

## Appendix H to DIR Contract No. DIR-TSO-3082 HARD DRIVE SECURE DISPOSAL TERMS AND CONDITIONS

The following terms and conditions apply to the provision of hard drive disposal services by Konica Minolta Business Solutions U.S.A., Inc. ("KMBS") to Customer during the term DIR Contract No. DIR-TSO-3082 and this Agreement:

**1. OVERVIEW:** This service is provided in connection with the "Statement of Work for KMBS MFP Hard Drive Secure Disposal Service" entered into between Customer and KMBS in accordance with DIR Contract No. DIR-TSO-3082.

**2. PAYMENT:** Payment shall be handled in accordance with Appendix A Section 8.J of DIR Contract No. DIR-TSO-3082.

**3. SITE PREPARATION & ACCESS:** Customer shall ensure that equipment is placed in an environment that conforms with the manufacturer's specifications and requirements. Customer shall provide KMBS' personnel with free and full access to the equipment and any necessary operating time for the purposes of furnishing the hard drive disposal services. Customer shall arrange for one of its employees to be present at all times when KMBS personnel perform the hard drive disposal services.

**4. LIMITS TO SCOPE OF SERVICE:** KMBS reserves the right to refuse to provide the hard drive disposal services if, in its opinion, the condition or location of the equipment creates an unreasonable risk to KMBS or KMBS's technicians. KMBS is not liable for any failure or delay in performance due to any cause beyond its control.

**5. ADDITIONAL EQUIPMENT:** No hard drive disposal services for additional or substituted equipment will be provided by KMBS until it is accepted by KMBS in writing in accordance with DIR Contract No. DIR-TSO-3082.

**6. SERVICE INCLUDED:** KMBS' obligations under this Agreement is to provide the hard drive data protection service selected on the front of this Agreement upon Customer's scheduling of a service date with KMBS. Services included in each of the respective hard drive exchange or data sanitization services are detail in the statement of work attached hereto. Unless otherwise indicated, normal business hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, exclusive of State of Texas published holidays listed on the Texas Comptroller of Public Accounts website at:

[http://www.window.state.tx.us/taxinfo/state\\_holidays.html](http://www.window.state.tx.us/taxinfo/state_holidays.html). For services provided outside normal business hours at Customer's request, and after KMBS proposes Overtime charges and Customer accepts in writing KMBS' will charge for Overtime in accordance with Appendix C Pricing Index of DIR-TSO-3082. The cost of the hard drive replacement shall be the responsibility of the Customer in the case of a returned leased or rented machine. Konica Minolta will only be responsible for the purging or removal of hard drives for Konica Minolta.

**7. PROJECT SCHEDULING:** Customer shall contact KMBS and schedule a service date to perform hard drive disposal. If KMBS can not provide the services by the service date requested, KMBS will notify customer of the earliest possible date in which the services can be rendered. If KMBS is unable to perform said disposal service due to Customer's schedule or lack of sufficient notice and time to provide the service, then KMBS will not be held liable for any claims, damages, fees, penalties, lease renewals or third party late charges directly or indirectly related to KMBS being unable to perform the service.

**8. SELLER'S AGENTS:** Customer acknowledges that it has been advised that no employee, representative or agent of KMBS has any authority to bind KMBS to any affirmation, promise, representation, or warranty concerning any of the equipment or services. Unless an affirmation, promise, representation, or warranty is specifically set forth in this Agreement it does not form a basis of this bargain and shall not be enforceable against KMBS.

**9. LIMITS ON DATA WIPE:** Customer acknowledges that no data wipe process will leave a hard drive as free from unreadable residual data as a comparable new product. KMBS makes no recommendations regarding the Customer's data removal requirements or representations regarding the effectiveness of one method of data removal over another.

**10. ASSIGNMENT:** Assignment shall be handled in accordance with Appendix A, Section 4.D of DIR Contract DIR-TSO-3082.

**11. NOTICES:** Notices shall be handled in accordance with Section 12.A of Appendix A to DIR Contract No. DIR-TSO-3082.

**12. INDEMNIFICATION:** Indemnification shall be handled in accordance with Appendix A, Section 10.A of DIR Contract No. DIR-TSO-3082.

**13. WARRANTY:** KMBS WARRANTS THAT THE SERVICES SHALL BE PROVIDED IN A PROFESSIONAL AND WORKMANLIKE MANNER. KMBS MAKES NO OTHER WARRANTIES WHATSOEVER EXPRESS OR IMPLIED WITH REGARD TO THE HARD DRIVE DISPOSAL SERVICE AND EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**14. REMEDY LIMITATIONS:** Limitation of Liability shall be handled in accordance with Appendix A, Section 10.K of DIR Contract No. DIR-TSO-3082.

**15. APPLICABLE LAW:** DIR Contract No. DIR-TSO-3082, this Agreement and any Service Order shall be governed by the laws of the State of Texas. Venue shall be in the State Courts of Travis County, Texas. Nothing herein shall be construed to waive the State's sovereign immunity.

**16. FORCE MAJEURE:** Force Majeure shall be handled in accordance with Appendix A, Section 11.C. of DIR Contract No. DIR-TSO-3082. If Customer determines that Order Fulfiller will not be able to deliver product or services in a timely manner to meet the business needs of the Customer, it shall provide Order Fulfiller with notice of its determination and five (5) calendar days to provide reasonable assurance that it will be able to deliver product or services in a timely manner. If order Fulfiller fails to provide reasonable assurance within five (5) days, Customer may terminate the purchase order.

**17. WAIVER & SEVERABILITY:** Failure by KMBS or Customer to enforce any provisions of this Agreement or any rights hereunder, or failure to exercise any election provided for herein, shall in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the party's right to later enforce or exercise the same or other provisions, rights, or elections it may have under this Agreement. If any provision of this Agreement shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of the remaining provisions of this Agreement.

**18. ORIGINAL DOCUMENT:** Customer further agrees (a) that facsimile or electronic signatures shall be accepted as original signatures; and (b) that this Agreement or any document created pursuant to this Agreement, may be maintained in an electronic document storage and retrieval system, a copy of which shall be considered an original. KMBS may accept orders electronically from Customer pursuant to this Agreement. Neither party shall raise objection to the authenticity of this Agreement or any document created hereunder, based on either the use of a facsimile signature or the use of a copy retrieved from an electronic storage system.

End of Appendix H