



APPENDIX D TO DIR CONTRACT DIR-TSO-3478

EQUIPMENT MAINTENANCE AGREEMENT EMA (EMA)

This Appendix D is subject to the terms of the DIR Contract, DIR-TSO-3478. In the event of conflict between the terms of this **EMA** and DIR Contract No. DIR-TSO-3478, the terms in DIR-TSO-3478 shall control.

This **Equipment Maintenance Agreement ("EMA")**, is entered into as of the last day set forth below and assigned EMA Number _____ between The Remi Group ("**Vendor**"), and the **Customer**, as identified below.

This **EMA** becomes effective on _____ the "**Effective Date**" and expires at 12:01 a.m. on _____ the "**Expiration Date**".

In consideration for the **Services** provided by **Vendor** under this **EMA**, the **Customer** agrees to pay the amount as set forth in **Customer's** Purchase Order(s).

STANDARD TERMS AND CONDITIONS -EQUIPMENT MAINTENANCE

A. AGREEMENT

The **Vendor** will provide the coverage described herein subject to all the terms of DIR-TSO-3478 and this **EMA**.

B. COVERAGE PROVIDED

Vendor will indemnify the **Customer** for each **Loss** that the **Customer** incurs as **Corrective Maintenance Charges** to return **Covered Equipment** to **Effective Operation** due to a **Precipitating Condition** during the **EMA Period**.

C. DEFINITIONS

"**Replacement Cost**" means the purchase and installation cost of the **Covered Equipment** or of similar equipment of equivalent age, kind, and functionality at the time of the **Loss**.

"**EMA**" means this Equipment Maintenance Agreement and **Schedule of Covered Equipment**.

"**EMA Period**" means period commencing with the effective date of a **Customer** Purchase Order and the end date as specified in the **Customer** Purchase Order or termination in accordance with Section 10B of the DIR Contract No. DIR-TSO-3478.

"**EMA Amount**" means the amount identified above that the **Customer** pay to **Vendor** for the **Services** provided under this **EMA**. Any **EMA** amounts shall be in accordance with Appendix C to DIR Contract No. DIR-TSO-3478.

"**Corrective Maintenance Charges**" means the rates specified in the Appendix C to DIR-TSO-3478, **Vendor's** quote and the Purchase Order for **Services** provided by the **Customer** to fully and properly restore **Covered Equipment** to **Effective Operation** including the cost of parts, **Labor**, travel, taxes, and shipping charges.

"**Covered Equipment**" means equipment owned or leased by the **Customer** or equipment in the **Customer's** care, custody or control, for which a Purchase Order has been issued by the **Customer** and that is identified in the **Schedule of Covered Equipment**.

"**Effective Operation**" means the ability of **Covered Equipment** to render the same or similar service as prior to the development of a **Precipitating Condition** and operating within Original Equipment Manufacturer's specifications for the **Covered Equipment**.

"**Labor**" is defined as seven (7) days per week, twenty-four (24) hours per day at the service vendor's rates established in the **Customer's** Purchase Order.

“Loss” means necessary **Corrective Maintenance Charges** incurred by the **Customer** to restore **Covered Equipment** to **Effective Operation** due to a **Precipitating Condition**. If the **Customer** purchases coverage for **Preventative Maintenance Charges**, which will be reflected on the **Customer’s Purchase Order** and **Schedule of Covered Equipment**, then covered **Preventative Maintenance Charges** will be considered a **Loss**, as well.

“Precipitating Condition” means an impairment of the **Effective Operation** of **Covered Equipment** arising from electrical or mechanical failure.

“Preventative Maintenance Charges” shall be specified in the **Customer Purchase Order** and shall include the cost of parts and **Labor**. All such fees and charges shall be in accordance with rates set forth in Appendix C to DIR-TSO-3478. This **EMA** does not cover **Preventative Maintenance Charges** unless the coverage has been specifically purchased by the **Customer**, as reflected on the **Customer’s Purchase Order** and **Schedule of Covered Equipment**.

