

Maintenance Services Agreement

AGREEMENT NO [] da
day of [] 20 [] BY AND BETW
] (the "Company") AND [] of [

The Customer hereby requests the Company
payment by the Customer to the Company of t
Charge, and the other charges referred to overle
the machinery (including each and every part th
hereby agrees to render such service upon and
overleaf.

Description	Serial	Number	Loc
Initial Inspection Fee: £	[]		
Annual Charge: £	[]		
Signed on behalf of the Customer		Signed on	
[]		[]	
AUTHORISED SIGNATORY		AUTHOR	
FULL NAME []		FULL NA	
POSITION []		POSITION	

Terms and conditions of

1 Definitions

“Effective Date” means the date on which a certificate of title is issued in accordance with 2.2 or 2.4.

“Good Working Order” means [functioning in accordance with the specification of the manufacturer of the System or the specification annexed hereto as Appendix A] [fit for the purpose for which the System is ordinarily used, in a reasonable manner]

“Maintenance Service” is defined in Conditions of Sale.

“Normal Working Hours” means 8:00 am to 5:00 pm on days which are not National and Bank Holidays excepted.

“Premises” means the location listed overleaf and any other premises in which for the time being the System is installed by the Company.

“Spare Parts” means all parts and subassemblies which are required in the System by the Company pursuant to the provisions of the Conditions of Sale.

“System” means the machinery and any associated equipment listed overleaf and includes (where appropriate) all accessories and thereto.

“User Routine Maintenance” means maintenance which is required for the System advise the user thereof to carry out on a regular basis] [would customarily be carried out by the user in the routine operation of the System].

2 Initial inspection

2.1 Upon signature of this Agreement and payment of the Initial Inspection Fee, the Company shall conduct an inspection of the System to determine whether it

2.2 If the System is found to be in Good Working Order, the Company shall issue a certificate to the Customer confirming this

2.3 If the System is not found to be in Good Working Order, the Company shall set out in a written quotation (the "Quotation") to the Customer the cost of the supply and installation of any necessary Spare Parts and labour, out, at the Customer's expense, to put the System

2.4 If the Customer accepts the Quotation, the Company shall proceed in accordance with the Quotation and upon completion of the Agreement, and, upon its completion, and receipt of payment from the Customer, issue a certificate to the Customer confirming the System is in Good Working Order.

2.5 If the Customer rejects the Quotation, the Agreement shall terminate automatically without notice, and without liability to the Company, except that the Company shall be entitled to the Initial Inspection Fee.

3 Term

3.1 This Agreement shall come into force when signed by both the Customer and the Company.

3.2 This Agreement shall continue in force for a period of twelve months from the Effective Date ("the Fixed Period"). At the end of the Fixed Period, and for a subsequent period of twelve months during which the Customer does not give notice to a renewal under this Condition (a "Renewal

automatically renewed for a further period of t
either party giving to the other not less than si
expire at the end of the Fixed Period or of a Rene

3.3 This Agreement shall be subject to earlier te
2.5 and 9.

4 Maintenance services

4.1 The Company agrees (subject to Conditio
Effective Date all maintenance services neces
Working Order (hereinafter referred to as “Maint

4.2 Maintenance Service includes but is not limit

4.2.1 all work (if any) carried out by the Co
Condition 2.3 and 2.4;

4.2.2 scheduled preventive maintenance (includ
modifications, and supply and installation of Spa
times and frequency as shall be deemed neces
System in Good Working Order; and

4.2.3 unscheduled on-call remedial maintena
adjustments, modifications, and supply and i
malfunction of the System.

4.3 For the avoidance of doubt, Maintenance Ser

4.3.1 User Routine Maintenance;

4.3.2 work other than to the System;

4.3.3 repair of damage to, or replacement of par
or misuse, or by the neglect, act or default of th
System (including, without limitation, because o
Maintenance) or by any factor external to the S
defective consumable items, or the failure of, o
part of the System);

4.3.4 painting or refinishing the System or furn

making specification changes or performing serv
System or any part thereof, or providing,
attachments, consumable items or other devices;

4.3.5 such services as it may be impractical for
alterations to the System other than alterations ca

4.4 Maintenance Service under Condition 4.2.2.
will be provided by the Company during Nor
reasonable prior notice by the Company to the Cu

4.5 Maintenance Service under Condition 4.2.3
be provided by the Company as soon as reaso
request from the Customer for such Maintenance
PROVIDED THAT the Company shall be ur
Maintenance Service outside Normal Working
THAT, in the event the Company agrees w
Maintenance Service outside Normal Working F
Company, in addition to the relevant Annual C
standard extra charges for the provision of M
Working Hours.

