

**Terms & Conditions of Service.
Installation, Repair & Maintenance**

1.0. Glossary of Terms

In this agreement, unless the context otherwise requires:

'Critical Examination'	means an examination of the Equipment undertaken by a radiation protection adviser in accordance with the provisions of regulation 31(2) of the Ionising Radiation Regulations 2017
'Equipment'	means the equipment specified at customer site together with any software and firmware updates relating to the operation and maintenance of the Equipment provided by Todd
'Force Majeure'	frees both parties from liability or obligation when an extraordinary event or circumstance beyond the control of the parties, such as a war, strike, riot, crime, epidemic, or sudden legal change prevents one or both parties from fulfilling their obligations under the contract.
'Gold Maintenance Cover'	means the required servicing of equipment covering emergency call outs (Monday to Friday) as set out in clause 3.3
'In writing'	means written, printed, photographed, or represented by any other substitute for writing, whether electronic or otherwise, or partly one and partly another
'Liability'	means any liability arising by reason of any representation (unless fraudulent), or any breach of any implied term or any duty at common law, or under any statute, or under any express term of this agreement
'Location'	means the location of the Equipment
'Loss'	means, in relation to the Customer, losses (but not including loss of profits), damages, reasonable costs or other compensation and any legal or other expenses awarded against or incurred by or paid or agreed (with the Prior agreement of Todd) to be paid by the Customer in settlement of any claim, which is occasioned directly by Todd's negligence or that of its agents or otherwise
'Normal Working Hours'	means the hours of 8:30 a.m. to 5:00 p.m. (inclusive) on any Working Day;
'Silver Maintenance Cover'	means the required servicing of equipment as set out in clause 3.2
'Warranty Period'	Means the 12 month period which shall commence on the date of the Installation of the Equipment or one month after delivery
'Working Day'	means any day other than Saturday or Sunday or a Bank or Public Holiday;

2.0. Purchase and Installation

- 2.1. Todd Research shall sell and the Customer shall buy the Equipment subject to the provisions of the Sale of Goods Act 1979 (as amended) and as amended by the provisions of this agreement.
- 2.2. The Equipment shall be delivered to the Location on or before and shall be installed and Critically Examined by Todd Research at the Location, on the Installation Date during Normal Working Hours. Neither the date of Delivery nor the date of the installation and Critical Examination shall be of the essence of this agreement.
- 2.3. Title to the Equipment shall pass to the Customer upon receipt of payment by Todd Research. Risk of damage to or loss of the Equipment shall pass to the Customer following its delivery to the Location.

3.0. Repair and Maintenance

- 3.1. During the period of this agreement Todd Research shall provide the Customer with:
 - the repair and maintenance service in line with agreed level of maintenance in relation to the Equipment; and
 - a training service relating to the proper use, testing and maintenance of the Equipment pursuant to regulation 31(2)(b) of the Ionising Radiation Regulations 2017.
- 3.2. **Silver Maintenance Cover** shall consist of routine maintenance and inspection of the Equipment at six monthly intervals or at such other intervals as Todd Research may reasonably determine to be necessary in order to keep the Equipment in good working order and to comply with the provisions of the Ionising Radiation Regulations 2017 (or as amended or superseded).
 - 3.2.1. Routine maintenance of the Equipment shall be carried out by one of Todd Research's suitably qualified and duly authorised representatives attending at the Location at such times during Normal Working Hours as may be agreed in advance between the Parties from time to time.
 - 3.2.2. If Todd Research's representative discovers a defect in or malfunction of the Equipment in the course of routine maintenance or if the Customer reports a defect in the malfunction of the Equipment, Todd Research's representative or the Customer (as the case may be) shall ensure that the Equipment is prevented from being used. The Customer may request and Todd Research may agree to provide the services set out in clause 3.3 at Todd Research's standard charges in accordance with the provisions of clause 6.3.
- 3.3. **Gold Maintenance Cover** shall consist of the required servicing of the equipment in line with IRR17, together with the repair of any defect in or malfunction of the Equipment which is discovered by Todd Research's representatives during the course of routine maintenance or is reported to Todd Research by the Customer from time to time.
 - 3.3.1. Routine maintenance of the Equipment shall be carried out by one of Todd Research's suitably qualified and duly authorised representatives attending at the Location at such times during Normal Working Hours as may be agreed in advance between the Parties.