“Prorated Fee” means the **EMA Amount** adjusted for the time period the **Covered Equipment** was covered by this **EMA Period**.

“Vendor” means The Remi Group, LLC a North Carolina limited liability company and may also be referred to as **Vendor**.

“Customer” means the entity issuing the Purchase Order.

“Schedule of Covered Equipment” will be attached to the **Customer’s Purchase Order EMA** and identifies the **Covered Equipment** which **Vendor** will pay for the **Loss** incurred by the **Customer** during the **EMA Period**.

“Service” means comprehensive equipment maintenance management program that replaces various IT service agreements and extended warranties with one, reduced cost agreement. **Vendor’s** customized solution focuses on delivering coverage that includes the costs associated with parts, labor, travel, emergency repair, and preventative maintenance. **Vendor** provides a single point of contact for managing service events, while utilizing the Original Equipment Manufacturer (OEM) and/or Independent Service Organization (ISO) to complete the maintenance and repairs. The **Customer’s Purchase Order** and the **Covered Equipment Schedules** will provide a detailed list of the cost and the services to be provided. The Service provided under this **EMA**, including the detailed obligations contained in the Purchase Order and **Covered Equipment Schedules** for **Vendor**, will be at a minimum the equipment maintenance services provided in the Original Equipment Manufacturer (“OEM”) or other maintenance agreements in force and effect immediately prior to this **EMA**, unless otherwise agreed to in the **Customer’s Purchase Order** or **Covered Equipment Schedule**.

D. TERMS AND CONDITIONS

1. Reserved

2. Item Limit of Liability

The most the **Vendor** will pay for any one **Loss** is the **Replacement Cost** of the relevant **Covered Equipment** at the time of **Loss**.

3. EMA Period and Territory

This **EMA** applies only to **Losses** that occur:

- a. During the **EMA Period** shown on the **Customer’s Purchase Order**;
- b. Within the effective coverage period for each piece of **Covered Equipment** as specified on the Purchase Order and **Schedule of Covered Equipment**; and
- c. While the **Covered Equipment** is physically located within the United States.

4. Reporting Losses for Reimbursement

In order to receive reimbursement for **Corrective Maintenance Charges** or **Preventative Maintenance Charges** incurred as part of a covered **Loss** under this **EMA**, the **Customer** must report the **Loss** to **Vendor** in compliance with all the terms and conditions of this **EMA**.

The **Customer** must report the **Loss** to **Vendor** within ninety (90) days from the date of the **Loss** the “**Loss Notification Period**”.

The **Customer** must provide satisfactory reporting of **Loss** to **Vendor** regarding the **Loss** to enable **Vendor** to determine if the **Corrective Maintenance Charges** or **Preventative Maintenance Charges** reported are within the scope of coverage defined in this **EMA**.

Satisfactory reporting of **Loss** includes, at a minimum, a description of the **Covered Equipment** involved, a legible copy of the vendor service report, and corresponding vendor invoice.

The **Customer** agree to cooperate and assist in the collection of additional information and documentation necessary to evaluate the facts surrounding any reported **Loss**.

The **Vendor** will not be liable for any **Loss** in which there is a material failure to comply with this paragraph 4.

5. Service Call and Dispatch Services.

Unless otherwise agreed or allowed under this **EMA**, in order for a **Loss** to be covered, the **Loss** must be reported in accordance with the following:

