MAINTENANCE SERVICES AGREEMENT

This **MAINTENANCE SERVICES AGREEMENT** (“**Agreement**”) is made on (“**Effective Date**”)

Between:

1. **RENISHAW UK SALES LIMITED**, a company incorporated in England and Wales with registered number 01106260whose registered office is at New Mills, Wotton-under-Edge, Gloucestershire, GL12 8JR, United Kingdom (“**Renishaw**”); and
2. **[CUSTOMER'S NAME]** of [Address line 1], [Address line 2], [Address line 3], [Town], [County], [Postcode], United Kingdom (“**Customer**”).

## This Agreement covers the maintenance of the following equipment:

|  |  |  |
| --- | --- | --- |
| **DESCRIPTION** | **PART NUMBER** | **SERIAL NUMBER** |
| Preventative Maintenance 500Q/S (12 months) | CS-SER-MAIN-14-AMAC |  |
| Preventative Maintenance 500Q/S FLEX (12 months) | CS-SER-MAIN-14-AMAD |  |
| Y2 Extended Warranty (500S & S FLEX) | CS-SER-MAIN-14-AMAE |  |
| Y2 Extended Warranty (500Q & Q FLEX) | CS-SER-MAIN-14-AMAF |  |
| Y3+ Extended Warranty (500S & S FLEX) | CS-SER-MAIN-14-AMAG |  |
| Y3+ Extended Warranty (500Q & Q FLEX) | CS-SER-MAIN-14-AMAH |  |

1. **DENITIONS AND interpretation**
	1. It is agreed that the following expressions shall have the following meanings:

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| “Data Protection Legislation” | means all data protection and privacy legislation applicable to the processing of Personal Data under this Agreement, including without limitation laws and regulations of the European Economic Area, its member states, Switzerland, the United Kingdom and the United States and its states.  |
| “**Equipment**” | means the equipment set out in the table above. |
| “**Equipment Site**” | [customer address]. |
| “**Initial Period**” | has the meaning set out in clause 6.1. |
| “**Maintenance Fee**” | £[XX,XXXX] per year (plus applicable taxes) for the Term. |
| “**Normal Working Hours**” | means the Customer’s normal working hours. |
| “**Service Level**” | means Renishaw’s tier of service level, as set out in the AM Warranty and Maintenance Guide, including with respect to the replacement of covered Equipment components and parts, number and frequency of Service visits to the Equipment Sites. |
| “**Services**” | means, except to the extent otherwise excluded or limited by the Agreement including clause 2.3: (a) an inspection, calibration, adjustment, and update of mechanical, electrical, and optical parts; and (b) an update of the Equipment’s software, provided Customer grants its consent for this. |
| “**Term**” | has the meaning set out in clause 6.2. |

