

**MERRY X-RAY CORPORATION** and/or **SOURCEONE HEALTHCARE TECHNOLOGIES, INC.** (either or both referred to herein as “we,” “us,” “our”) agree(s) to provide maintenance, repair and/or upgrade services (“Services”) to you, the customer (“you,” “your”), on the diagnostic imaging equipment owned or operated by you (“Equipment”), along with replacement of certain parts, assemblies and accessories, in accordance with our Service Contract Offering and/or Quote or your order. **Our Service Contract Offer and/or Quote and these terms and conditions (“Terms and Conditions”) are collectively referred to herein as the “Agreement.”** Your acceptance of our Services constitutes your agreement to the following Terms and Conditions:

**1. SERVICE.** Services provided by us may be supplemented with one or more Equipment Options and Other Options/Amendments chosen by you. Services will be provided during our standard workweek, (8:00 a.m. – 5:00 p.m. Monday through Friday, excluding our observed holidays), at our standard hourly-billed service rates then in effect for hourly-billed service customers having your type of Equipment, plus round trip travel time and applicable minimums, unless otherwise specified in this Agreement. Services during non-standard workweek hours will be provided at our premium hourly-billed service rates then in effect for non-standard workweek hourly-billed service customers having your type of Equipment, plus round trip travel time and applicable minimums, unless otherwise specified in this Agreement. Other travel expenses (including overnight living expenses) will be charged at actual cost in accordance with our standards for business expense remuneration of our employees. A copy of our billing rates will be provided to you at your request.

**2. PARTS.** We supply parts on an exchange basis. Replaced parts become our property and will be promptly removed by us from your site. Parts we supply may be remanufactured or refurbished following prior use.

**3. SERVICE MATERIALS.** In connection with the installation, configuration, maintenance, repair, upgrade and/or de-installation of the Equipment, we might deliver to and store at your site, attach to or install on the Equipment, and use, certain proprietary service materials that have not been purchased by or licensed to you. You hereby consent to this delivery, storage, attachment, installation and use, and to the presence of our locked cabinet or box at your site for storage of this property, and to our removal of all or any part of this property at any time, all without charge to us. The presence of this property within your site will not give you any right or title to this property or any license or other right to access, use or decompile this property. Any access to or use of this property and any de-compilation of this property by anyone other than our personnel is prohibited. You agree that you will use all reasonable efforts to protect this property against damages or loss and to prevent any access to or use or de-compilation of this property contrary to this prohibition. You also agree to immediately report to us any violation of this provision known by you.

**4. THIRD PARTY ORGANIZATIONS.** (a) In the event you have contracted with a third party service management organization, asset management company, maintenance management company, technology management company, maintenance insurance organization, group purchasing organization or the like (“Third Party Organization”) for the purposes of centralized billing and management of services provided to you, we agree per your written request to route invoices for payment for Services rendered by us to such Third Party Organization and accept payment from them on your behalf. The written request must include company name, address, phone number, contact name, and effective date. Until we receive a written notification, you agree to pay for all Services. Notwithstanding the above, you agree that the Services provided by us are pursuant to the items and conditions set forth in this Agreement (unless otherwise provided herein), and you guarantee the payment of all monies due or that may become due under this Agreement, in spite of any collateral obligations you may have with such Third Party Organization or any payment you have made to the Third Party Organization. We have no contractual relationship for the Services rendered to you except as set forth herein. To the extent that the parts and Services we provide are not covered by your arrangement with such Third Party Organization, you agree to promptly pay for such parts and Services on your own account. (b) Order of Precedence: Our Service Contract Offering and/or Quote and these Terms and Conditions supersede all prior agreements with respect to the Services, provided, however, if you are a qualified participant in a third party group purchasing organization (GPO) with which Seller has an active contract or other mutually-agreed arrangement (GPO Agreement), the order of precedence among any conflicting terms and conditions applicable to the Services shall be (i) the terms of the GPO Agreement, (ii) the Quotation, and (iii) these Terms and Conditions.