- a. **Customer** must report a **Loss** to **Vendor** within 90 days of the date of the **Loss**.
- b. **Vendor** will provide a central hub service center for all equipment service calls using a toll-free telephone number. When **Vendor** receives a request for service on **Covered Equipment**, **Vendor's** dispatch service engineers will contact **Customer's** preferred service vendor, or supply an alternate vendor if requested.
- c. **Vendor's** service center will provide the service vendor with **Vendor's** purchase order number, and all required information received from **Customer** in order to initiate the service. **Vendor** will review all contract documents to confirm coverage and will obtain the service vendor's reference or service call number and inform **Customer** of the estimated time when **Customer** can expect the arrival of the service vendor's representative. **Vendor's** dispatcher will e-mail a pre-filled Contractor Services Report (“**CSR**”) and will confirm the service call.
- d. The service vendor will complete the needed service, complete the **CSR** and provide copies to **Customer** and **Vendor**. The service vendor will send all applicable invoices directly to **Vendor** and **Vendor** will review and pay the service vendor for services performed. **Vendor** will resolve any claims or disputes related to invoices from or payments to a service vendor.
- e. All information related to each service call will be tracked and monitored in real time and will be available to **Customer** through **Vendor's** online account management system.
- f. In the event that **Vendors** dispatchers are unavailable, **Vendor** provides a voice mail system assuring that the **Customer** will receive a call back within ten (10) minutes.
- g. **Customer** is entitled to contact a service vendor directly to request service. If **Customer** decides to do so, **Vendor** will provide the service vendor all required information to complete the Customer Service Report (“**CSR**”) and collect the **CSR** and invoice from the service vendor. The **Customer** must comply with the Large Loss paragraph of this **EMA** (see below) and must provide **Vendor** with the documentation set forth in this paragraph. When **Vendor** receives all required information and confirms coverage, **Vendor** will pay the service vendor directly.
- h. The **Customer** will provide sufficient information to **Vendor** regarding the **Loss** to enable **Vendor** to determine if the service call is within the scope of coverage defined in this Equipment Maintenance Agreement or any Purchase Order issued under this **EMA**.
- i. The **Customer** agrees to cooperate and assist in the collection of additional information and documentation necessary for Preferred Supplier to evaluate the facts surrounding any reported **Loss**.

6. Replacement of Covered Property

- a. If it is more cost effective to replace **Covered Equipment** than repair, the **Customer** must report the **Loss** to **Vendor's** Engineering Support Hotline at 877-275-7364 prior to authorizing the replacement of **Covered Equipment**. **Vendor** will bear as a **Loss** the cost of replacing any Covered Equipment for which **Vendor** agrees that replacement costs are less than repair costs.
- b. If a failed sub-assembly may necessitate the replacement of an entire system component (by way of example and not limitation, a failed circuit card necessitating the replacement of an entire console and monitor), the **Customer** must report the **Loss** to **Vendor** Engineering Support Hotline at 877-275-7364 prior to authorizing the replacement of the entire system component. **Vendor** will bear as a **Loss** under this **EMA** the cost of replacing any entire system component which **Vendor** agrees is necessary to replace.
- c. If **Vendor** agrees that replacement of **Covered Equipment** is more cost effective than repair, the **Customer** may allow the **Vendor** to replace the **Covered Equipment** with equipment of a similar kind, age (if used), model, and manufacturer.

Written authorization must be obtained from **Vendor** and **Customer** prior to the replacement of any **Covered Equipment**. **Vendor** will provide written approval within five (5) business days of such notification and **Vendor** will ensure the **Schedule of Covered Equipment** is updated to reflect newly acquired **Covered Equipment** by **Customer**.
d. **Vendor** will not be liable for any unauthorized replacement of **Covered Equipment**.

7. Large Loss Notification

a. If **Corrective Maintenance Charges** or **Preventative Maintenance Charges** exceeds \$10,000 or otherwise agreed upon with **Customer** the "**Large Loss Notification Limit**", the **Customer** must report the **Loss** to **Vendor's** Engineering Support Hotline at 877-275-7364 prior to authorizing or commencing any repair service.
b. The **Customer** agrees that **Vendor** will be allowed to manage the **Loss** to ensure service is performed in a cost effective manner. **Vendor** has the right to deploy alternative vendors and source equivalent parts to return the **Covered Equipment** to **Effective Operation**. **Vendor** agrees that any alternative solution **Vendor** proposes will use parts and services that comply with the Original Equipment Manufacturer's (OEM) specifications for the **Covered Equipment**.
c. The **Customer** have the option to reject **Vendor** proposed alternative solution. However, **Vendor's** liability to reimburse for the **Customer's Loss** will be limited to the cost of **Vendor's** proposed solution. Any additional **Loss** costs in excess of **Vendor's** proposed solution shall be solely the responsibility of the **Customer**.

