

## **Contractual Terms for the Use of Visual Service Support by Commercial Clients (Current as of November 25, 2019)**

### **Scope of application**

All **Visual Service Support** services that **MCS** or an enterprise directly affiliated with **MCS** provides to commercial clients are subject to the conditions set forth below.

### **1. Object of agreement**

The client operates one or several **MCS** machines supplied by **MCS**. **MCS** makes services available by way of remote data transmission and/or uses the **MCS Visual Service Support** for the transmission of images and audio via the Internet, directly from the machine in the customer's operations and, if applicable, to implement an exchange of images and circuit diagrams via the system, with the ultimate goal of providing the client with fast and simple support. In each instance, the contents refer to the option chosen: "**Watch**" or "**Watch and Touch**."

### **2. Service description, client's duties**

#### **2.1 Remote diagnosis**

The client contacts **MCS** by telephone or email with a detailed description of the problem or technical issue afflicting a machine supplied by **MCS**.

##### **2.1.1 Visual Service Support**

The client contacts **MCS** by telephone or email with a detailed description of the problem or technical issue afflicting a machine supplied by **MCS**; if necessary, the client will activate **Visual Service Support** on a mobile device (e.g., smartphone tablet PC or data goggles). An **MCS** staffer will analyze the information, images and sounds transmitted via **Visual Service Support** and provide assistance on the basis of the findings. Whenever necessary, **MCS** will record **Visual Service Support** sessions in order to document any support provided.

##### **2.2 Help with error messages**

The client will make sure that its machine(s) is/are connected to the transmission medium for purposes of remote data transmission free of impediments or interference. When identifying, delineating, reporting and describing errors or problems, the client must exactly follow **MCS'** instructions. To facilitate **Visual Service Support**, the client must make available and use qualified staff with the necessary technical and communications skills. When reporting errors and posing questions, the client will transmit to **MCS** additional information and documents to clear up any remaining ambiguity. The client will designate an experienced member of its staff to serve as **MCS'** contact – someone who is familiar with the operation of the machine and has been trained by **MCS**. The verbal as well as the written exchange of information between **MCS'** technical staff and the client is conducted in German or in English language.

##### **2.3 Safety concerns / duty of supervision**

In cases in which **Visual Service Support** may pose a risk to persons or property, the client is to provide feedback to the effect that the intended measures cannot be adopted safely. Specifically, the client must ensure that the performance of the service on site does not place any person at risk in any shape or form. The responsibility and decision-making authority for the operation of the machine remain with client. **Visual Service Support** is no substitute for regular maintenance and technical safety inspections. **MCS** may store images and audio information transmitted as part of **Visual Service Support** at least temporarily for purposes of documentation, which is why care is to be taken as a rule that personally identifiable data (including images of a person) are transmitted to **MCS** only after the consent of the individual in question has been obtained. The client bears responsibility for (i) obtaining such prior consent and (ii) the contents of any images or audio information transmitted. **MCS** undertakes not to share the information transmitted with uninvolved external third parties and will maintain a system to ensure informational security at a level reflecting up-to-date technology, under which the client's data transmitted to **MCS'** data-processing system as part of a Smart Service event is secured by means of a firewall, among other tools. The client confirms and procures that any disclosure of data (including but not limited to any data transmitted in the course of **Visual Service Support**) is effected in compliance with and does not violate current or pertinent data-protection regimes as well as other comparable codes, such as the General Data Protection Regulation (GDPR). The client hereby irrevocably holds **MCS** harmless from any claim asserted by a third party, including competent authorities and affected individuals, in connection with the client's violations of data-protection provisions upon first written demand.

