

## General terms and conditions for maintenance services

### 1. Scope of application, deviating terms and conditions of the customer

1.1 These General terms and conditions for maintenance services (hereinafter referred to as "**Maintenance T&Cs**") of Creo Medical GmbH, Hans-Böckler-Strasse 29, 40764 Langenfeld (hereinafter referred to as "**we**"/"**us**") apply exclusively to entrepreneurs and enterprises within the meaning of Section 14 of the German Civil Code (BGB) (hereinafter referred to as the "**Customer**"), i.e. to natural persons or legal entities who, when concluding a legal transaction, are acting in the exercise of their commercial or independent professional activity.

1.2 Our Maintenance T&Cs and any individual contractual agreements made with the Customer apply exclusively to the business relationship with our Customers regarding maintenance. Deviating General Terms and Conditions of the Customer – in particular General Terms and Conditions of Purchase – only apply if we expressly accept them in writing and only to the extent agreed by us. Failure by us to comment on such deviating general terms and conditions shall not be deemed to constitute recognition or consent, either for the present contract or in the case of future contracts. Once our Maintenance T&Cs have been introduced into the business with the client, they shall also apply to all further business relations of the same kind between the customer and us, unless expressly agreed otherwise in writing.

### 2. Conclusion of the contract, subject matter of the contract and scope of services

2.1 Any quotations issued by us are subject to change and are non-binding unless they have been specifically marked as binding. If the customer places an order on the basis of non-binding quotations or without a preceding quotation, a contract is not concluded – also in connection with existing business transactions – until our written order confirmation (which may also be communicated by email or fax) has been dispatched, provided the customer requests such a confirmation, but at the latest with the performance of the service. The customer's order must specify all relevant details (in particular type, technical specifications, age and condition, location, etc.) as well as all other aspects relevant for the performance of the services (service intervals considered by the customer to be relevant, relevant statutory and/or official requirements, if any (cf. Section 3.2 of the Maintenance T&Cs, etc.) for the products concerned by the respective services ordered (hereinafter referred to as "**contractual products**"). If we issue an order confirmation, this alone is deemed to be decisive as regards the content of the contract, in particular for the scope of the services and the time of performance.

2.2 The object of the order is the performance agreed in accordance with Section 2.1 above, but not – unless expressly agreed in writing or in print form – a specific (economic) effect. The services also do not cover any questions regarding legality of design or permissibility. We do not assume any liability for the usability of our services

for a purpose intended by the client beyond statutory liability.

2.3 Unless expressly agreed as deliverable by us in connection with maintenance services in accordance with Section 2.1, the following activities in particular do not form part of the scope of services to be provided by us:

- Repairs, in particular the elimination of faults and damage, including the replacement and renewal of defective parts;
- Fundamental corrections to the respective contractual product (such as those that are likely to have a significant effect on functionality);
- Evaluation of the results and analysis of weak points or errors as well as the analysis of optimisation potential and implementation of renewal or improvement measures, if associated with additional outlay;
- Replacement of worn parts where the replacement is not triggered by natural or normal wear & tear, but by external influences such as improper handling, incorrect operation or other interventions on the part of the customer or third parties, as well as by other circumstances for which we are not responsible, such as environmental influences or force majeure (in particular fire, earthquake, flood, storm);
- Other work which becomes necessary because repairs or modifications to contractual products have been carried out by the customer or third parties without our prior written consent.

2.4 Unless otherwise agreed in writing or in print form, we may, at our own discretion, use competent subcontractors for the performance of the contract.

### 3. Duty of the customer to cooperate

3.1 The customer must appoint an individual as the central point of contact for the agreed performance period who is authorised to make binding decisions for the customer during the performance of the contract and is available for the exchange of necessary information. All necessary decisions by the customer are to be implemented without delay by the contact and jointly documented by both parties immediately afterwards in writing.