- 3.3.2. If Todd Research's representative discovers a defect in or malfunction of the Equipment during routine maintenance, Todd's representative shall use all reasonable endeavours to repair at the Location, but if that is not reasonably practicable (or is not reasonably practicable in the time available during Normal Working Hours), Todd Research's representative will seek to make suitable arrangements with the Customer for:
- a further visit to be made to the Location during Normal Working Hours for the repair of the defect or malfunction; or
 - if the Equipment is inoperative because of the defect or malfunction, its repair at the Location outside Normal Working Hours at an additional cost; or
 - if it is not reasonably practicable for the defect or malfunction to be repaired otherwise, the removal of the Equipment (or, where practical, that part of the Equipment in question) for the purposes of repair; and
 - Todd Research may, but shall not be obliged to, provide suitable alternative equipment during any period during which the Equipment is inoperative.
 - If the Customer reports a defect in or malfunction of the Equipment during Normal Working Hours but outside of the routine service visits, Todd Research shall use its best endeavours:
 - to provide telephone support to remotely address any malfunction of the Equipment, and if this fails;
 - to ensure that one of Todd Research's suitably qualified and duly authorised representatives attends at the Location, during Normal Working Hours. Todd Research's representative will use all reasonable endeavours to repair the defect or malfunction at the Location, but if that is not reasonably practicable (or is not reasonably practicable in the time available during Normal Working Hours), Todd's representative shall seek to make such arrangements with the Customer as are mentioned in Clause 3.3.2.
- 3.3.3. If the Customer reports a defect in or malfunction of the Equipment after Normal Working Hours on any day, then unless Todd expressly agrees otherwise, the report shall be deemed to be made at the beginning of Normal Working Hours on the next Working Day.
- 3.3.4. If the Equipment is damaged otherwise than by fair wear and tear Todd Research reserves the right to charge the Customer for the supply and fitting of any spare parts or components required to rectify such damage.
- 3.4. All reports of defects in or malfunctions of the Equipment must be made by telephone or in Writing, as appropriate, by a representative of the Customer to Todd Research.
- 3.5. All spare parts and replacement components supplied by Todd Research shall become part of the Equipment and any parts and components removed from it shall become Todd's property, unless otherwise agreed in Writing between the Parties.

- 3.6. Todd Research shall ensure that its representatives comply with all safety and security regulations in force at the Customer's premises which are brought to the attention of such representatives.
- 3.7. Training will consist of:
- the provision to the Customer of adequate information about the proper use, testing and maintenance of the Equipment in accordance with regulation 31(2)(b) of the Ionising Radiation Regulations 2017 at the time of the Equipment's Critical Examination.
 - the provision, in writing, to the Customer of any technical updates or any updated information regarding the use of equipment supplied by Todd Research that Todd Research deem to be necessary or desirable to be provided
 - the use of best endeavours by Todd Research to respond promptly, during Normal Working Hours, by telephone or in Writing, as appropriate, to any request by the Customer for information concerning the safety, application, or use of the Equipment.

4.0. Services not Included

- 4.1. Gold Maintenance Cover shall not apply to, and Todd Research's standard charges as set out in clause 6.3 shall apply to any defect or malfunction in the Equipment which arises as a result of:
- 4.1.1. electrical work and apparatus external to the Equipment
 - 4.1.2. transportation or relocation of the Equipment not performed by or on behalf of Todd Research
 - 4.1.3. any error or omission relating to the operation of the Equipment
 - 4.1.4. any modification, adjustment or repair to the Equipment made by a third party without Todd Research's written consent
 - 4.1.5. the subjection of the Equipment by the Customer to unusual physical or electrical stress, the neglect or misuse of the Equipment or any failure or fluctuation of electrical power, air conditioning, humidity control or other environmental controls; or
 - 4.1.6. any other cause (except fair wear and tear) which is not due to Todd Research's neglect or default.
- 4.2. If on investigation Todd Research reasonably determines that any defect in or malfunction of the Equipment is the result of any of the matters referred to in clause 4.1, the Customer shall be liable for all costs.
- 4.3. If, following expiry of the Warranty Period, any part of the Equipment can no longer be maintained in good working order by the provision of replacement spare parts or the whole of the Equipment is damaged beyond economic repair otherwise than through Todd's fault Todd reserves the right to terminate this agreement with immediate effect, by giving Written notice to the Customer, in respect of the whole or any part of the Equipment which can no longer be maintained, in which case Todd shall repay to the Customer a fair proportion of any charges for Todd's services which have been paid in advance by the Customer.

- 4.4. Except as expressly provided in this agreement or as agreed between the parties in Writing, Todd Research shall have no obligation to provide any services to the Customer outside Normal Working Hours.