* 1. The headings in this Agreement are inserted for convenience only and shall not affect its construction. The expression “**including**” means “**including without limitation**”.
	2. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
	3. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
	4. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.
	5. A reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in sections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) as a nominee.
1. **Services**
	1. Subject to the terms and conditions of this Agreement, Renishaw will provide the Services to the Equipment at the Equipment Site during Normal Working Hours.
	2. The Services will be provided in accordance with the applicable Service Level, provided, in the case of Service visits, that the dates and times of such visits are mutually agreed by the parties in advance using reasonable care and consistent with its standard practices and procedures in effect from time to time.
	3. Renishaw shall have no obligation to perform any Services to the extent caused by:
2. failure by Customer to comply with the terms and conditions of this Agreement;
3. unreasonable wear and tear of the Equipment;
4. use of the Equipment for a purpose other than that for which it was designed;
5. use, storage or maintenance (including failure to undertake Renishaw’s recommended minor maintenance) otherwise than in strict accordance with Renishaw’s instructions for the same;
6. use with interfaces, control units, materials, equipment, or software not supplied by Renishaw or which Renishaw has not either recommended or approved in writing;
7. damage, misuse, neglect, or failure to care properly for the Equipment (including ensuring proper cleaning and storage after each use);
8. modification, alteration or attempted maintenance by the Customer or any third party without Renishaw’s prior written authorisation (except for minor maintenance in accordance with Renishaw’s instructions for use);
9. use or operation of the Equipment after any defect has become apparent;
10. failure or fluctuation of electrical power or environmental systems;
11. failure, error, or malfunction of any machine or other item (including software) not supplied by Renishaw;
12. fault, fact, matter or circumstance that existed before the Effective Date;
13. movement of the Equipment unless undertaken by Renishaw;
14. any damage to the laser collimator or laser fibre as a result of mishandling or improper use by Customer; or
15. any condition, fact, event, or circumstance not covered by the Equipment’s warranty issued by Renishaw in connection with the purchase of the Equipment.
	1. Renishaw shall have the sole discretion to determine whether any of the conditions, facts, events or circumstances set out in clause 2.3 are applicable or exist, and such determination shall be conclusive and binding on Customer.
	2. Except as expressly set out in this Agreement, Renishaw shall have no obligation to perform any services to or for the benefit of Customer. In the event that Renishaw agrees in its sole discretion, to perform any such other services, then such other services shall be subject to the terms and conditions of this Agreement.
16. **Suspension of Services**
	1. Without prejudice to any rights that have accrued to Renishaw under this Agreement or at law, Renishaw may suspend the performance of the Services where Customer:
		1. fails to pay the Maintenance Fee or any other amount which is due and payable; or
		2. breaches any of its obligations set out in this Agreement.
	2. Neither party shall be in breach of this Agreement nor liable for a delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from a Force Majeure Event, provided that party has used reasonable endeavours to mitigate the effect of such Force Majeure Event. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. However, if the period of delay or non-performance continues for three (3) months, the party not affected may terminate this Agreement by giving thirty (30) days' written notice to the affected party. “**Force Majeure Event**” means any event, circumstance or cause beyond a party’s reasonable control including, acts of God, fire, epidemics or pandemics, acts of terrorism, war, civil commotion or riots, imposition of sanctions, embargo, any law or any action taken by a government or public labour or trade dispute, strikes, industrial action or non-delivery or non-performance by suppliers or subcontractors due to any event, circumstance or cause beyond their reasonable control.
17. **MAINTENANCE and Other Amounts**
	1. In consideration for providing the Services, Customer will pay to Renishaw the Maintenance Fee in advance of the Effective Date and each anniversary of the same during the Term.
	2. Without prejudice to any manufacturer’s warranty in force, if, during the performance of the Services, Renishaw determines in its sole discretion that any part or component of the Equipment requires replacement, then such replacement parts will be charged at Renishaw’s current list price.
	3. Customer shall reimburse Renishaw for all reasonable, out-of-pocket expenses (including airfare, hotel accommodation, and meals) incurred by Renishaw in connection with the provision of the Services, provided, that any individual expense in excess of £2,000 must be approved by Customer.
	4. In the event that Renishaw determines in its sole discretion that, in connection with the performance of the Services, any of the conditions, facts, events, or circumstances set forth in clause 2.3 may be applicable or exist and that would have been an exclusion to the Services, then (in addition to the Maintenance Fee and amounts payable under clauses 4.2 and 4.3) Customer shall pay Renishaw an additional fee for all work undertaken, and for any costs and expenses reasonably incurred.
	5. Other than the Maintenance Fee, which shall be paid as set forth in clause 4.1, Customer shall pay all Supplier’s invoices in full (in cleared funds) not later than thirty (30) days from the end of the month in which the invoice is dated.
	6. The Maintenance Fee and other amounts to be paid by Customer under this Agreement are exclusive of any applicable taxes, which shall be payable in accordance with and in the manner set out in the applicable invoice(s).
	7. Renishaw may charge interest on overdue sums at the higher of the statutory amount that Renishaw is entitled to claim for late payments and 4% per annum above Lloyds Bank’s base rate, accruing on a daily basis until payment is received, after as well as before any judgment for such sums.
18. **Customer Obligations**
	1. Without limiting any other obligations of Customer under this Agreement, Customer shall (at its own cost and expense) at all times during the Term:
19. ensure that the Equipment is kept and operated in a suitable environment, which shall at a minimum meet the requirements and instructions as Renishaw may provide from time to time (including in the user manual for the Equipment and any training certification required by Renishaw);
20. permit only trained (such training conducted only by Renishaw or in accordance with Renishaw’s recommendations for users of that Equipment) and competent personnel to use the Equipment and ensure that such personnel follow the requirements and instructions as Renishaw may provide from time to time (including in the user manual for the Equipment);
21. use the Equipment only in strict compliance with Renishaw’s instructions provided from time to time (including in the user manual for the Equipment), only for the purposes for which it is designed, and not for any illegal purpose or in violation of any third party rights;
22. take such steps (including compliance with all applicable laws and regulations and safety and usage instructions (including in the user manual for the Equipment) provided by Renishaw from time to time) as may be necessary to ensure that the Equipment is at all times safe and without risk to health;
