

Haag-Streit UK Service Division Terms and Conditions



1. The Service

Under this agreement Haag Streit UK Ltd ("The Company") shall provide Preventative and/or Corrective Maintenance on the equipment detailed in the Schedule ("the Equipment") under the service option specified in the Schedule to the customer specified in the Schedule ("the Customer"). The service options, and meanings of "Preventative Maintenance" and "Corrective Maintenance", are as follows, subject to the limitations set out in sections 6, 9 and 10 below:

- 1.1 The "**GOLD All inclusive Maintenance Contract**" includes both Preventative and Corrective Maintenance, and includes both parts and labour.
- 1.2 The "**SILVER Preventative Maintenance Contract**" shall include both Preventative Maintenance and up to three Corrective Maintenance visits per annum. Replacement parts replaced incur an additional charge.
- 1.3 The "**BRONZE Preventative Maintenance Contract**" includes Preventative Maintenance only. Corrective Maintenance visits and replacement parts incur an additional charge.
- 1.4 **Preventative Maintenance**
 - 1.4a Preventative Maintenance shall provide for routine care and attention necessary to maintain efficiently operating equipment, including a scheduled annual visit ("Annual Preventative Maintenance visit").
 - 1.4b Preventative Maintenance will be based on the needs of the Equipment, in line with the manufacturer's recommendations. Preventative maintenance will be provided between the hours of 0900 and 1700 Monday to Friday excluding Public and Bank Holidays. The Company will provide at least one working day's notice prior to a visit. Where the Customer chooses, Preventative Maintenance can be provided outside these hours, subject to a charge equal to 150% of the prevailing hourly rate for the period in which the maintenance is performed.
- 1.5 **Corrective Maintenance**
 - 1.5a Corrective Maintenance shall be provided for the repair of faults that from time to time cause the equipment to malfunction.
 - 1.5b On receipt of a fault report notified to the Company's Service Centre (email contact: service@haag-streit-uk.com, telephone 01279-456314), the Company will make all reasonable endeavours to ensure an engineer visit on a priority basis. Corrective Maintenance will be provided between the hours of 0900 and 1700 Monday to Friday excluding Public and Bank Holidays. Where the Customer chooses, Corrective Maintenance can be provided outside these hours, subject to a charge equal to 150% of the prevailing hourly rate for the period in which the maintenance is performed.
 - 1.5c Upon arrival at the Customer's premises, the engineer will provide fault diagnosis and, where reasonably possible, repair

the Equipment. Subject to Customer consent, the engineer will continue working until the reported faults have been corrected.

- 1.5d The Company will maintain the equipment in good working condition, repairing or replacing defective parts as necessary.
- 1.5e During the agreement period, the Company may require, upon 90 days' written notice, the removal of any item of Equipment within the Schedule from the Corrective Maintenance service, provided that the Company can reasonably demonstrate that the item can no longer be effectively maintained due to excessive wear and tear or the lack of availability of spare parts.
- 1.5f Parts removed and replaced shall be the property of the Company.

2. Other Services

- 2.1 When the Customer requests a service outside of the provisions of this agreement, the Company may agree, but will have no obligation, to provide such service, subject to the Customer agreeing to pay additional charges which may arise.

3. Additional Equipment

- 3.1 Additional equipment may be added to the Schedule by the Customer on written request to the Company, provided that such equipment is acceptable to the Company for inclusion in the Schedule, and subject to the terms below.
 - 3.1a If additional items are included in the Schedule after a scheduled Preventative Maintenance visit has been performed, no additional visit will be made in respect of the items added.
 - 3.1b Items accepted for inclusion will be charged at 1/12 the prevailing annual charge for that item x remaining months or part months of the agreement period.
 - 3.1c Additional software taken at GOLD level can only be included in 12 month blocks at the prevailing annual charge.
 - 3.1d Additional items accepted for inclusion in the Schedule will not be considered for multi item discount within the current agreement period.