8. In-House Repair Reimbursement

a. **Vendor** agrees that members of the **Customer's** staff may perform **Labor** to restore **Covered Equipment** to **Effective Operation** following a **Loss**.
b. The **Customer** agree that the **Customer's** staff that performs **Labor** upon **Covered Equipment** will have the necessary skill, experience, training, and license(s) or manufacturer certification(s) required to perform the **Labor**.
c. **Vendor** agrees to reimburse **Labor** performed by the **Customer's** staff to return **Covered Equipment** to **Effective Operation** at the rate of \$40.00 per hour the "**In-House Repair Labor Reimbursement Rate**".
d. The **Customer** agrees to comply with the terms of this **EMA** and report any **Loss** involving **In-House Repair Reimbursement** in compliance with all the terms and conditions of this **EMA**.

9. Rental of Substitute Equipment

Vendor agree to reimburse the **Customer** for rental or loaner charges (plus related shipping charges) for substitute equipment of like kind, necessitated by a **Loss**, for no more than ten (10) days. The total reimbursement for rental or loaner charges plus **Corrective Maintenance Charges** and **Preventative Maintenance Charges** shall not exceed the **Replacement Cost** of the **Covered Equipment** at the time of **Loss**.

10. Preventive Maintenance

If the **Customer** has purchased coverage for **Preventative Maintenance Charges**, as reflected on the **Customer's** Purchase Order and **Schedule of Covered Equipment**, the **Customer** agree that preventative maintenance services will be performed in compliance with the Original Equipment Manufacturer's specifications for the **Covered Equipment** and at the frequency defined on the **Customer's** Purchase Order or **Schedule of Covered Equipment**. **Vendor** are under no obligation to reimburse for more than the number of preventative maintenance events defined on the **Customer's** Purchase Order or **Schedule of Covered Equipment**. If the **Customer** removes equipment from the **Schedule of Covered Equipment** or cancels this **EMA**, **Vendor** will only cover **Preventative Maintenance Charges** prorated over the period of time of the coverage. By way of example, but not limitation, if the **Covered Equipment** was scheduled to have four (4) preventative maintenance inspections per year and the **Covered Equipment** is removed from the **EMA** after six (6) months, the number of prorated preventative maintenance inspections would be two (2) calculated as $[(6/12) \times 4]$. All termination and cancellation shall be in accordance with Appendix A, Section 10. B. of DIR Contract No. DIR-TSO-3478.

11. Loss Settlement

Vendor will not reimburse the **Customer** for more than the **Replacement Cost** of the **Covered Equipment** at the time of **Loss**.

12. Prior Precipitating Condition

Vendor will not cover any **Loss** that results from a **Precipitating Condition** that exists prior to the effective date of coverage for the **Covered Equipment** under this **EMA**.

13. Protective Safeguards and Physical Environment

The **Customer** agree to maintain throughout the **EMA Period** of this **EMA** such protective safeguards as were in existence at the time of or installed subsequent to the first **Effective Date** of this **EMA**. Upon discovery of a **Precipitating Condition**, which may give rise to a claim under this **EMA**, the **Customer** must take all reasonable steps within the **Customer's** power to minimize the extent of **Loss**. The **Customer** further agree to take due care to maintain a physical environment (levels of temperature, humidity, dust, etc.) in keeping with the Original Equipment Manufacturer's recommendations for the **Covered Equipment**.

14. Alteration of Risk

The **Customer** must provide **Vendor** notice in writing regarding any material change varying the facts or circumstances surrounding the **Covered Equipment**, such as the movement of **Covered Equipment** or nearby construction. The parties reserve the right to amend this **EMA** if there is such alteration of risk.