23. not, and shall not permit any third party (other than Renishaw or with Renishaw’s express written consent) to:
24. calibrate, provide maintenance on, repair, alter, modify, move, or adjust the Equipment or remove any existing part(s) or component(s) from the Equipment;
25. remove any Equipment from the Equipment Site; or
26. remove any marking on the Equipment referring to Renishaw’s instructions or recommendations for use;
27. only use parts, components, equipment, supplies, materials, and software provided or approved in writing by Renishaw;
28. provide Renishaw with all information and materials that are requested by Renishaw or are otherwise necessary or appropriate to enable Renishaw to perform the Services;
29. permit Renishaw and its representatives to have access to, enter, use, and occupy Customer’s premises, including the Equipment Site and all common areas relating thereto, during Normal Working Hours or otherwise as necessary or appropriate to enable to perform the Services;
30. provide Renishaw with a safe working space, utilities, and telecommunications capabilities as are necessary or appropriate to enable Renishaw to perform Services;
31. take all actions necessary or appropriate to ensure the health and safety of Renishaw’s personnel and property when present at Customer’s premises (including the Equipment Site and all common areas relating thereto) and performing the Services;
32. maintain in force appropriate insurance policies with reputable insurers, covering the Equipment in such amounts and types as is commercially reasonable and further covering Renishaw’s personnel and property in connection with the performance of the Services at the Customer’s site in such amounts and types as Renishaw may require from time to time (and provide satisfactory evidence of the foregoing on request by Renishaw);
33. maintain complete and accurate operating, failure, and other commercially reasonable records relating to the Equipment and make copies of such records readily available to Renishaw, together with such additional information as Renishaw may reasonably request;
34. remove and dispose of all waste materials generated during the performance of the Services, including items such as used oil, lubricants, packing, and discarded items;
35. keep Renishaw fully informed of all material matters relating to the Equipment and immediately notify Renishaw in the event that the Equipment fails to perform in accordance with the user manual for the Equipment and Renishaw’s instructions for use, and fully informed of any fact, event, or circumstances that could give rise to a request for Services or that would be likely to cause or contribute to the death or injury to any person or any damage to property;
36. immediately suspend the use of the Equipment in the event of any fact, event, or circumstance that would be likely to cause or contribute to the death or injury to any person or any damage to property; and
37. cooperate with Renishaw in all matters relating to the Services.
38. **Term and Termination**
	1. This Agreement shall begin on the Effective Date and may only be entered into within three (3) months of the date of installation of the Equipment or immediately after a full pay as you go service (as set out in the AM Warranty and Maintenance Guide) carried out after such three (3) month period.
	2. Subject to earlier termination in accordance with this clause 6, this Agreement shall continue for the period of the package purchased under the AM Warranty and Maintenance Guide (“**Term**”).
	3. Without prejudice to any rights that have accrued under this Agreement or at law, either party may give written notice to the other party terminating this Agreement with immediate effect if the other party:
		1. commits a material or persistent breach of any of the terms of this Agreement and does not remedy the breach within thirty (30) days of being required by the first party so to do this;
		2. is unable to pay its debts as they fall due or a petition is presented or meeting convened for the purpose of winding up the other party or the other party enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or has a receiver or administrator appointed over all or any part of its assets or if any event analogous to any of the foregoing shall occur in any jurisdiction in which the other party is incorporated, resident or carrying on business.
39. **CONSEQUENCES OF TERMINATION**
	1. The termination or expiration of this Agreement (for whatever reason) shall not affect rights and liabilities existing at the date of termination, including Customer’s obligation to pay Renishaw for all Services requested or provided, as well as all other amounts accrued.
	2. Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.
40. **Non-Conforming Services and New Parts**
	1. If within seven (7) days following the performance of the applicable Services, Customer notifies Renishaw in writing that Renishaw has not provided the Services in compliance with the terms of this Agreement, then Renishaw shall re-perform the relevant Services within a reasonable time following such notification, provided that Customer shall have furnished such notification no later than seven (7) days following the performance of the applicable Services. In Renishaw’s sole discretion, in lieu of re-performing the Services, Renishaw may refund a portion of the Maintenance Fee attributable to the non-conforming Services. Renishaw shall have no obligation to re-perform Services under this clause 8.1 to the extent that any condition, fact, matter, or circumstance set out in clause 2.3 applies. This clause 8.1 sets out Customer’s sole and exclusive remedy for alleged non-conforming Services.
	2. Renishaw warrants that any new parts installed by Renishaw during the performance of the Services will, for a period of twelve (12) months, materially conform to Renishaw’s specifications for such new parts. Customer shall provide written notice to Renishaw of any non-conforming new part within a period of one (1) month after installation by Renishaw. If written notice is provided by such date, then Renishaw will thereafter, at its option, make good by repair of, or by the supply of a replacement part for, such non-conforming part. The repaired or replaced part shall not benefit from a new period of warranty and the original warranty period of twelve (12) months shall apply to such repaired or replaced part without any extension from the initial warranty start date. In Renishaw’s sole discretion, in lieu of repair or replacement of any non-conforming new part, Renishaw may refund a portion of the Maintenance Fee attributable to such nonconforming new parts. Any part of the Equipment that is removed and exchanged for a replacement part in connection with the Services shall be, at the time of replacement and without further consideration to Customer, the property of Renishaw.
41. **Liabilities and Indemnities**
	1. Nothing in this Agreement shall limit or exclude Renishaw's liability for death or personal injury caused by its negligence, for fraud or fraudulent misrepresentation, or for any matter in respect of which it would be unlawful for Renishaw to exclude or restrict liability.
	2. Subject to clauses 8.1 and 9.1:
		1. Renishaw shall under no circumstances whatsoever be liable to Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of goodwill, profit, revenue, or anticipated savings, or any loss that is an indirect or secondary consequence of any act or omission of Renishaw;
		2. Renishaw’s total aggregate liability to Customer in respect of all other loss or damage arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the total fees paid by Customer to Renishaw in the twelve (12) month period preceding the date on which the claim arose.
	3. For the avoidance of doubt, Renishaw’s liability under clause 9.2.2 shall operate as a single overall cap for all actions, claims or proceedings which may be brought by Customer under or in connection with this Agreement.
42. **Confidentiality**