5.0. The Customer's Obligations

The Customer shall:

- 5.1. acknowledge the delivery, the Critical Examination and receipt of training in respect of the Equipment following the satisfactory completion of these matter
- 5.2. at all times keep the Equipment in any environmental conditions recommended by Todd Research
- 5.3. not move the Equipment from the Location without obtaining Todd Research's prior Written consent, nor move the Equipment without procuring that a Critical Examination is performed on the Equipment;
- 5.4. use the Equipment only in accordance with such instructions and recommendations relating to the care and operation of the Equipment as may be issued or advised in Writing by Todd Research
- 5.5. not allow any person other than the Todd Research representatives to adjust, maintain, repair, replace or remove any part of the Equipment;
- 5.6. use reasonable endeavours to use support materials and product diagnostics supplied with the Equipment together with any information available on Todd Research's website and use any e-mail support from Todd Research
- 5.7. ensure that Todd Research's representatives have full and free access to the Equipment and to any records of its use kept by the Customer; and
- 5.8. provide Todd Research with such information concerning the equipment, its application, use, location and environment as they may reasonably request.
- 5.9. take such steps as may be necessary to ensure the safety of any of Todd Research representatives who visit any premises of the Customer.

6.0. Charges

- 6.1. In consideration of the supply of the Equipment and the provision of the services, the Customer shall pay Todd Research the charges as invoiced. Todd Research shall send an invoice in relation to the charges to the Invoice Address.
- 6.2. Where a direct debit mandate has been completed by the Customer Todd Research shall:
 - 6.2.1. collect the purchase price for the Equipment immediately following the delivery of the Equipment at the Location.
 - 6.2.2. collect the annual service cost annually in advance immediately following the carrying out of the Critical Examination of the Equipment and on each anniversary of this agreement; and
 - 6.2.3. monthly in arrears, on or around 28th day of the month, or at such other intervals as may be agreed from time to time in respect of any services requested pursuant to clause 3.2.2 or levied in accordance with the provisions of clauses 4.2 or 6.3.

- 6.3. If the Customer requests Todd Research's services without any reasonable justification or requires Todd Research to repair a defect in or malfunction of the Equipment which is not covered under this agreement, the Customer shall be liable to pay Todd Research's standard charges for such services.
- 6.4. The Customer shall pay to Todd Research the amount shown in any invoice within 30 days of its receipt.
- 6.5. All charges and other sums payable by the Customer under this agreement are exclusive of any applicable value added tax, which shall be additionally payable by the Customer.
- 6.6. Todd Research reserves the right to increase the Service Cost with effect from each anniversary of this agreement by a percentage equivalent to the increase (if any) for the twelve months preceding that anniversary shown by the Consumer Price Index (CPI) as published by the UK Office for National Statistics (or if not available a suitable alternative index).

7.0. Liability

(Except in respect of death or personal injury resulting from negligence):

- 7.1. Todd Research shall have no Liability to the Customer for loss of profit or any indirect, special or consequential Loss of the Customer arising out of or in connection with the provision of the Equipment, any goods or services or any delay in providing or failure to provide the Equipment, any goods or services pursuant to this agreement;
- 7.2. Todd Research will not be liable for any Loss of the Customer arising out of or in connection with the failure to supply the Equipment pursuant to this agreement;
- 7.3. Todd Research will not be liable for any Loss of the Customer arising out of or in connection with any delay in providing the Equipment pursuant to this agreement; and
- 7.4. Todd Research will not be liable for any Loss of the Customer arising out of or in connection with the provision of any services or any delay in providing or failure to provide the services pursuant to this agreement
- 7.5. The Customer shall take all reasonable steps to mitigate any Loss.

8.0. Insurance

Todd Research shall effect and maintain at its own cost product liability insurance in respect of the Sub-Contractor's liability for death or injury to any person, or loss or damage to any property, arising out of the performance of its obligations under this Agreement in an amount of not less than £10,000,000 (ten million pounds) per occurrence or series of occurrences arising from the one event.

9.0. Force Majeure

- 9.1. If either Party is affected by an event of Force Majeure it shall promptly notify the other Party of the nature and extent of the event.

- 9.2. Neither Party shall be deemed to be in breach of this agreement, or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations under this agreement, to the extent that the delay or non-performance is due to an event of Force Majeure of which it has notified the other Party, and the time for performance of that obligation shall be extended accordingly.