4. Removal of Equipment

- 4.1 Items may be removed from the Schedule by written notice by the Customer at any time during the agreement period, providing that neither Preventative Maintenance nor any Corrective Maintenance has been performed in respect of the item during the agreement period, and subject to the terms below.
 - 4.1a Removed items will be charged at 25% of annual item cost x remaining months of the agreement period (any part months being charged at 100%).
 - 4.1b Where the original agreement period exceeds one year, removed items will be charged as outlined in 4.1a for full remaining years only, where no Preventative Maintenance or Corrective Maintenance

has been performed in those years (and will be charged at 100% for any remaining part years).

- 4.2 Agreements covering software items at GOLD level cannot be cancelled under any circumstance.

5. Cancellation

- 5.1 The Customer may cancel the entire maintenance agreement by written notice, providing that neither Preventative Maintenance nor any Corrective Maintenance has been performed during the agreement period. Subject to 5.1 below, 25% of the charge will be levied in respect of any complete months remaining (any part months being charged at 100%).
- 5.2 Where the original agreement period exceeds one year, the charge as outlined in 5.1 will apply to full remaining years only, where no Preventative Maintenance or Corrective Maintenance has been performed in those years (and any remaining part years will be charged at 100%).
- 5.3 Agreements covering software items at GOLD level cannot be cancelled under any circumstance.

6. Customer Obligations

The Customer shall:

- 6.1 Report all faults promptly to the Service Centre (email contact: service@haag-streit-uk.com, telephone 01279 456314).
- 6.2 Provide the Company's engineer full and free access and facilities for the purpose of performing both Preventative and Corrective Maintenance.
- 6.3 Make available any items of consumable material that may be reasonably requested to perform diagnostic tests.
- 6.4 Take all reasonable precautions to protect the health and safety of personnel provided by the Company under the agreement, including ensuring the presence of a representative of the Customer in the area where the Equipment is operating during the performance of the service.
- 6.5 Ensure that the Equipment is cared for and operated properly by trained personnel and in accordance with the manufacturer's recommendations.
- 6.6 Adequately insure the equipment to cover risks which are not the Company's responsibility.
- 6.7 In the case of "BRONZE or SILVER Preventative Maintenance Contracts", supply the Company with a purchase order or other means whereby the Company may invoice the charges incurred in the event of Corrective Maintenance visits or replacement spare parts.

7. Agreement Period

- 7.1 The Company shall provide its services for the agreement period referred to in the Schedule.

- 7.2 The Company may terminate the agreement, and its services, on immediate notice to the Customer in the event that the Customer does not make any payment by the due date.
- 7.3 Either the Customer or the Company may terminate the agreement, and the Company's services, by written notice to the other in the event that the other materially breaches its obligations in these terms and conditions and does not rectify the breach within 14 days of written notice to do so, or if it ceases business or enters into or suffers any step relating to bankruptcy, insolvency, winding up, administration, receivership or any arrangements with its creditors.
- 7.4 On termination or expiry of the agreement period, the Customer and the Company's accrued rights shall not be affected, and any terms which explicitly or by implication have effect after termination shall continue in full force and effect.
- basis from the due date until the date of actual payment of the overdue amount, whether before or after judgement. The Company may additionally, and without liability, suspend any or all of its services until payment has been made.

9. Limitations of Service

The following exclusions apply to the performance of the service:

- 9.1 Corrective Maintenance and repairs that are required as a consequence of neglect by the Customer, or breach by the Customer of the requirements of these terms and conditions, accident, failure of air conditioning, failure of electrical supply, lightning strike, sabotage, fire, flood or any causes other than fair wear and tear.
- 9.2 Corrective Maintenance and repairs as a consequence of unauthorised attempts by persons, other than the Company's personnel, to repair, maintain, modify or relocate the Equipment.
- 9.3 Supply of consumables, including but not limited to; lamps, bulbs, flash tubes, ultrasound probes and cosmetic finishing of the equipment.
- 9.4 The Company will make good any defects in its work, or in any replacement parts supplied, which are notified by the Customer in writing within 14 days of the work or, if later, 14 days of the date the Customer should have become aware of the defect. This obligation extends only to defects caused by the acts or omissions of the Company or its agents in the performance of the Company's obligations.