During and after termination of this Agreement neither party shall, without the prior written consent of the other party, use or disclose to any other person any information of the other party which is identified as confidential or which would be regarded as confidential by a reasonable person provided, however, that each party may disclose such information: (a) to its (and its affiliates’) employees, officers, directors, representatives, or advisers who need to know such information for the purposes of carrying out the party’s obligations under this Agreement; and (b) to the extent required by law, regulation, or order of a competent authority (including any regulatory or governmental body), provided that, where practicable, the disclosing party gives reasonable advance notice of the intended disclosure to the other party.

1. **DATA PROTECTION**
	1. Theterms“**Controller**”, “**Processor**”, “**Data Subject**”, “**Personal Data**” and “process” have the meanings given to them in the General Data Protection Regulation ((EU) 2016/679).
	2. Renishaw will collect and process information relating to Customer as an independent controller in accordance with Data Protection Legislation, Renishaw’s External Privacy Notice at [www.renishaw.com/privacy](http://www.renishaw.com/privacy) and Renishaw’s Internal Privacy Notice [on Renishaw's SharePoint site](http://teams/csd/qga/Procedures/Forms/AllItems.aspx?FilterField1=DocRoot&FilterValue1=HR105).
	3. Customer may collect and process Personal Data to the extent necessary for the purposes of managing this agreement (including relationship management and invoicing purposes) as an independent controller in accordance with the Data Protection Legislation.
2. GOVERNING LAW AND JURISDICTION

The governing law of the Agreement including any question regarding its existence, validity or termination and non-contractual disputes or claims shall be the substantive law of England. Where the place of performance of the Contract is: (a) in the United Kingdom, Customer irrevocably submits to the exclusive jurisdiction of the English courts; (b) anywhere other than in the United Kingdom, any dispute arising out of or in connection with the Contract including any question regarding its existence, validity or termination and non-contractual disputes or claims, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference to this Condition. The number of arbitrators shall be one. The seat, or legal place of arbitration, shall be London. The language to be used in the arbitral proceedings shall be English.

1. SET-OFF

Renishaw is entitled to set off any amounts owed by Customer to Renishaw against amounts owed by Renishaw to Customer.

1. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties, and supersedes any prior agreements made between them, whether written or oral, in each case with respect to its subject matter, and each party confirms to the other party that it has not, in entering into this Agreement, relied on any representations or warranties not expressly set out in this Agreement. Nothing in this clause shall limit or exclude any liability for fraud.

