

# Onsite Services Terms + Conditions

## 1 Definitions

- 1.1 Agreement: This Onsite Services Terms + Conditions; binding upon Customer when repair is requested and payment is authorized.
- 1.2 Customer: Identified on the Service Request Authorization.
- 1.3 Midmark: Midmark Corporation, an Ohio corporation.
- 1.4 Service: Midmark onsite services requested and authorized by Customer, dispatched by Midmark, and provided by third-party service personnel; can be:
  - 1.4.1 Repair: Restoring to operational condition (if possible, at Midmark's sole discretion);
    - 1.4.1.1 If needed, any parts replaced or installed are an added cost.
  - 1.4.2 Maintenance: Cleaning, inspecting, cycle testing, and maintenance parts replacement; available only on instrument processing products and mobile dental delivery systems; and/or
    - 1.4.2.1 Maintenance parts (certain high-use gaskets, o-rings, springs, valves, filters, and specialty cleaners) are included; if needed, repair parts are an added cost.
  - 1.4.3 Inspection: Inspecting and testing; available only on chair products.

## 2 Acceptance and Payment

- 2.1 If within two business days of Service being provided Customer has not conveyed to Midmark an itemized written notice objecting to the outcome of the Service, then Customer shall be deemed to have accepted the Service as satisfactory in all respects and shall be bound to make payment accordingly.
- 2.2 Midmark, in its sole discretion, shall determine if any Service provided falls within the scope of an applicable Midmark limited warranty. Midmark reserves the right to invoice and collect payment for any Service outside said scope.
- 2.3 Payment in full shall be, at Midmark's sole discretion, either (i) charged by Midmark to the credit card provided by Customer when it initially contacted Midmark to request and authorize Service; or (ii) due and payable 30 days from the date of invoice.
  - 2.3.1 If Customer fails to pay Midmark as agreed, then Customer shall pay Midmark interest on any such delinquent payment at one and one-half percent per month, compounded monthly, or the highest rate permitted by law, and all collection expenses, including but not limited to attorneys' fees, incurred by Midmark in the collection of amounts owed.

**3 Patient Data Privacy:** Nothing herein is intended to grant or allow Midmark access to any Protected Health Information (PHI) subject to applicable regulatory laws and regulations, and Customer shall use its best efforts to not allow Midmark access to PHI.

## 4 Warranty and Warranty Disclaimer

- 4.1 Midmark warrants to Customer that the Service provided hereunder will be completed in a professional and workmanlike manner substantially in accordance with the customary standards of the equipment service industry.
  - 4.1.1 This warranty shall expire 90 days from the date of Service.
- 4.2 CUSTOMER AGREES THAT ANY SUBJECT MATTER COVERED BY THIS AGREEMENT IS PROVIDED "AS IS," "WITH ALL FAULTS," AND WITHOUT ANY OTHER WARRANTIES OF ANY KIND, AND MIDMARK DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**5 Limitations on Liability:** IN NO EVENT SHALL MIDMARK BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY WITH RESPECT TO THE SUBJECT MATTER RELATED TO THIS AGREEMENT FOR ANY DAMAGES, INCLUDING INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, OR PUNITIVE (INCLUDING LOSS OF USE, TIME, DATA, OR BUSINESS OPPORTUNITIES, LOST PROFITS, INCONVENIENCE, DAMAGE TO GOOD WILL OR REPUTATION, OR THE LIKE), REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

**6 No Authorization:** No person or entity is authorized to create or approve for Midmark any obligation or liability not discussed herein in connection with the Service.

## 7 General Provisions

- 7.1 Force majeure: Midmark shall not be held responsible for delays or non-performance caused by activities or factors beyond its reasonable control, including without limitation, war, terrorism, epidemics, quarantines, strikes, lockouts, failures of suppliers of materials, delays in transportation, fires, weather, acts of God, or any other activities or factors beyond its control, whether similar or dissimilar to any of the foregoing.

- 7.2 Entire agreement and conflict: Midmark agrees to provide Service only upon the terms and conditions of this Agreement. This Agreement expressly supersedes any and all previous agreements, either written or oral, between the parties or between Customer and a third-party as it relates to the Service described herein. Any additional, different, or conflicting terms and conditions are hereby objected to by Midmark, shall be inapplicable, and shall not be binding in any way on Midmark.
- 7.3 Governing law: This Agreement shall be governed by the laws of the State of Ohio without regard to its conflict of laws principles.
- 7.4 Severability: In the event that any term of this Agreement is held or determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions hereof shall continue in full force and effect.
- 7.5 Statute of limitations: No action shall be brought against Midmark for any claim relating to or arising out of this Agreement more than 180 days following Service.
- 7.6 Third-party beneficiaries and assignment: This Agreement is being entered into for the sole benefit of the Parties hereto, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever. Neither Party may assign or otherwise transfer this Agreement, in whole or in part.