

## **BCF Planned Maintenance Agreements**

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BCF Planned Maintenance Agreements are a service solution designed to provide regular maintenance and service your imaging equipment. Regular servicing can reduce the risk of a breakdown and prolong the working life of your equipment. As diagnostic imaging equipment becomes increasingly vital within a veterinary practice it is important your equipment is functioning to its optimum.

Vet practices can be a harsh environment for electronic equipment with, dust, fur and liquids. By servicing your equipment, small issues can be identified before they become larger and more expensive problems. For example clogged or overheating electronic circuit boards can be identified and avoid high cost repair bills.

### **What equipment can I cover with a Planned Maintenance Agreement?**

The Planned Maintenance Agreement is available for ultrasound, CR and DR X-ray systems, X-ray generators and PACS equipment from BCF.

### **Free for the first year – including first annual service free.**

From 1st January 2015 BCF will be providing your first year Planned Maintenance Agreement including your first annual service free of charge, for any new Mindray, Sonosite, GE, Eco-ray, Carestream and Cuattro equipment purchased from BCF.

If you chose not to cover your equipment under a BCF Planned Maintenance Agreement or keep up-to-date your annual service for your Easi-Scan Lifetime Warranty, then in case of a breakdown there will be a charge for loan equipment and technical telephone support.

The agreement covers;

- Annual service, excluding any parts consumed. (10% discount on parts.)
- Prioritised response in the event of a breakdown
- 10% discount on parts and labour in the event of a breakdown
- Cleaning, fault finding and calibration for your X-ray equipment
- Checking the hardware and software operations for performing data storage operations, such as disk defrags, error logs and ensuring that a back-up is in place and running effectively
- Half yearly 'virtual' visit to remotely check your X-ray/ PACS equipment if connected to the internet.
- Remote diagnostics, software downloads & fixes, and other remote solutions (if applicable for X-ray and PACS equipment, equipment must have a broadband connection).

In the event of breakdown the Planned Maintenance Agreement covers;

- Free telephone support is also available to customers with a Planned Maintenance Agreement from 8am to 6pm Monday to Friday. (Telephone support is available 24/7 for emergencies only.)
- LogMeIn remote support allowing our IT engineers to remotely examine your X-ray/ PACS equipment if connected to the internet.
- Priority for free loan (and courier cost) if we cannot fix the equipment remotely.

During the service we will advise you of any extra costs for parts and labour for any extra remedial work recommended. **In case of a breakdown, costs will be charged for labour, parts or call out fee, transport or courier costs. Late return of loan equipment may also result in an additional charge.**

## Planned Maintenance Services - Terms and Conditions

**1. Agreement:** These are the Planned Maintenance Services Terms and Conditions for BCF Technology Limited (Registered No. SC085981) with registered offices at Imaging House, Phoenix Crescent, Strathclyde Business Park, Bellshill, ML4 3NJ, Scotland ("BCF"). Together with the Services Confirmation these form the Agreement between BCF and the Customer for the provision of the Services.

**2. Services:** Services covered by the Agreement are only those specifically identified in the Services Confirmation and these terms and conditions (the "Services"). Services may be added to this Agreement or modified only by the parties' agreement in writing. "Equipment" means the equipment listed in the Services Confirmation.

a. BCF bears no responsibility for failure to provide Services in the event of technical difficulties with telephone or broadband connectivity or other matters which are out of its control.

b. BCF reserves the right to change the duration, frequency, type, nature, form and other aspects of the Services without the prior approval of or notification to Customer so long as Customer's rights under the Agreement are not substantially reduced.

c. Unless otherwise explicitly identified in writing by BCF, Services do not include (i) the provision and maintenance of a dedicated broadband connection to the Equipment; (ii) the provision of security measures to protect network configuration or protection from unauthorized access to the network; (iii) support for remote connectivity solutions not recommended by BCF; (iv) support for the repair, replacement or disposal of accessories and power supply equipment or consumable items, including without limitation batteries, cassettes, copier drums, ultrasound machines, computers, monitors filters, image intensifiers, laser tubes, film magazines, radiograph generators, radiograph tables, radiation sources, compressors, film processors, processor chemicals, software, bulbs, glassware, radiation sources, dyes, or storage media; (v) the provision, payment, or reimbursement of any rigging or facility cost, including monitor mounting, cable installation, computer mounting, network cabling, or other activities related to information technology; (vi) material and labour costs associated with reusing existing facilities (wire, termination fields, network facilities, equipment room, peripherals, adjuncts); or (vii) temporary installation of equipment for testing, training, and other purposes.

d. BCF shall be entitled to charge for parts and maintenance services at its then current prices which are required due to accident, abuse, negligence, misuse, unauthorised maintenance, virus intrusion, failure to observe standard operating instructions, unauthorised relocation or removal of the equipment by the Customer.

d. BCF shall use reasonable endeavours to provide the Services to the Customer, in accordance with the Services Confirmation in all material respects.