**5. EXCUSABLE DELAYS.** We are not liable for delays in performance due to causes beyond our reasonable control. These causes include, without limitation, any delay of sources to supply materials and equipment, government priorities, labor or transportation problems, acts of God, acts of third parties, the acts of you or any of your employees, agents, or representatives, fire, floods, riots, wars, sabotage, vandalism, embargoes, and the site and/or Equipment being contaminated with blood or other potentially infectious material. If such a delay occurs, we may, at our sole discretion, extend our performance time by a period of time equal to the delay.

**6. YOUR RESPONSIBILITIES.** During the term of this Agreement, you will: (a) assure that the Equipment site is maintained in a clean and sanitary condition and that the Equipment is cleaned and decontaminated after contact with blood or other potentially infectious material, (b) provide necessary housekeeping and cleaning services to maintain the Equipment free from dirt, refuse, contamination or waste of any kind, (c) maintain the Equipment site and environment (including but not limited to temperature and humidity control, incoming power quality, and fire protection system) in a condition suitable for operation of the Equipment, (d) operate the Equipment in accordance with the Operator’s Guide including x-ray tube warm-up procedures, (e) make normal operator adjustments to the Equipment as specified in the Operator’s Guide, (f) make the Equipment available without restriction for service in accordance with a mutually acceptable service appointment schedule, and (g) promptly pay our invoices during the term of this Agreement.

**7. EXCLUSIONS.** This Agreement does not cover the following: (a) any service or parts specifically described as excluded in the our Service Contract Offering and/or Quote; (b) the provision, payment or reimbursement of any rigging, facility or structural cost, or accessory or supply item incident to the provision of Services under this Agreement; (c) the cleaning or decontamination of the Equipment after contact with blood or other potentially infectious materials, or any service whatsoever if the Equipment site or Equipment is so contaminated; (d) any service caused by (1) a design, specification or instruction provided by you or your representative, (2) your failure to fulfill your responsibilities under this Agreement, (3) the failure of anyone other than us or our service contractor to comply with our written instructions or recommendations, (4) your combining the Equipment with a product of others or with an incompatible product of ours, (5) any alteration or improper storage, handling, use or maintenance of any part of the Equipment by anyone other than us or our service contractor, (6) anything external to the Equipment, including but not limited to building, van or trailer structural deficiency, power surge, fluctuation or failure, air conditioning failure and problems with facility supply lines connected to Equipment, (7) vandalism, accident, lightning, earthquake, fire, smoke or water damage to the Equipment, (8) any removal or relocation of the Equipment, (9) any removal of transformers or transformer oil, and/or (10) anything beyond our reasonable control; (e) the cost of materials, supplies, parts or labor supplied by any other party; (f) the cost of consumable materials such as cushions, knee supports, pads, magnetic media, cryogens (unless included in Equipment Options), film, mammography paddles, labels, tack sheets, printer materials or other supply items, operator or application training or other instruction in the use of the Equipment, unless otherwise specified in the Service Coverage Section of the Service Contract Offering and/or Quote; (g) the cost of factory reconditioning when, in our opinion, it is necessary to have the Equipment or any component of the Equipment rebuilt at the factory because repair or parts replacement by us within the Equipment site cannot maintain it in satisfactory operating condition; (h) any inspection, notification, repair, replacement or other service related to the failure of the Equipment to recognize or accurately and effectively process data and information relating to dates, or any delay or error in operation arising as a consequence of the Equipment failing to respond to recognize or process two-digit year data and information. We do not warrant that the Services to be provided under this Agreement will prevent or limit any such failure, delay or error, and no such warranty shall be inferred from this Agreement. Any service required as a result of the foregoing will be charged at our normal rates.

**8. LIMITED WARRANTY AND DISCLAIMER.** Our Service obligations to you are described in this Agreement. There are no other warranties provided under this Agreement. We warrant that all Services and all parts to support Services under this Agreement will be performed in a workmanlike manner. **THE FOREGOING WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED. NO OTHER WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE APPLIES TO ANYTHING PROVIDED BY US OR OUR SERVICE CONTRACTOR, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED.** Our obligations to you under this Agreement end on expiration or termination of this Agreement.