15. Vendor Options

Vendor has the right to any salvage value, exchange credit or replaced hardware as a result of a **Loss** for which **Vendor** has made payment to the **Customer** to the extent permitted by the **Customer's** property and inventory regulations.

16. Changes to Schedule of Covered Equipment

a. During the **EMA Period**, the **Customer** and **Vendor** must agree in writing to all changes to the **Schedule of Covered Equipment**. No changes shall be effective until the **Customer** has issue an amended Purchase Order or **Schedule of Covered Equipment**. **Customer** agrees that any equipment the **Customer** requests to be added for coverage will be in good working order with no known **Precipitating Condition**.

b. All changes to the **Schedule of Covered Equipment** acceptable to the **Vendor** will be bound by a written modification to the Purchase Order or **Schedule of Covered Equipment** agreed to by both parties. **Customer** agrees to pay any additional **EMA** charges in accordance with Appendix C to DIR-TSO-3478 for the changes to the **Schedule of Covered Equipment** and such additional charges will be specified in the Purchase Order and the **Customer** will not be obligated to pay for any charges without an amended Purchase Order.

c. **Neither party** shall be liable for any **Loss EMA** with unauthorized changes to the **Schedule of Covered Equipment** not agreed to by **Customer** and **Vendor** in a new or amended Purchase Order.

17. Reserved

18. Warranties, Maintenance Contracts, Agreements

a. This **EMA** shall not apply to any **Loss** to any **Covered Equipment** to the extent that such **Loss** is covered under any OEM base warranty or guarantee. Further, the **Customer's** cost of acquiring, from **Vendor** or any other source, an extended warranty, maintenance or insurance contract of any type relating to the **Covered Equipment** will not qualify as **Loss** under this **EMA**.

b. The terms and conditions of any warranty, maintenance contract, service agreement, or any other contract or **EMA** that the **Customer** enter into with any third party does not bind **Vendor** regarding any **Covered Equipment**, unless **Vendor** consent to the **EMA** in writing.

c. All warranties, if any, for services and parts provided by service providers are hereby assigned to the **Customer**.

19. Purchase of Goods and Services

Notwithstanding any other provision of this **Equipment Maintenance Agreement**, **Vendor** will purchase, as directed by and for the benefit of **Customer**, and not on **Vendor's** own behalf, all goods and services to be provided by outside vendors under this **Equipment Maintenance Agreement**, that otherwise may be subject to sales or other tax if purchased by **Vendor**. The title and benefit of all such goods and services will pass directly from such vendors to **Customer**. However, **Vendor** is not authorized to purchase any replacement equipment for **Customer** that is subject to statutory procurement standards or methods.

20. Reserved

21. Assignment

All Assignments shall be in accordance with Appendix A, Section 3. D. of DIR Contract No. DIR-TSO-3478.

22. Cancellation

All Termination and Cancellation shall be in accordance with Appendix A, Section 10. B of DIR Contract No. DIR-TSO-3478.

23. Disputes

All disputes shall be handled in accordance with Appendix A, Section 10. A. of DIR Contract No. DIR-TSO-3478.

24. Limitation of Liability and Warranties

a. Liability Limitation shall be in accordance with Appendix A, Section 9.K of DIR Contract No. DIR-TSO-3478

b. Warranty - **Vendor** warrant to the **Customer** that the **Services** provided under this **EMA** shall be performed in a professional manner by qualified personnel. If the **Services** have not been so performed and **Vendor** receive from the **Customer** within thirty (30) days of the occurrence a written report detailing the basis of the non-conformance and, **Vendor** shall re-perform those **Services**.

EXCEPT AS PROVIDED IN THIS PARAGRAPH 24, VENDOR MAKE NO OTHER WARRANTY, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ALL SUCH WARRANTIES ARE SPECIFICALLY DISCLAIMED.

25. Reserved

26. Payments

All payments and invoicing shall be in accordance with Appendix A, Section 7, of DIR Contract No. DIR-TSO-3478.

27. Reserved

28. Renewals

All renewals of this **EMA** shall be at the **Customer's** sole discretion and in accordance with the terms of DIR-TSO-3478.