4.6 Spare Parts supplied and installed in the
Maintenance Service shall be so supplied and in
charge in addition to the Annual Charge, excep
installed as part of work carried out pursuant to
the charge for the same shall be as specified in th

4.7 All Spare Parts shall be either new, or recor
which are equivalent to new Spare Parts in perfo
it has good title to such Spare Parts and that prop
the Customer upon their installation in the Sy
subassemblies of the System replaced by such S
upon their removal from the System.

4.8 If any replacement or repair included with the System is effected by removal of the System or any part thereof and the Customer refuses to permit this, then the Company shall be liable for the additional costs incurred thereby and the Company shall not be liable for any resultant delay or failure in providing the relevant services.

5 Maintenance and other charges

5.1 The Customer shall pay to the Company annually the rate stated overleaf for the Maintenance Service in respect of each Renewal Period for which this Agreement is in force.

5.2 The Company reserves the right to vary the rate of the Maintenance Service Charge to the Customer not less than ninety (90) days prior written notice to the Customer of the Fixed Period or of any Renewal Period.

5.3 The Company shall issue to the Customer an invoice for the Maintenance Service Charge payable by the Customer to the Company hereunder on the date upon which the relevant sum becomes due. The Maintenance Service Charge shall be payable [thirty] days after the relevant due date. The Initial Inspection Fee which shall be payable by the Customer. The Initial Inspection Fee shall be due upon the signing of this Agreement. The Maintenance Service Charge shall be due on the commencement of the Fixed Period. All other sums payable by the Customer under this Agreement shall be due on receipt by the Customer of the invoice for the same.

5.4 If any amount due to the Company hereunder under this Agreement which it is payable pursuant to Condition 5.3, is not paid by the Customer, the Company shall charge interest on such sum at a rate of [3%] per annum from the date until the date of actual payment, and] to wit the date of actual payment provided by the Company hereunder until such time as the full amount of the interest thereon] is received by the Company.

5.5 All charges to the Customer made by the Company under this Agreement (including, without limitation, the Initial Inspection Fee and the Annual Charge), exclude Value Added Tax. The Customer shall in addition to such charges pay to the Company (subject to the issue of the relevant Value Added Tax Invoice) the amount of Value Added Tax for which the Company will be accountable to HM Customs and Excise in respect of all such charges.

6 Customer's obligations and undertakings

The Customer shall throughout the period of this Agreement take good care of the System and operate the same in a proper manner, carry out all User Routine Maintenance; order and pay for such consumable items as he shall require to operate and use the System; permit the Company and any person authorised by the Company to have access to the System at all reasonable times; and not make or endeavour to make any alterations or additions to the System or any part thereof nor permit any other person to do so without the prior written consent of the Company.

7 Force majeure

Neither party to this Agreement shall be under any liability to the other in respect of any failure to carry out or delay in carrying out any of its obligations hereunder attributable to any cause of whatever nature outside its reasonable control.

8 Limitation of liability

8.1 These conditions shall not be deemed to constitute any warranty by the Company that the System will at all times operate properly and the Company gives no such warranty.

8.2 It is understood that the amounts payable to the Company are based upon the value of the Maintenance Services and the liability as set forth in these Conditions. Accordingly, the Customer as follows:

8.2.1 against any loss of or damage to the System

8.2.2 against any loss of or damage to the property of the Customer (other than the System);

8.2.3 against all claims made by third parties (including employees of the Customer) against the Customer in respect of death or personal injury;

8.2.4 against all claims made by third parties (including employees of the Customer) against the Customer in respect of loss of or damage to property;

8.2.5 [where the Customer is a natural person and Section 2(1) of the Unfair Contract Terms Act 1977 applies to this Agreement, against death or personal injury to the Customer];

to the extent that any of the foregoing are caused directly by (a) failure of the Company to provide Maintenance Service pursuant to and in accordance with Condition 4 or (b) by the negligent acts or omissions of the Company, its employees, subcontractors or agents.