10.0. Duration and Termination

- 10.1. This agreement shall come into force on the date of its acceptance by Todd Research, and subject to clauses 10.2 and 10.3 shall continue in force for the Initial Period. On expiry of the Initial Period and subject always to the option of Todd Research to carry out a full factory overhaul of the Equipment and the provisions of clause 4.3 the Customer shall have the option of extending this agreement for a minimum period of one year by notifying Todd Research in Writing not less than two months prior to the expiry of the Initial Period.
- 10.2. Todd Research shall be entitled to terminate this agreement:
- 10.2.1. in the circumstances and to the extent referred to in clause 4.3;
- 10.2.2. forthwith by giving Written notice to the Customer if any sum payable under this agreement is not paid on the due date and not disputed.
- 10.3. Either Party may terminate this agreement forthwith by giving Written notice to the other if:
- 10.3.1. the other commits any continuing or material breach of any of the provisions of this agreement, and if a breach is capable of remedy, fails to remedy the breach within 30 days after receipt of a Written notice giving full particulars of the breach and requiring it to be remedied;
- 10.3.2. an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the other required to supply the Equipment or any component parts or to perform the services under this agreement;
- 10.3.3. the other makes any composition or voluntary arrangement with its creditors or enters into administration, or a moratorium comes into force in respect of the other (within the meaning of the Insolvency Act 1986);
- 10.3.4. the other goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligation imposed on the other under this agreement); or
- 10.3.5. the other ceases, or explicitly threatens to cease, to carry on business.
- 10.4. For the purposes of clause 10.3.1, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance is not of the essence).
- 10.5. A waiver by either Party of a breach of this agreement shall not be considered as a waiver of a subsequent breach of the same or any other provision.

- 10.6. The rights to terminate this agreement given by this clause shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.
- 10.7. On termination of this agreement for any reason neither Party shall have any further obligation to the other under this agreement, except as set out in clause 11 and WEEE in respect of rights which have accrued prior to termination.

11.0. Confidentiality

Todd Research will not, without the prior Written consent of the Customer, advertise or publish in any way whatsoever the fact that Todd Research has contracted to supply the Equipment or services to the Customer.

12.0. Notices

- 12.1. A notice or other information required or authorised by this agreement to be given by either Party to the other may be given by hand or sent by first class pre-paid post, or comparable means of communication to the other Party at the address referred to in clause 12.4.
- 12.2. A notice or other information given by post under clause 12.1 which is not returned to the sender as undelivered shall be deemed to have been given on the second day after it was posted; and proof that the notice was properly addressed and sent by first-class pre paid post, and that it has not been returned to the sender as undelivered shall be sufficient evidence that such notice or information has been duly given.
- 12.3. A notice or other information sent by comparable means of communication shall be deemed to have been duly sent by first class pre-paid post to the other Party at the address referred to in clause 12.4 within 24 hours after transmission.
- 12.4. A notice or other information or any legal proceedings concerning or arising out of this agreement shall be addressed to the company secretary of the Party in question at its registered office, or to such other officer or at such other address as may be notified by the Party in question in Writing from time to time.

13.0. Miscellaneous Provisions

- 13.1. Todd Research may perform any of the obligations undertaken by it and exercise any of the rights granted to it under this agreement through any other company which at the relevant time is its holding company (as defined by section 736 of the Companies Act 1985, as amended) or the subsidiary of any such holding company, and any act or omission of any such company shall for the purposes of this agreement be deemed to be the act or omission of Todd Research.
- 13.2. Subject to the Customer's consent (which shall not be unreasonably withheld) the Supplier may carry out its obligations under this agreement through any agents or sub-contractors appointed by it in its absolute discretion for such purpose.
- 13.3. Except as provided in clauses 13.1 and 13.2, this agreement is personal to the Parties, and neither of them may, without the Written consent of the other, assign, mortgage, charge (otherwise than by floating charge) or dispose of any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations under this agreement.

- 13.4. Nothing in this agreement shall create, or be deemed to create, a partnership between the Parties.
- 13.5. This agreement contains the entire agreement between the Parties with respect to its subject matter, supersedes all previous agreements and understandings between the Parties, and may not be modified except by an instrument in Writing signed by the duly authorised representatives of the Parties.
- 13.6. Each Party acknowledges that, in entering into this agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this agreement, and accordingly all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law, but nothing in this agreement shall affect the liability of either Party for fraudulent misrepresentation.
- 13.7. If any provision of this agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, the other provisions of this agreement and the remainder of the affected provisions shall continue to be valid.
- 13.8. The Parties acknowledge that it is not their intention that any third party shall be entitled to enforce any term of this Agreement which may confer a benefit on that third party, whether any such entitlement would, but for this provision, arise under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 13.9. This agreement shall be governed by and construed in all respects in accordance with the laws of England, and the Parties agree to submit to the exclusive jurisdiction of the English courts.