3.2 The customer undertakes free of charge to support us, or the subcontractors engaged by us for the performance of the service, in the performance of the service to a reasonable and necessary extent and to create all the conditions necessary for the proper performance of the order in its own field of operation and to provide assistance as required. In particular, he must make available in good time all documents and information necessary or significant for the maintenance services commissioned, in particular wiring diagrams, installation documentation, inspection documents, operating data, safety instructions, operating manuals, maintenance schedules, manufacturer information, information on any existing special features, changes made, deviations from the usual condition of the contractual products, conspicuous features of the contractual products and all other documents/information required in relation to the service, as well as all processes and circumstances significant for the provision of the service, even if these only become known in the course of our activities. Insofar as we provided the customer with the equipment necessary for maintenance purposes (hereinafter referred to as the "maintenance set") in advance of the

- performance of the service – in particular in the event we commission a subcontractor – the customer must store such equipment free of charge and with due care and return it to us upon our first request, however, at the latest – automatically without prompting – after the termination of the business relationship. The maintenance set remains our property at all times.
- 3.3 In addition, the customer must create free of charge all the preconditions in its own field of operation which are necessary for the proper performance of the services. These preconditions include, among others, that the customer
- provides the above-mentioned documents (cf. section 3.2) in due time;
  - provides our employees, or subcontractors commissioned with performance of the services, with barrier-free access at all times to the contractual products subject of the commissioned maintenance service, which access must comply with all relevant occupational safety regulations;
  - provides any necessary work equipment on our express request;
  - provides our employees, or subcontractors commissioned with performance of the services, with free-of-charge access at any time to the supply connections and consumables (in particular water and electricity) necessary for their work;
  - in every other respect prepares the contractual products in good time before the performance of the maintenance services so that trouble-free performance of the services is sufficiently ensured without risks to property owned by the customer or third parties etc.
- 3.4 The cooperation services to be provided by the customer constitute real requirements to assist and are not merely abstract duties. If the customer does not provide the services deliverable by him to the required extent, or does not provide them on time or does not provide them as agreed in such a way that this has an impact on our provision of services, we must be released from the obligation to render the services concerned. The corresponding performance deadlines are then put back by an appropriate period of time. We will not be liable for any damages incurred by the customer as a result. Any additional expenses incurred by us as a result must be reimbursed separately on the basis of the agreed conditions, without prejudice to further rights. This without prejudice to any other remedies open to us.
- 3.5 The fulfilment of the aforementioned duties to cooperate and/or the provision of commissioned maintenance services by us will under no circumstances release the customer from any duties, working instructions, etc. relating to the contractual products affected by the services (hereinafter referred to as "other customer obligations") which go beyond the aforementioned, in particular statutory, official or contractual duties with third parties. Section 3.4 sentences 2-6 apply accordingly to the fulfilment of the other customer obligations, insofar as they are relevant for our services.
- 4. Timely deliveries by our supplier, force majeure and other delays**
- 4.1 If, for reasons beyond our control, we do not receive the services of our subcontractors required for the performance of the service to be rendered by us, or do not receive them correctly or in good time, or if events of force majeure (see below) occur, we will notify our customer in good time in writing or in print form. In this case, we retain the right to postpone the services for the duration of the hindrance or to withdraw from the contract in whole or in part with respect to the part not yet fulfilled, provided that we have complied with our aforementioned duty to inform. Cases of force majeure are considered to be, in particular, war, strike, lockout, official interventions, epidemics and pandemics (including Covid19), energy and raw material shortages, cyber-attacks, transport bottlenecks beyond our control, operational hindrances beyond our control – e.g. due to fire, water and machine damage – and all other hindrances which, viewed objectively, were not culpably caused by us.
- 4.2 If a performance date has been bindingly agreed or follows from statutory or official requirements, compliance with which was bindingly agreed in the context of the order (cf. Sections 2.1 and 5.1), and is exceeded due to events detailed in Section 4.1, the customer is only entitled to terminate the contract with respect to the part not yet performed after expiry of a reasonable period of grace without appropriate progress if further adherence to the contract is objectively unreasonable for him and the event detailed in Section 4.1 has already lasted longer than two months. Further claims by the customer, in particular claims for damages, will not be entertained in this case. The customer is obliged to pay for services rendered up to that point in accordance with what has been agreed in this respect.
- 5. Performance times & delay**
- 5.1 Binding performance dates and times, whether in the sense of a specific date or agreement on maintenance or other intervals, must be expressly agreed in writing. The binding nature of a date does not necessarily follow from a point defined in a maintenance schedule, although we endeavour to comply with the scheduled dates. If, in individual cases, this is not possible, the services will be rendered within a time window of a maximum of three weeks before or after the respective date given in the maintenance schedule. Any other provisions with regard to statutory or officially prescribed intervals remain unaffected by this. Insofar as maintenance services are to be provided in accordance with statutory or officially prescribed intervals (hereinafter "prescribed maintenance intervals"), the customer must expressly refer to the relevant requirements in the context of its order. In the case of specified maintenance intervals, we are entitled to determine the specific time of performance at our discretion, but in coordination with the customer and in compliance with any relevant statutory or official requirements. A transaction for delivery by a fixed date will only be deemed to exist if we have expressly confirmed such a transaction in writing or if the legal requirements for a transaction for delivery by a fixed date are met.
- 5.2 Unless otherwise agreed, we are only obliged to perform the services commissioned in each case during normal business hours (Mon-Fri. 8 a.m. - 6 p.m. except on German national holidays). Services which are performed outside normal business hours after prior consultation with us must be remunerated plus appropriate surcharges for overtime,