10. Limitation of Liability

- 10.1 Nothing in these terms and conditions limits or exclude the Company's liability for fraud, death or personal injury caused by its negligence or any other liability which cannot be excluded by law.
- 10.2 Subject as above:
- 10.2a the Company shall, under no circumstances, be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit or any indirect or consequential loss arising under or in connection with its services;
- 10.2b The Company's total liability to the Customer in respect of all other losses arising under or in connection with its services, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the annual amount payable paid for the services.
- 10.3 Except as set out in these terms and conditions, all warranties, conditions and other terms implied on the part of the Company by statute or common law are excluded.

11. Other Terms

- 11.1 The Company and the customer shall take all reasonable precautions to ensure that its employees shall maintain confidentiality in any information or trade

secrets of the other, its business or its clients of which they may become aware.

- 11.2 The Company shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Agreement as a result of any event beyond the reasonable control of the Company including, but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, inability to obtain parts, fire, flood, storm or default of suppliers or subcontractors.
- 11.3 These terms and conditions contain the entire agreement between the Company and the Customer and exclude all previous or alternative terms and, except in the case of fraud, exclude any statement or representation made by the Company.
- 11.4 The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights. The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations.
- 11.5 Any notice required to be given to the Company shall be given by letter to the Company's registered address (attention: Service Manager). Any notice required to be given to the customer shall be given in writing by letter or email to the address and/or number for the Customer contained in the Company's records.
- 11.6 If a court, or any other competent authority, finds that any provision of these terms and conditions is invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the terms and conditions shall not be affected.
- 11.7 Except as set out in these terms and conditions, any variation, including the introduction of any additional terms and conditions, to the Agreement, shall only be binding when agreed in writing and signed by the Company.
- 11.8 These terms and conditions shall be governed by the law of England and Wales, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 11.9 Haag-Streit UK Limited is a company in incorporated in England and Wales, Companies House number 02012269.
- The Company's registered office is at Unit C, Woodside Industrial Estate Dunmow Road, Bishop's Stortford Hertfordshire, CM23 5RG. Correspondence (including any complaints or requests for information) may be sent to the Company's registered office (attention: Service Manager) or by email to service@haag-streit-uk.com. The Company may be contacted by telephone on 01279 456314. The Company's VAT number is 638194612.

8. Charges

- 8.1 The GOLD All Inclusive Maintenance Contract shall be invoiced post engineer visit and will be due for payment within 30 days of the invoice date.
- 8.2 The SILVER Preventative Maintenance Contract shall be invoiced post engineer visit and will be due for payment within 30 days of the invoice date. Parts used at Corrective Maintenance visits and labour in respect of extra Corrective Maintenance visits shall be invoiced immediately post engineer visit and will be due for payment within 30 days of the invoice date.
- 8.3 The BRONZE Preventative Maintenance Contract shall be invoiced post engineer visit and will be due for payment within 30 days of the invoice date. Parts used and labour in respect of Corrective Maintenance visits shall be invoiced immediately post engineer visit and will be due for payment within 30 days of the invoice date.
- 8.4 All charges agreed in advance (which are shown in the Schedule) are fixed for the agreement period.
- 8.5 The charges shall be subject to the addition of VAT, at the prevailing rate.
- 8.6 The Company reserves the right to make a charge for waiting time or a frustrated visit (a frustrated visit is deemed to be when an engineer is refused access despite having a pre-arranged appointment). The charge will be for the number of hours lost as a result of the waiting time or a frustrated visit at the prevailing hourly rate (charges will include both travel and labour).
- 8.7 All payments by the Customer must be made on or before the due date without deduction or set-off. Without limiting any of the Company's rights of the Company, if the Customer does not make any payment due to the Company by the due date for payment, the Company may charge interest on the overdue amount at the rate of 2 per cent per annum above Barclays Bank's then current base rate accruing on a daily