**9. LIMITATIONS OF REMEDIES AND DAMAGES.** IN THE EVENT OF ANY BREACH OF THE FOREGOING WARRANTY, OUR OBLIGATION WILL BE LIMITED TO REPLACEMENT OF THE DEFECTIVE PARTS OR RE-PERFORMANCE OF THE SERVICES/WORK. OUR TOTAL LIABILITY TO YOU (AND THAT OF OUR REPRESENTATIVES), AND YOUR SOLE AND EXCLUSIVE REMEDY RELATING TO THIS AGREEMENT AND THE SERVICES PROVIDED UNDER IT, IS LIMITED TO THE FOREGOING, AND IN NO EVENT SHALL OUR LIABILITY EXCEED THE CHARGE FOR THE PART OR THE SERVICE WHICH IS THE BASIS FOR THE CLAIM. You agree that we and our representatives have no liability to you for (a) any punitive, incidental, or consequential damages such as lost profit or revenue, (b) any assistance not required under this Agreement, (c) anything occurring after the end of this Agreement or any warranty with respect to this Agreement, whichever period of time is longer, or (d) any gratuitous advice or other assistance not expressly a part of this Agreement. You will be barred from any remedy unless you give us prompt written notice of any problem with the parts or Services we have provided.

This is a commercial service transaction. Any claim related to this Agreement will be covered solely by related commercial legal principles. NEITHER OUR REPRESENTATIVES, YOU, NOR WE WILL HAVE ANY NEGLIGENCE OR OTHER TORT LIABILITY TO EACH OTHER ARISING FROM THIS AGREEMENT OR THE SERVICES PERFORMED HEREUNDER. This limitation does not affect claims by third parties for personal injury due to our, our representatives' or your negligence or product liability.

**10. CONFIDENTIALITY OF INFORMATION.** We and our service contractor, if any, will treat patient information as confidential in accordance with applicable provisions of the Health Insurance Portability and Accountability Act (HIPAA).

**11. INDEPENDENT CONTRACTOR.** We are an independent contractor. Our employees are under our exclusive direction and control. Our service contractors' employees are under our service contractors' exclusive direction and control. Nothing in this Agreement will be construed to designate us, or any of our employees, or our service contractors or any of their employees, as your employees, agents, joint venturers or partners.

**12. SUBCONTRACTS AND ASSIGNMENTS.** We may subcontract to service contractors of our choice any of our Service obligations to you. No such subcontract will release us from our obligations to you. Your assignment of this Agreement will be void without our prior written consent.

**13. RECORD RETENTION AND ACCESS.** If section 1861 (v)(1)(I) of the Social Security Act applies to this Order, subsections (i) and (ii) of that section are made a part of this Order. In such an event, we agree to retain and make available, and to insert in each applicable subcontract the requisite clause requiring our subcontractor to retain and make available, the contract(s), book(s), document(s), and record(s) to the person(s), upon the request(s), and for the period(s) of time as required by these subsections. The Uniform Electronic Transactions Act shall apply to transactions between parties.

**14. SURVIVAL; WAIVER; SEVERABILITY; DISPUTES.** All of our rights, privileges and remedies with respect to this Agreement will continue in full force and effect after the end of this Agreement. Our failure to enforce any provision of this Agreement is not a waiver of that provision or of our right to later enforce each and every provision. If any part of this Agreement is found to be invalid, the remaining parts will be effective. In the event of a dispute arising out of this Agreement, you and we agree to negotiate in good faith to discuss and attempt to resolve the issues that are the subject of the dispute.

**15. TERM AND TERMINATION.** Unless earlier terminated as provided below, this Agreement shall remain in effect for the term specified in the Service Contract Offering and/or Quote. Without prejudice to any other remedies either party may have, this Agreement may be terminated by either party upon sixty (60) days written notice to the other of a breach or default of any material obligation under this Agreement (except breach of a payment obligation, in which 15 days written notice shall suffice), provided, however, that the breaching or defaulting party may avoid such termination by curing the claimed breach or default within such sixty (60) day period (15 days for breach of a payment obligation) and has so notified the other party in writing.