- night work, weekend work and work on public holidays per hour or part thereof per employee. The appropriateness of these surcharges can be assumed in particular if the corresponding surcharges result from collective bargaining agreements or other applicable company regulations, which we must prove to the customer in a suitable form upon request if recourse is made to collective bargaining agreement rates or rates otherwise regulated by the company.
- 5.3 If no specific dates have been agreed for the performance of our services, but a period has been agreed, this period will not commence until all details of the performance of the order have been clarified and all other preconditions to be fulfilled by the customer have been met, in particular agreed advance payments have been made, information required for the performance of the service has been provided and other necessary acts of cooperation (cf. in particular Section 3) have been provided. The same applies to performance dates. If the customer has requested changes after placing the order, a new reasonable period for performance must commence with our confirmation of the change. In the event of postponements in accordance with this Section 5.3, Section 3.4 sentences 4-6 apply accordingly.
- 5.4 If it becomes apparent, prior to the performance of our services, that repairs are required first, we are entitled, after notifying the customer accordingly, to withhold the maintenance services until the repairs have been performed by the customer or by third parties commissioned by the customer. Section 3.4 sentences 4-6 apply accordingly.
- 6. Conclusion of the services**
- 6.1 Unless otherwise agreed, the completion of the work is documented by the signing of a service report by the customer, otherwise by our notification to the customer.
- 6.2 Unless otherwise agreed, the remuneration (for details, see Section 7) becomes due immediately upon completion of the services, at the latest, however, upon notification in accordance with Section 6.1 of these Maintenance T&Cs.
- 7. Remuneration and payment terms**
- 7.1 All our prices are quoted in euros plus value added tax to be borne by the customer in the respective legally prescribed amount. Value added tax is shown separately on the invoice. Prices and price surcharges are determined according to our price list valid at the time of the conclusion of the contract, unless otherwise agreed. Travel costs are to be reimbursed separately on the basis of information to be provided by us on the route taken, etc.
- 7.2 Our invoices are payable within 30 days of performance of the services and receipt of the invoice without any deduction, unless otherwise agreed in writing. The date of payment is the date on which we receive the money or the date on which the money is credited to our account.
- 7.3 The customer will only have a right of retention or right of offset with regard to counter-claims that are not disputed or are legally enforceable. A right of retention may only be exercised by the customer to the extent that his counter-claim is based on the same contractual agreement.
- 8. Liability, exclusion and limitation of liability**
- 8.1 Subject to the following exceptions, we cannot be held liable, in particular for claims by the customer for damages or reimbursement of expenses – irrespective of the legal grounds – in the event of a breach of duties arising from the contractual obligation.
- 8.2 The above exclusion of liability pursuant to Section 8.1 does not apply in the following cases:
- Our own wilful or grossly negligent breach of duty and intentional or grossly negligent breach of duty by officers of the company or agents
  - Breach of essential contractual obligations; "essential contractual obligations" are those whose fulfilment characterises the contract and on which the customer is entitled to rely;
  - In the event of injury to body, life and health, also by officers of the company or agents;
  - In the event of default, insofar as a fixed date of performance was agreed;
  - Insofar as we have assumed a guarantee for the existence of a performance result;
  - In the event of liability under the Product Liability Act or other legally binding liability provisions.
- 8.3 In the event that we or our agents are only guilty of slight negligence and the aforementioned Section 8.2, c), e) and f) do not apply, our liability is limited to reasonably predictable damages typical for such contracts, even in the event of a breach of material contractual obligations.
- 8.4 The exclusions or limitations of liability pursuant to the above Sections 8.1 to 8.3 apply to the same extent in favour of our officers, our executive and non-executive employees and other agents as well as our subcontractors.
- 8.5 Claims of the customer pursuant to the above paragraphs become statute-barred after one year. The commencement of the limitation period must be determined in accordance with Section 199 (1) of the German Civil Code (BGB). Section 8.2 of these Maintenance T&Cs applies accordingly.
- 8.6 The above provisions do not involve reversion of the onus of proof.
- 9. Third party proprietary rights**
- 9.1 We are only obliged to provide the services free of the rights or claims of third parties if these are based on industrial property rights or other intellectual property and of which we were aware at the time of conclusion of the contract or which we did not know about as a result of gross negligence.
- 9.2 Our obligation under clause 9.1 does not extend to the following cases:
- If the infringement of industrial property rights results from the fact that, in rendering the services, we were guided by information or other data provided or specified to us by the customer
  - If the infringement of industrial property rights was caused by an application by the customer which we did not foresee or by the fact that the services were