8.3 The indemnities given by the Company under Condition 8.2 [(with the exception of the indemnity under Condition 8.2.5 where the liability of the Company shall be unlimited)] shall be limited to the following maximum amounts:

8.3.1 In respect of the indemnity under Condition 8.2.1 [a maximum amount of [twice] the relevant Annual Charge in respect of any one incident].

8.3.2 In respect of the indemnity under Condition 8.2.2 [a maximum amount of £[] in respect of any one incident or series of related incidents and a maximum amount of £[] in respect of all and any incidents (whether or not related) arising during the Fixed Period or the relevant Renewal Period as the case may be].

8.3.3 In respect of the indemnity under Condition 8.2.3 [a maximum amount of £[] in respect of any one incident or series of related incidents and a maximum amount of £[] in respect of all and any incidents (whether or not related) arising during the Fixed Period or the relevant Renewal Period as the case may be].

8.3.4 In respect of the indemnity under Condition 8.2.4 [a maximum amount of £[] in respect of any one incident or series of related incidents and a maximum amount of £[] in respect of all and any incidents (whether or not related) arising during the Fixed Period or the relevant Renewal Period as the case may be].

8.4 The Company's entire liability to the Customer in respect of the System, the Parts, the Maintenance Service and any negligence

Company (and of its employees, subcontractors or
injury, loss or damage caused by or resulting from
Conditions 4, 8 and 9, which apply to the total
warranties, stipulations or statements whatsoever
statute, common law or otherwise howsoever, inc
conditions, warranties, stipulations or statements
performance, nature or quality of Spare Parts. W
the foregoing the Company accepts no liability
contracts nor for any special indirect or consequen

9 Termination

9.1 In the event that either party (the “party in def
any of its obligations under this Agreement (and
remedy, has not remedied the same within fifteen
other party (the “innocent party”) requiring tha
innocent party may by notice to the party in def
termination to take effect immediately upon the re
notice.

9.2 Where the innocent party is the Customer, it s
Company of a proportion of the Annual Charge pa
Fixed Period or the Renewal Period during which
“Relevant Period”) calculated as follows:

$$\frac{\text{Relevant Annual Charge} \times \text{Days of Relevant Pe}}{365}$$

9.3 Where the innocent party is the Company, it sh
the Annual Charge paid by the Customer in respec

10 Entire agreement and applicable law

10.1 This Agreement constitutes the entire agree
Customer in respect of the System (including v

provision of Maintenance Service) and supersede all representations or warranties made by or between the parties concerning the same. The terms and conditions of this Agreement shall be the terms and conditions appearing on or referred to in any acknowledgment or other document issued by the parties in the matter of this Agreement. No provision of this Agreement, in limitation of this Condition, shall operate or have effect to bind one party to the other in respect of any fraud or fraud in the

10.2 No waiver, alteration, variation or addition to the terms of this Agreement unless made in writing on or after the date of signature of this Agreement by both parties and accepted by an authorised signatory of the other party.

10.3 The interpretation construction effect and enforcement of this Agreement shall be governed by English Law, and the parties agree to submit to the jurisdiction of the English courts.

11 Notices

All notices, documents or other communications shall be in writing and shall be transmitted by hand, by registered delivery mail, or by telex, facsimile or other electronic means. A record copy to the party being served at the relevant address shall be sent by hand or by registered mail. Any Notice sent by mail shall be deemed to have been served on the third working day after the date of posting. Any Notice sent by electronic means shall be deemed to have been duly served on the day [if transmitted during normal business hours at the relevant address] or so transmitted then at the start of normal business hours at the location commencing at such location after the time at which

12 Miscellaneous

12.1 The headings in this Agreement shall not affect the interpretation of the

12.2 Throughout this Agreement, whenever required, the use of a singular number shall be construed to include the plural as well as the singular, and the use of any gender shall include all genders.

[**12.3** the Appendix to this Agreement constitutes a part of this Agreement.]

12.4 Reference in this Agreement to a Condition is to the Condition set forth in the Appendix.

12.5 If any term or provision in this Agreement is held to be unenforceable, in whole or in part, under any enacted law, the provision or part shall to that extent be deemed not enforceable, but the validity and enforceability of the remainder of the Agreement shall not be affected.

12.6 The waiver or forbearance or failure of a party to enforce any instances upon the performance of any provision of this Agreement shall be construed as a waiver or relinquishment of that party's right to enforce such provision and the other party's obligations in respect thereof shall continue in full force and effect.