**3. Planned Maintenance:** The Services will include such equipment inspections, performance checks and adjustments as are required to maintain the operating efficiency of equipment. Scheduled preventative maintenance visits will be carried out during BCF's normal working hours and at such intervals, as BCF deems reasonable. If advisable and convenient to the Customer, scheduled maintenance will be carried out whenever possible, at the time of a repair service call.

**4. Repair of Equipment:** BCF will carry out a service of all Equipment on an annual basis during the Agreement as part of the Services. This will be provided at the Customer's request and on the Customer's premises or by way of return to our Service Centre during BCF's normal working hours. Service outside these hours will be provided at BCF's discretion and subject to availability of staff and will be charged at the appropriate premium 'on call' charge rate. Any replacement parts will be charged at BCF's then current prices.

**5. Software:** Any software furnished by BCF under this Agreement ("Software") is done so on a non-transferable license-to-use basis and all right, title and interest therein is and will remain vested exclusively in BCF or its licensors. Customer will not decompile, disassemble, otherwise derive the source code of any software furnished by BCF nor will Customer make any copies of such software, except that Customer may make one (1) copy of each such software Product for backup purposes only. Customer will return or destroy all copies of software upon cessation of related product usage. All software furnished by BCF is to be considered confidential information and will be held by Customer in strict confidence and disclosed on a need-to-know basis, or as required by law, to only those of its employees who have agreed in writing to maintain the confidentiality of Customer provided third party confidential information. No guarantee or commitment as to the type of products, functionality, enhancements, additions, usability or uptime with respect to the software is implied or expressed by BCF.

Nothing in this Agreement shall obligate BCF to develop, create, test, release, support or provide for use, or sell any new software, software patches, or software functionality ("Software Enhancements"). Customer has no implied nor specific right, to receive or demand any Software Enhancements. Customer acknowledges and agrees that Software Enhancements may require hardware purchases, including possible necessary upgrades to existing hardware owned by Customer. ("Hardware Updates") Hardware Updates that may be necessary to make Software Enhancements operable to specifications are specifically excluded from BCF Support Programme, and are Customer's responsibility.

**6. Loan Equipment:** Any loan equipment provided to the Customer is subject to BCF's Equipment Provision Services Terms & Conditions, a copy of which is available on request. The loan equipment provided will be sufficient to allow you to capture images as you would with the original equipment, but may not be identical to the equipment covered by this Agreement. Loan equipment is provided on a "best endeavour" agreement where we strive to provide when possible but is not guaranteed.

Equipment outside its first anniversary that is not covered under a Planned Maintenance Agreement, will be charged for loan and courier costs. Charges will apply for the late return of loan equipment.

**7. Customer Responsibilities:** It is the Customer's responsibility to, and BCF is not responsible for Equipment downtime, warranty obligations or damages resulting from Customer's failure to:

a. Provide all assistance reasonably requested by BCF or its agents, assist in gathering data from the Equipment, Software and other equipment or systems, and use commercially reasonable efforts to provide accurate and complete data where any data is requested.

b. Comply with the requirements of any implementation guidelines, security procedures, manuals or other instructions provided by BCF or the manufacturer of the Equipment, including requirements to have access to commercially available software, media player or other technology reasonably necessary for access to or use of information.

c. Refrain from modifying, adding or combining any hardware or software to the Equipment or Software provided by BCF, unless endorsed or accepted in writing by BCF.

d. Ensure the security of networked Equipment by taking appropriate measures to prevent unauthorized access to it and the interception of communications between BCF's service centre and the networked Equipment, including isolating networked Equipment from other networks, setting up firewalls, and taking any other measures that BCF reasonably believes is necessary to ensure the security of the networked Equipment and related communications.

e. Ensure the Equipment is used solely in accordance with reasonable care and caution, with the requirements of the equipment operation manual, by properly qualified and licensed personnel, including without limitation providing a suitable environment for the equipment and maintenance of the temperature, cleanliness, debris-free nature and safety of that environment in a manner consistent with supporting the equipment (including without limitation, protection from building or location structural deficiency; power surge, fluctuation or failure; dust, sand, hair, urine, fluids, moisture, chemicals or other particles or debris; or air conditioning failure).

f. Promptly notify BCF in writing of any change in the location of the Equipment or network configuration.

g. Provide prior notice to BCF of any change in the ownership or management control of Customer's business.

h. Attend to those day to day adjustments and cleaning, which are part of the operating routine advised by BCF in the operating instructions for the equipment.

i. Notify BCF in writing, immediately if the equipment is moved to a new location or disposed of

j. Not undertake or permit any person or firm other than a BCF service representative or a BCF authorised agent to undertake any repair or service work, other than that advised by BCF

k. The Customer shall comply with all applicable laws in relation to the use of the Equipment.

l. Further, the Customer shall notify BCF if at any time it obtains information that equipment may constitute a risk to the health and safety of any person attending at BCF's direction to service the equipment and shall co-operate with BCF in relation to any measures which BCF may in its reasonable discretion, take to minimise such risks.

m. All imaging data stored on the Equipment is the responsibility of the Customer and not BCF. BCF accept no responsibility for any loss of data on primary or secondary storage devices.