1. AMENDMENT

This Agreement shall not be amended in any way nor terminated by any oral agreement or representation or otherwise than by a written document signed by duly authorised officers of both parties and made subsequent to the execution of this Agreement.

1. WAIVER

No failure or delay by either party in exercising its rights under or enforcing this Agreement shall constitute a waiver by that party or prevent any other or further exercise of rights under or enforcement by that party of this Agreement.

1. SEVERANCE

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

1. FORCE MAJEURE

Neither party will be in breach of this Agreement where it is delayed or prevented from performing any of its obligations under it by reason of any circumstance outside of its reasonable control. The time for performance of such obligations shall be extended accordingly.

1. NOTICES

Any notice given under this Agreement shall be in writing and shall be sent by airmail post to, or left at, the address of the addressee specified in this Agreement (or such other address as the addressee shall by notice have substituted) and shall be deemed to have been given when it is left at such address, or if sent by post, on the seventh day after the day of posting (excluding in all cases Saturdays, Sundays and public holidays in England and the country in which Customer’s address is located).

1. THIRD PARTY RIGHTS

No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

Signed by the duly authorised representatives of the parties on the date specified on page one of this Agreement.

|  |  |  |
| --- | --- | --- |
| Signed for and on behalf of **RENISHAW UK SALES LIMITED** | ))) |  (signature) |
|  (print name) |
|  (insert title/position) |
|  (insert date here) |

|  |  |  |
| --- | --- | --- |
| Signed for and on behalf of **XXX** | )) |  (signature) |
|  (print name) |
|  (insert title/position) |
|  (insert date here) |

### Schedule 1

**Replacement Parts**

|  |  |
| --- | --- |
| **Product** | **Part Number** |
| **Material used/replaced during 6 months maintenance visit:** |
| ENCODER BRUSH PKD | A-6521-4550 |
| POWDER FILTER | M-5778-1370 |
| OVERSIZE POWDER FILT | M-5778-1375 |
| SIEVE MESH (63 MICRON) | A-6521-0625 |
| SIEVE MESH (80 MICRON) | A-6521-0626 |
| SIEVE MESH (95 MICRON) | A-6521-0627 |
| PAPJ5L42TEU / 5L AI | P-CR01-0009 |
| PARTICLE FILTER ELEMENT | P-FI01-0038 |
| HEAT TRANSFER FLUID (NALCO) | P-HX04-0003 |
| LOW RES MYLAR CALIBRATION SHEETS  | M-6158-0162 |
| 245 X 245 MARKING PLATE | M-5778-0736 |
|  |  |
| **Material used/replaced during 12 months maintenance visit:** |
| ENCODER BRUSH PKD | A-6521-4550 |
| POWDER FILTER | A-6521-5283 |
| OVERSIZE POWDER FILTER | A-6521-5286 |
| SIEVE MESH (63 MICRON) | A-6521-0625 |
| SIEVE MESH (80 MICRON) | A-6521-0626 |
| SIEVE MESH (95 MICRON) | A-6521-0627 |
| PAPJ5L42TEU / 5L AI | P-CR01-0009 |
| PARTICLE FILTER ELEMENT | P-FI01-0038 |
| HEAT TRANSFER FLUID (NALCO) | P-HX04-0003 |
| LOW RES MYLAR CALIBRATION SHEETS | M-6158-0162 |
| 245 X 245 MARKING PLATE | M-5778-0736 |
| Z AXIS SEAL +O RING | A-6521-4061 |
| FILTER ELEMENT (EXHAUST FILTER) | A-6521-2962 |
| OIL (VACUUM PUMP) LE | P-LU01-0022 |
| OXYGEN ANALYSER MODE | P-ME01-0103 |
| OXYGEN ANALYSER MODE | P-ME01-0109 |
| OXYGEN ANALYSER SIL0 | P-ME01-0116 |
| LINEAR GUIDE IGUS WJ | P-PM02-0006 |
| KF25 SILICONE CENTRI | P-RS04-0019 |
| PLASTIC WHITE CYLIND | P-CR01-0010 |
| EXHAUST FILTER SV25B (VAC PUMP) | P-FI01-0037 |
| AIR FILTER REPLACEMENT (CABINET FAN FILTERS) | P-BG01-0013 |
| ENCODER BRUSH PKD | A-6521-4550 |
| POWDER FILTER | A-6521-5283 |