In the event the Equipment is replaced by other equipment supplied by us, you may cancel this Agreement without charge by giving sixty (60) days prior written notice to us. In the event of cancellation for any other reason, you must provide sixty (60) days prior written notice of such cancellation and at that time pay us the cancellation charge ("Cancellation Charge") set forth below as liquidated damages.

**YOU ACKNOWLEDGE THAT, IN THE EVENT OF CANCELLATION, OUR DAMAGES WOULD BE DIFFICULT TO DETERMINE, AND THAT THE SPECIFIED SUM IS A REASONABLE ESTIMATE OF OUR DAMAGES. YOU AND WE FURTHER AGREE THAT THIS SECTION IS INTENDED TO AND DOES LIQUIDATE THE AMOUNT OF DAMAGES DUE US, AND SHALL BE OUR EXCLUSIVE REMEDY AGAINST YOU, BOTH AT LAW AND IN EQUITY, ARISING FROM OR RELATED TO THE CANCELLATION OF THIS AGREEMENT FOR ANY REASON, EXCEPT AS EXPRESSLY PROVIDED IN THE FIRST PARAGRAPH OF THIS SECTION.**

Cancellation Charge

- (i) No Glassware Coverage: Thirty-Five Percent (35%) of the remaining unpaid installments of the Agreement price due under this Agreement.
- (ii) Glassware and/or Detector Inclusive Coverage\*: Forty-Five Percent (45%) of the remaining unpaid installments of the Agreement Price due under this Agreement.

\* "Glassware and/or Detector Inclusive Coverage" is defined as Service Coverage that provides for replacement, at any level, of Nuclear Camera Crystals or evacuated devices such as x-ray tubes, image intensified tubes, TV camera pick-up tubes, photo multiplier tubes, digital detectors and CRTs.

Except as otherwise specifically stated in this Agreement, your and our respective obligations end with the expiration or termination of this Agreement.

**16. PAYMENT.** Subject to the provisions of Section 4 herein, the Total Charge (as defined herein), plus applicable tax, will be payable to us upon your receipt of our invoice, unless you request and we agree in writing to a deferred payment plan. The "Total Charge" is the sum of all parts, assemblies, accessories, consumables, transportation/special handling, freight, Service supplies, on-site labor, travel time, and travel expense associated with your order. Any late payment is subject to a late charge of one and one-half percent (1.5%) per month or the highest rate allowed by law, whichever is less, computed from the date each late payment became due.

**17. TAXES.** You will not be obligated to pay any federal, state or local tax imposed upon or measured by our net income. Any other applicable tax will be invoiced to and payable by you along with the Total Charge, in accordance with the payment terms set forth in this Agreement, unless we receive a tax exemption certificate from you that is acceptable to the taxing authorities.

**18. DEFAULT.** Your default under this Agreement, or a default by you or any entity managed or controlled by you, or by any principal, agent, Third Party Organization or other entity of yours under any other order or contract with us, regardless of when the order or contract was entered into, will entitle us, at our sole option, to (a) commence collection activities for all sums due hereunder, including costs and expenses of collection and reasonable attorneys' fees, (b) withhold performance under any or all of the other orders and contracts between us until a reasonable time after all defaults have been cured, (c) declare all sums, due and to become due, to be immediately due and payable under any or all the other orders and contracts between us, and/or (d) do anything else which the law permits.

**19. GOVERNING LAW.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Ohio, without regard to its choice of law principles.

**20. ENTIRE AGREEMENT.** This Agreement is intended to be the complete and exclusive statement of the terms of this contract between you and us. No prior proposals, statements, course of dealing, course of performance, or usage of the trade or industry standard will be part of this contract. Except as provided in Section 4 herein, any additional or different terms and/or conditions contained in any purchase order or other document issued by you, your agents or representatives, or otherwise relating to the Services to be provided hereunder, will have no force or effect, and will not be binding upon us unless otherwise expressly agreed in a writing signed by our authorized representative.