29. Entire Agreement/Severability

DIR Contract No. DIR-TSO-3478 and this **EMA** contain the entire understanding of the Parties with respect to the subject matter hereof and supersedes all other prior agreements. No alteration, waiver, or modification of this **EMA** will be valid unless made in writing and signed by an authorized representative of each Party.

If any provision of this **EMA** shall be rendered illegal or unenforceable by the laws of any state, such provision shall be considered void in such state, but this shall not affect the validity or enforceability of any other provision of this **EMA** or the enforceability of such provision in any other jurisdiction.

E. EXCLUDED CAUSES OF LOSS

Vendor will not reimburse the **Customer** for those **Corrective Maintenance Charges** caused directly or indirectly by any of the following regardless of any other cause or event that contributes concurrently or in any sequence to the **Loss**:

1. Reserved;
2. Reserved;
3. Reserved;
4. Obsolescence of **Covered Equipment** including equipment that can no longer be returned to Effective Operation because of technology changes or the unavailability of parts or manufacturers support;
5. Reserved;
6. Radioactive Contamination, meaning: Ionizing radiation from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof; Any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
7. Vandalism, defacement, malicious mischief, abuse, misuse, or theft;

- 8. Willful, fraudulent or dishonest act or omission by the **Customer**;
- 9. Ordinances, regulations, laws, court actions, or accreditation testing;
- 10. Software or software virus; or
- 11. **Customer's** Contractor, or In-House Maintenance or Operator error, faulty workmanship, improper installation, improper maintenance, negligence or fraud.

F. EXCLUDED COSTS

Unless the coverages defined below are specifically purchased by the **Customer**, which will be identified on the **Customer's** Purchase Order or **Schedule of Covered Equipment**, **Vendor** will not pay any cost associated with:

- 1. Emergency service fees or special service assessments beyond normal labor and travel expenses;
- 2. Repair or replacement of operating supplies, consumables, disposables, expendables, accessory items or **Preventative Maintenance Charges**;
- 3. Reserved;
- 4. Improvements, updates, upgrades, cosmetic restorations, preferential equipment adjustments, retrofits, overhauls, refurbishment, or correcting conditions of obsolescence and all costs of repairing or replacing parts when the discovery of deficiencies occurs as a result or in conjunction with any of these;
- 5. Expenses incurred for functions and services normally performed by the equipment operator;
- 6. Expenses or fees associated with the re-stocking of unused parts;
- 7. Maintaining or repairing **Covered Equipment**, supports, fixtures, or furniture;
- 8. Trace gas analysis, safety checks, certifications, or calibrations;
- 9. Repair or replacement of X-Ray tubes, pick-up (PMT) tubes, image intensifiers, digital detectors, glassware, transducers, probes, MRI magnets, coils, cryogens, crystals, wave guides, shock wave generators, magnetrons, klystrons, thyratrons, fiber optics, laser systems, laser bench, mammo paddles, lights, uninterrupted power supplies (UPS), drums, including copier drums and laser imaging drums, equalization, repair, or replacement of batteries, battery cells or electrodes;
- 10. Loaner charges or rent for replacement CT's, PET Scanners, MRI's, Nuclear Medicine Labs, Cath Labs, or Oncology Systems;
- 11. Repairs and expenses associated with de-installation, movement, or installation of **Covered Equipment**;
- 12. **We** will pay only for the cost to repair the impaired sub-assembly if there is a **Loss to Covered Equipment** that is comprised of many sub-assemblies.

IN WITNESS WHEREOF, this **EMA** has been executed by the duly authorized representatives of the Parties as set forth below.

Customer: _____

Mailing Address: _____

By: _____

Printed Name: _____

Title: _____

Date: _____

PO#: _____

Vendor: The Remi Group, LLC _____

Remit to Address: _____

11325 North Community House Road., Suite 300 _____

Charlotte, NC 28277 _____

By: _____

Printed Name: _____

Title: _____

Date: _____