modified by the customer or were mixed or used together with services not rendered by us.

9.3 Our liability in accordance with Section 8 remains unaffected.

## 10. Confidentiality & data protection

10.1 The customer undertakes to keep confidential such facts, documents and knowledge which come to his knowledge in the course of the performance of the business relationship with us and which contain technical, financial, business or market-related information about our company, insofar as we designate the respective information as confidential or have an obvious interest in keeping it confidential (hereinafter collectively referred to as confidential information). The customer is required to use the confidential information exclusively for the purpose of implementing and executing the contractual agreement with us in accordance with the contract as well as the individual contracts based thereon.

10.2 The disclosure of confidential information by the customer to third parties requires our express and prior written consent.

10.3 The confidentiality obligation pursuant to Section 10.1 above will not apply if it can be proven that the respective confidential information is covered by one or more of the following conditions:

- a) It is or became generally known without any action on the part of the customer
- b) It was already known to the customer or was made known by a third party authorised to disclose it
- c) It was developed by the customer without any action on our part and without using any other information or knowledge obtained through the contractual agreement
- d) It was required to be disclosed due to mandatory statutory provisions or court or official orders.

10.4 The parties process personal data in compliance with the applicable provisions on data protection, in particular EU Regulation 2016/679 (General Data Protection Regulation).

## 11. Proprietary rights, rights of use, ownership and retention of title

11.1 The provision of our services in respect of contractual products is subject to the condition that such products are owned by the customer or that the customer has other rights of ownership which lawfully cover the provision of our services.

11.2 Unless otherwise agreed, property rights and copyrights to illustrations, drawings, descriptions of the services and other characteristics, cost estimates and other documents relating to our services of a physical and non-physical nature – including those in electronic formats – already exist and are retained by us: they may not be made accessible to third parties.

11.3 If, in accordance with what has been contractually agreed, ownership of work results and/or other deliverables or services created by us is to be transferred to the customer, such transfer of ownership may only take place upon full

payment of all our claims arising from the business relationship with the customer, including claims arising in the future from contracts concluded at a later date. This also applies in the case of a balance in our favour if some or all our demands have been included in an ongoing invoice and the balance has been established.

11.4 Section 11.3 applies mutatis mutandis to rights of use insofar as the granting of such rights is included in the subject matter of what has been contractually agreed.

11.5 Direct or indirect use by third parties of the services and work results provided by us requires our express prior written consent. "Third parties" within the meaning of this provision also includes Groups of companies in which the customer is involved within the meaning of Secs. 15 et seq. of the German Stock Corporation Act (AktG).

## 12. Requirement for written form, place of fulfilment, Court of jurisdiction, applicable law

12.1 The place of performance for all contractual obligations is our registered office, with the exception of the assumption of fulfilment of a debt.

12.2 We retain the right at any time to transfer the rights and obligations arising from this contract, in part or in their entirety, to affiliated companies within the meaning of Secs. 15 et seq. of the German Stock Corporation Act (AktG).

12.3 All agreements, ancillary agreements, assurances and amendments to the contract must be in writing. This also applies to modifications or the waiver of the requirement for changes to be in writing. This is without prejudice to the priority of individually agreed terms (Sec. 305 b German Civil Code (BGB)).

12.4 The exclusive place of jurisdiction for all disputes is our registered office. We reserve the right, however, to file claims against the customer at its respective general court of jurisdiction.

12.5 All legal relationships between us and our customer are subject exclusively to the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

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