willful misconduct or gross negligence as well as for any damage within Dr. Schenk's control arising from the loss of life and limb, health, or well-being pursuant to statutory provisions. This does not affect liability under the Product Liability Act. The same applies to liability for damages resulting from the lack of a guaranteed quality.
- 8.2 Notwithstanding the foregoing Section 8.1, Dr. Schenk shall be liable for any damage only as to the nature and extent covered by Dr. Schenk's business or product liability insurance. Further liability, in particular liability for indirect or consequential damage, e.g., loss of profit or loss of production, is excluded. Dr. Schenk maintains a business and product liability insurance of EUR 10 million each.
- 8.3 Insofar as Dr. Schenk's liability is excluded or limited, this shall also apply to the liability of its employees, representatives and agents or other third parties used by Dr. Schenk for the fulfillment of the contract.

## 9. STATUTORY LIMITATION

Claims of the Customer, with the exception of those in accordance with Section 8.1, shall be time-barred after one year. The period of limitation commences on the date the respective right to claim is established and the Customer learns of the grounds for the claim and the identity of the party liable or fails to learn of such through gross negligence.

## 10. TERM AND TERMINATION

- 10.1 The minimum term for contracts for services in accordance with Section 3.1 is one year. The start and the end of the term are specified in the quotation.
- 10.2 In case the Customer terminates a contract on supply according to Section 3.4, the Customer agrees to reimburse Dr. Schenk for those parts that Dr. Schenk has ordered bindingly and irrevocably from its suppliers and that cannot be used for another customer.
- 10.3 Contracts on services according to Section 3.5 can be terminated up to four weeks prior to the confirmed appointment without charge. After that Dr. Schenk reserves the right to charge the Customer with 50% of the order value. In case the Customer terminates the contract by giving less than two weeks' notice, 100% of the order value may be charged by Dr. Schenk.
- 10.4 The right to terminate for good cause shall remain unaffected and can be exercised where one party is constantly in breach of the obligations it owes under the contract over a lengthy period of time, rendering continuation of the contractual relationship unreasonable. Nevertheless, to be effective, termination absolutely must be preceded by a warning setting a deadline of at least 30 days, which failed to bring about a resolution.

## 11. AVAILABILITY AND CONTACT INFORMATION

The Customer can reach the Dr. Schenk Customer Service during general business hours

Monday – Thursday: 8:00 – 17:00  
Friday 8:00 – 15:00

under the following contact information:

Phone: 0049-89-85695-131 or -135  
E-Mail: [Contact form](#)

## 12. APPLICABLE LAW AND ARBITRATION

- 12.1 These GTC Service are subject to the laws of the Federal Republic of Germany excluding the application of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 12.2 All disputes arising out of or in connection with this contract, which are not settled by negotiation, shall be settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules and the award and determination of such arbitrators shall be final, binding and conclusive upon both parties. The place of arbitration shall be Munich, Germany. The language of the arbitration shall be English.

## 13. FINAL PROVISIONS

- 13.1 All amendments and supplements to this contract must be made in writing; moreover, they require express reference to this contract. This shall also apply to the waiver of the written form requirement.
- 13.2 Should any provision of this contract be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions. However, the parties must replace the invalid or unenforceable provision with another provision that most closely approximates the economic effect of the unenforceable provision; the same shall apply with respect to any omission or loophole.