## **2.4 Other measures and services**

In the event that the problem cannot be fully solved by way of the **Visual Service Support** service, **MCS** will so inform the client and coordinate the next steps with it. If needed, **MCS** will suggest further repair actions, to be billed on the basis of its then-current rates of compensation. Such further actions may consist of the supply of spare parts or software updates, the deployment of service technicians at the installation site for the machine in question or the completion of training seminars, all of which are subject to a separate agreement between the parties as well as separate compensation by the client. In processing the aforementioned scenarios, **MCS** records the essential equipment data as well as any deviation determined via **Visual Service Support** and informs the client about any work completed. **MCS** is compensated under all circumstances and irrespective of whether its measures were successful save for cases in which it reasonably bears liability for defects. Any **Visual Service Support** service rendered by **MCS** is deemed to have been completed if the same problem is not encountered again within 72 hours, and an **MCS** invoice for the action is submitted promptly thereafter.

## **2.5 Limitations of performance**

In the event that **MCS** determines that an instance of deviation is the product of external force, any other unforeseeable impact, improper handling or non-compliance with the installation or environmental conditions stipulated by **MCS**, **MCS** is discharged from its duty of performance under this **Visual Service Support Agreement**, and the same applies whenever the client itself or third parties make changes to or modify the machine, including but not limited to the controller hardware and software, following the machine's delivery and/or acceptance.

In addition, **MCS** offers no guarantee to the effect that the **Visual Service Support** services to be rendered will result in the diagnosis and repair of any and all existing errors and damages of or to the machine(s). Specifically, **MCS** does not warrant that the machine(s) will be fully functional or available.

## **3. Data transmission**

### **3.1 Equipment**

To facilitate the performance of services in connection with **Visual Service Support**, the client must make available suitable devices (such as a smartphone, tablet PC, data goggles, etc.) on which the current version of **Visual Service Support** will function properly in combination with the software of the installed operating system. Similarly, the client must provide Internet connectivity using the internal WI-FI network with a data-transmission rate of at least 1 Mbit/s or a high-quality mobile data link with a data-transmission rate of 3G or higher, so that **MCS' Visual Service Support** may be provided free of impediments.

### **3.2 Data-transmission channels**

The client will provide, in its own name and at its own expense, a suitably specified data-transmission channel for the machine in question, and it must make sure that **MCS** can use such channel for the services. The client bears any related fees for the provision and use of the data-transmission channel. In the event that the data-transmission channel is impaired or if **MCS** is unable to receive or transmit data at the requisite rate and quality, **MCS** is discharged from its duty to provide the services and/or cannot provide the support in question.

## **4. Fees**

The rate at which the **Visual Service Support** services described in this agreement are compensated is set forth in **MCS'** current fees or specified in a **Visual Service Support Agreement** to be entered into separately.

## **5. Contact hours**

The 24-hour hotline may be reached at the following numbers:

## **6. Confidentiality**

**MCS** and the client undertake to hold in strict confidence, not to use for own purposes outside of the service event and not to share with third parties any and all information of the other party of which it learns in connection with the completion of these services, including but not limited to data as part of a service event. This duty applies throughout the term of any contractual relationship as well as for a period of three years after its conclusion. **MCS'** and the client's staff is to be bound by such duty of confidentiality accordingly.

## **7. Liability**

In the event of damages, **MCS'** liability is capped at the full amount of compensation billed for the calendar year during which the damage event occurs. No such limitation applies in cases of (i) the willful misconduct or gross negligence of **MCS'** legal representatives or vicarious agents or (ii) culpable injury to life, body or health, and the same applies for liability under the Product Liability Act (*Produkthaftungsgesetz - ProdHaftG*), whenever defects were fraudulently concealed or expressly warranted to be absent, or in the event of violations of cardinal contractual obligations. However, liability for violations of cardinal contractual obligations is limited to foreseeable damages typically associated with the agreement in question. Cardinal contractual obligations are those that must be met if the client can rely on their satisfaction regularly and reasonably. **MCS'** liability for consequential damages resulting from defects is limited to cases in which the breach of duty underlying such consequential damages resulting from defects is itself the product of willful misconduct or gross negligence. The period of limitation for the client's claims stemming from defects equals twelve months starting from the completion of the service in question. In cases of willful misconduct or gross negligence as well as with respect to claims under the Product Liability Act or in cases of injury to life, body or health, the statutory limitation periods apply.