**8. Payment:**

a. In consideration of the provision of the Services by BCF, the Customer shall pay the charges as set out in the Services Confirmation (or as otherwise agreed from time to time by the parties in writing, for which email shall be sufficient).

b. Any price contained in the Services Confirmation excludes VAT or (other applicable sales tax), which BCF shall add to its invoices at the appropriate rate (if required).

c. The Customer shall pay each invoice submitted to it by BCF, in full and in cleared funds, within 7 days of receipt to a bank account nominated in writing by BCF.

d. Without prejudice to any other right or remedy that it may have, if the Customer fails to pay BCF on the due date, BCF may:

(i) charge interest on such sum from the due date for payment at the annual rate of 8% above the base rate from time to time of HSBC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after

## Planned Maintenance Services - Terms and Conditions (Continued)

any judgment and the Customer shall pay the interest immediately on demand; and

- (ii) suspend all Services until payment has been made in full.
- e. All sums payable to BCF under this Agreement shall become due immediately on its termination, despite any other provision. This clause is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.
- f. BCF may, without limiting any other rights or remedies it may have, set off any amounts owed to it by the Customer against any amounts payable by it to the Customer. The Customer shall not be entitled to such a right of set off.
- g. BCF may review and increase its prices, although no more than once in any 12 month period. BCF shall give the Customer written notice of any such increase 2 months before the proposed date of that increase. If such increase is not acceptable to the Customer, it may, within 30 days of such notice being received or deemed to have been received in accordance with condition 11c, terminate the Agreement by giving 30 days written notice to BCF.

### 9. Liability:

- a. This section set out the entire financial liability of the BCF (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
  - (i) any breach of these conditions; and
  - (ii) any representation, statement or delictual act or omission including negligence arising under or in connection with the Agreement.
- b. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- c. Nothing in these conditions excludes or limits the liability of BCF for death or personal injury caused by BCF's negligence or fraudulent misrepresentation.
- d. Subject to paragraphs 9b and 9c, BCF shall not be liable for:
  - (i) loss of profits; or
  - (ii) loss of business; or
  - (iii) loss of data; or
  - (iv) depletion of goodwill; or
  - (v) loss of use; or
  - (vi) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses,and BCF's total liability in contract, delict (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the price paid by the Customer for the Services.

### 10. Term and Termination:

- a. Unless terminated earlier in accordance with this condition 10, the Agreement shall continue for the period stated in the Service Confirmation ("Initial Term") and shall thereafter continue automatically for subsequent periods of 12 months (each a "Renewal Period") unless either party gives at least 30 days notice to take effect at the end of the Initial Period or Renewal Period as appropriate.
- b. BCF may terminate this Agreement by immediate written notice to the Customer in the event that the Customer fails to pay any sums by the date due.
- c. Either party will have the right to terminate the Agreement if the other party breaches any material term of the Agreement (including the applicable Services Confirmation) and if such breach is capable of cure, the breaching party fails to cure such breach within thirty (30) days after receiving written notice thereof.
- d. Either party will have the right to terminate the Agreement if the other becomes insolvent or makes an assignment for the benefit of creditors, or a trustee or receiver is appointed for such other party or for a substantial part of its assets, or bankruptcy, reorganisation or insolvency proceedings shall be instituted by or against such other party or otherwise ceases to carry on business.
- e. On termination or expiration of this Agreement for any reason:
  - (i) the Customer shall immediately pay to BCF all of BCF's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, BCF may submit an invoice, which shall be payable immediately on receipt;
  - (ii) the accrued rights, remedies, obligations and liabilities of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination; and
  - (iii) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

### 11. General:

- a. The Customer shall not, without the prior written consent of BCF, assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement. BCF may at any time assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement. Each party that has rights under this Agreement is acting on its own behalf and not for the benefit of another person.
- b. Except as expressly set forth in the Agreement, the exercise by either party of any of its remedies under the Agreement will be without prejudice to its other remedies under the Agreement or otherwise.

- c. All notices required or permitted under the Agreement will be in writing. Any notice shall be deemed to have been duly received: (a) if delivered personally, when left at the address; (b) if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second business day after posting; or (c) if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. Notices relating to the Agreement will be sent to the primary corporate addresses set forth in the applicable Services Confirmation or to such other address as Customer or BCF may notify the other party in writing.
- d. The Agreement, including the Services Confirmation referencing these Terms and Conditions, constitutes the complete and exclusive understanding and agreement between Customer and BCF regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter (including any proposal we may have issued to you). Each party acknowledges that, in entering into the Agreement it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to the Agreement or not) ("Representation") other than as expressly set out in the Agreement. Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract. Nothing in this condition shall limit or exclude any liability for fraud.
- e. Failure to enforce any provision of the Agreement will not constitute a waiver of future enforcement of that or any other provision. Any waiver, modification or amendment of the Agreement will be effective only if in writing and signed by an officer of Customer and an authorised representative of BCF. If for any reason a court of competent jurisdiction finds any provision of the Agreement invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of the Agreement will remain in full force and effect.
- f. Nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- f. The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Scotland. The parties irrevocably agree that the courts of Scotland shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims).