

SEALED BID : Portable X-Ray Machine Digital Upgrade Kit

BUYER: April Battle, Buyer 22

SOLICITATION NO: CRFQ 0506 EHP00000001

BID OPENING DATE: May 11, 2016

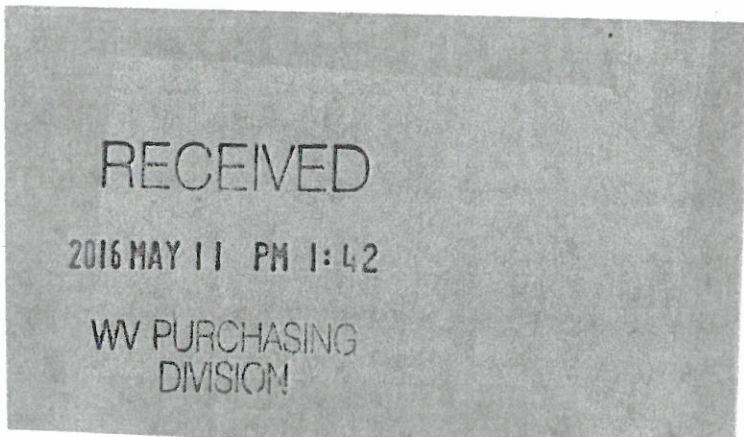
BID OPENING TIME: 1:30 PM EST

FAX NUMBER: (304) 558-3970

BID RECEIVED LATE

BUYER April E. Battle, Buyer 22  
WITNESS [Signature]

DISQUALIFIED



STATE OF WEST VIRGINIA  
Purchasing Division  
**PURCHASING AFFIDAVIT**

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

**"Debt"** means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

**"Employer default"** means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

**"Related party"** means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Mervyn Xiang Sounthue  
Authorized Signature: Michael Robinson Date: 5/11/16

State of Ohio  
County of Lake, to-wit:

Taken, subscribed, and sworn to before me this 11<sup>th</sup> day of May, 2016  
My Commission expires January 18, 2021.



DEBRA R. WARMAN  
NOTARY PUBLIC  
STATE OF OHIO  
Recorded in  
Lake County  
My Comm. Exp. 1/18/2021

NOTARY PUBLIC Debra R. Warman

*Purchasing Affidavit (Revised 08/01/2015)*

**CERTIFICATION AND SIGNATURE PAGE**

By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Merry XRAY SOURCEONE  
(Company)

Michael Richard, Controller  
(Authorized Signature) (Representative Name, Title)

440 701 1292 5/11/16  
(Phone Number) (Fax Number) (Date)

w/ certain exceptions upon award  
of bid

Revised 10/27/2015

**12. ACCEPTANCE:** Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

**13. FUNDING:** This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available.

**14. PAYMENT:** Payment in advance is prohibited under this Contract. Payment may only be made after the delivery and acceptance of goods or services. The Vendor shall submit invoices, in arrears.

**15. TAXES:** The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

**16. CANCELLATION:** The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules §§ 148-1-5.2.b.

**17. TIME:** Time is of the essence with regard to all matters of time and performance in this Contract.

**18. APPLICABLE LAW:** This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code or West Virginia Code of State Rules is void and of no effect.

**19. COMPLIANCE:** Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

**20. PREVAILING WAGE:** Vendor shall be responsible for ensuring compliance with prevailing wage requirements and determining when prevailing wage requirements are applicable.

**21. ARBITRATION:** Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

Revised 10/27/2015

ADDENDUM ACKNOWLEDGEMENT FORM  
SOLICITATION NO.: EHP160000001

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

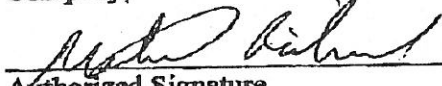
Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:  
(Check the box next to each addendum received)

- Addendum No. 1
- Addendum No. 2
- Addendum No. 3
- Addendum No. 4
- Addendum No. 5
- Addendum No. 6
- Addendum No. 7
- Addendum No. 8
- Addendum No. 9
- Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Messy X-Ray / Source One Healthcare  
Company

  
Authorized Signature

May 11, 2016  
Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Revised 10/27/2015

**REQUEST FOR QUOTATION  
CRFQ 0506 EHP1600000001  
Portable X-ray Machine Digital Upgrade Kit**

---

**SPECIFICATIONS**

- 1. PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Department of Health and Human Resources, Bureau for Public Health, Office of Epidemiology and Prevention Services is soliciting bids to establish a contract for the one time purchase of a Portable X-ray Machine Digital Upgrade Kit.

- **SEE ENCLOSED BID RESPONSE FROM MERRY X-RAY**

**NOTE:** This request is covered in part or in whole by federal funds. All bidders will be required to acknowledge and adhere to "Attachment 1 - Provisions Required for Federally Funded Procurements".

- **MERRY X-RAY ACKNOWLEDGES & ADHERES TO ATTACHMENT 1**

- 2. DEFINITIONS:** The terms listed below shall have the meanings assigned to them below. Additional definitions can be found in section 2 of the General Terms and Conditions.

**2.1 "Contract Item"** means portable x-ray machine digital upgrade kit as more fully described by these specifications.

**2.2 "Pricing Page"** means the pages, contained in wvOASIS or attached as Exhibit A, upon which Vendor should list its proposed price for the Contract Items.

**2.3 "Solicitation"** means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

**3. GENERAL REQUIREMENTS:**

**3.1 Mandatory Contract Item Requirements:** Contract Item must meet or exceed the mandatory requirements listed below.

- **MERRY X-RAY COMPLIES.**

**3.1.1 MinXray MDRK2-TMIL Portable X-ray Machine Digital Upgrade Kit, or equal**

- **MERRY X-RAY COMPLIES.**

**3.1.1.1 Digital Upgrade Kit must be compatible with existing MinXray HF120/60HPPWV PowerPlus x-ray unit.**

**REQUEST FOR QUOTATION  
CRFQ 0506 EHP1600000001  
Portable X-ray Machine Digital Upgrade Kit**

---

- **MERRY X-RAY COMPLIES. PLEASE SEE ATTACHED QUOTATION # 082715-10 Rev 2**
- 3.1.1.2 Digital Upgrade Kit must include Imaging Panel.**
  - **MERRY X-RAY COMPLIES.**
- 3.1.1.3 Digital Upgrade Kit must include Imaging Panel carrying case.**
  - **MERRY X-RAY COMPLIES.**
- 3.1.1.4 Digital Upgrade Kit must include all necessary hardware for installation.**
  - **MERRY X-RAY COMPLIES.**
- 3.1.1.5 Digital Upgrade Kit must include an interfacing laptop with DXR Acquisition Viewing Software with DICOM Send and CD Writer.**
  - **MERRY X-RAY COMPLIES.**
- 3.1.1.6 Digital Upgrade Kit must include onsite set-up and application training.**
  - **MERRY X-RAY COMPLIES.**
- 3.1.1.7 Digital Upgrade Kit must include at least two years of ongoing technical service availability.**
  - **MERRY X-RAY EXCEEDS THIS REQUIREMENT - PROVIDES 3 YEARS OF TECHNICAL SUPPORT.**
- 3.1.1.8 Digital Upgrade Kit must include at least a two year warranty on all parts and components.**
  - **MERRY X-RAY EXCEEDS THIS REQUIREMENT - PROVIDES 3 YEAR WARRANTY FOR ALL CARESTREAM PRODUCTS AND ACCESSORIES AND 2 YEAR WARRANTY FOR MINXRAY KIT.**

#### **4. CONTRACT AWARD:**

**4.1 Contract Award:** The Contract is intended to provide Agencies with a purchase price for the Contract Items. The Contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall total cost as shown on the Pricing Pages.

**4.2 Pricing Page:** Vendor should complete the Pricing Page by completely filling out Exhibit A Pricing page. Vendor should complete the Pricing Page in full as failure to complete the Pricing Page in its entirety may result in Vendor's bid being disqualified.

Vendor should type or electronically enter the information into the Pricing Page to prevent errors in the evaluation.

**REQUEST FOR QUOTATION**  
**CRFQ 0506 EHP1600000001**  
**Portable X-ray Machine Digital Upgrade Kit**

---

**5. PAYMENT:**

**5.1 Payment:** Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia.

- **MERRY XRAY ACKNOWLEDGES**

**6. DELIVERY AND RETURN:**

**6.1 Shipment and Delivery:** Vendor shall ship the Contract Items immediately after being awarded this Contract and receiving a purchase order or notice to proceed. Vendor shall deliver the Contract Items within thirty (30) calendar days after receiving a purchase order. Vendor shall provide onsite set-up and application training within thirty (30) calendar days after Contract items have been delivered. Contract Items must be delivered to Agency at 350 Capitol Street, Room 125, Charleston WV 25301.

**6.2 Late Delivery:** The Agency placing the order under this Contract must be notified in writing if the shipment of the Contract Items will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the Contract, and/or obtaining the Contract Items from a third party.

Any Agency seeking to obtain the Contract Items from a third party under this provision must first obtain approval of the Purchasing Division.

**6.3 Delivery Payment/Risk of Loss:** Vendor shall deliver the Contract Items F.O.B. destination to the Agency's location.

**6.4 Return of Unacceptable Items:** If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. If the original packaging cannot be utilized for the return, Vendor will supply the Agency with appropriate return packaging upon request. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.

**6.5 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not



**REQUEST FOR QUOTATION  
 CRFQ 0506 EHP1600000001  
 Portable X-ray Machine Digital Upgrade Kit**

---

charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

**7 VENDOR DEFAULT:**

**7.1** The following shall be considered a vendor default under this Contract.

- 7.1.1 Failure to provide Contract Items in accordance with the requirements contained herein.
- 7.1.2 Failure to comply with other specifications and requirements contained herein.
- 7.1.3 Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
- 7.1.4 Failure to remedy deficient performance upon request.

**7.2** The following remedies shall be available to Agency upon default.

- 7.2.1 Immediate cancellation of the Contract.
- 7.2.2 Immediate cancellation of one or more release orders issued under this Contract.
- 7.2.3 Any other remedies available in law or equity.

- **MERRY X-RAY ACKNOWLEDGES ALL OF THE ABOVE**

**CRFQ 0506 EHP160000001  
Exhibit A - Pricing Page**

Contract Item #	Item Description	Quantity	Unit Price	Extended Price
3.1.1	MinXray MDRK2-TMIL Portable X-ray Machine Digital Upgrade Kit, or equal. Pricing to include onsite set-up and application training.	1	\$42,408	\$42,408
<b>Grand Total</b>			<b>\$42,408</b>	

A contract shall be awarded to the Vendor that provides the Contract Items meeting the required specifications for the lowest overall grand total bid price as shown on this Pricing Page.

Vendor shall deliver the Contract Items within thirty (30) calendar days after receiving a purchase order. Vendor shall provide onsite set-up and application training within thirty (30) calendar days after Contract Items have been delivered. Contract Items shall be delivered to Agency at Office of Epidemiology, 350 Capitol Street, Room 125, Charleston WV 25301.

Vendor Name: Merry X-Ray

Vendor Address: 444 Viewridge Avenue, Suite A

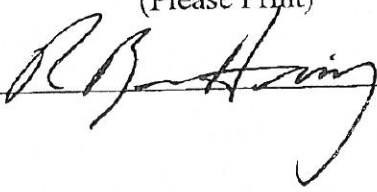
San Diego, CA 92123

Vendor Telephone Number: 443-578-2204

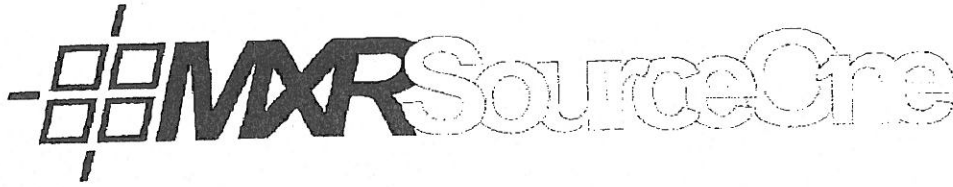
Vendor Fax Number: 440-701-1248

Vendor Email: Bruce.Heinz@merryxray.com

Vendor Authorized Representative: R. Bruce Heinz/Account Executive  
(Please Print)

Vendor Authorized Representative Signature: 

Date: 5/11/16



**MXR / SourceOne Healthcare**  
 8020 Tyler Blvd.  
 Mentor, OH 44060  
 Office: (800) 866-8509  
 Fax: (440) 701-1413

<b>Name</b>	April Battle, Buyer 22	<b>Quote #</b>	082715-10 Rev 2
<b>Customer</b>	West Virginia Department of Administration, Purchasing Division	<b>Date</b>	05/11/16
<b>Address</b>	2019 Washington Street, East Charleston, WV 25305	<b>Customer #</b>	304-558-0067
<b>Solicitation #</b>	CRFQ 0506 EHP1600000001		

Merry X-Ray/SourceOne Healthcare Technologies is pleased to submit the following quotation and offers to sell the products described at the prices below, subject to your acceptance of the terms and conditions.

This quotation is valid for 30 days.

<u>Catalog Number</u>	<u>Description</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extended Price</u>
423444	<p><b>Carestream PRO DR Gadox 14"x17" Wireless Package</b></p> <p>Includes:</p> <ul style="list-style-type: none"> <li>▪ Flat Panel Wireless Detector</li> <li>▪ 14"x17" Cassette-Sized with a-Si TFT PIN Diode</li> <li>▪ Control Box with 30 foot power cord</li> <li>▪ <b>Wireless Connection to DR Panel</b></li> <li>▪ Choice of Automatic Exposure Detection or direct generator interface</li> <li>▪ Workstation with DICOM Acquisition Software and Image Processing</li> <li>▪ DICOM Modality Worklist</li> </ul> <p><u>Technical Specifications:</u>                      Technology: Flat Panel Detector: a-Si TFT with PIN diode                      Scintillator: Gadolinium Oxide                      Pixel Pitch: 140 µm x 140 µm                      Pixels: 2,560 x 3,072 pixels (7.8MP)                      Image Size: 14 x 17 inches (35 x 43 cm)                      A/D Conversion: 14 bits                      Gray Scale: 16,384 grayscales                      X-Ray Voltage Range: 40 – 150 kV                      X-Ray Generator Interface: Line Trigger: DR Trigger Mode, Auto Trigger: AED Mode                      Wireless Standard: IEEE 802.11a/b/g/n (2.4GHz/5GHz) – Dual Bandwidth                      Battery Performance: 150 Images for 4 hours (100sec. cycle time)                      Image Display Preview: 3 seconds                      Dimensions: 18.1 x 15.1 x 0.59 inches (460 x 384 x 15 mm)</p>	1	\$41,750.00	\$41,750.00

<u>Catalog Number</u>	<u>Description</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Extended Price</u>
	Weight: Approx. 2.9kg (GOS) Power: 7.4V 4000mAh Lithium Ion Polymer Battery			
423072NC	<b>Image Suite WebPACS</b> Includes: <ul style="list-style-type: none"> <li>▪ Image Suite PACS Software – 900GB Multi-Modality DICOM Images Software</li> <li>▪ Four (4) Image Suite Local or Remote Viewing Licenses – Concurrent Users</li> </ul>	1		Included
422587UPG	<b>HP ProBook Laptop</b> <ul style="list-style-type: none"> <li>▪ CPU: 4th Gen Intel i5 Core</li> <li>▪ RAM: 8GB DDR3L</li> <li>▪ HDD: 500GB HD</li> <li>▪ Media: DVD+/-RW ROM Drive</li> <li>▪ Network: Integrated Gigabit Ethernet &amp; Wireless 802.11g/n (Dualband)</li> <li>▪ Video: Integrated HD Graphics: Full HD 1 x Display Port, 1 x VGA</li> <li>▪ Screen: 15.6" HD (1366x768) WLED</li> <li>▪ OS: 64-bit Windows 8.1 Professional</li> <li>▪ Chassis: Laptop</li> <li>▪ Warranty: HP 3 Year Parts &amp; Labor On-Site provided by HP</li> </ul>	1		Included
MinXray Upgrade Kit	<b>DR Upgrade Kit</b> for the MinXray machine with the specific Wireless DR Panel to be determined. Would need the exact specifications of the DR Panel and protective enclosure (if used) when ordering.  <b>Upgrade Kit Includes:</b> Laptop tray and sliding mechanism that attaches to the MinXray Cart; DR panel carrying box and all necessary hardware for installation. Written installation instructions are provided as well as telephone support if needed. Customer logo for front of panel box will be provided if requested.	1		Included
	<b>Estimated Freight</b> <i>Actual Freight Charges will be invoiced</i>	1	\$658.00	\$658.00
			<b>Total</b>	<b>\$42,408.00</b>

This price does not include any applicable state or local taxes.

**Please choose one of the following:**

<b>Funding Source:</b>	<input type="checkbox"/> Check/ACH/Wire	<input type="checkbox"/> <b>Credit Card:</b> <i>Please be advised that all credit card payments are subject to a 3% convenience fee</i>
	<input type="checkbox"/> Capital Funds	<input type="checkbox"/> Operating Funds <input type="checkbox"/> Line of Credit
	<input type="checkbox"/> <b>Lease:</b> <i>If order is being leased, a Leasing Company's Purchase Order is required.</i>	<b>Lessor:</b> _____
	<input type="checkbox"/> Bank Loan	<b>Name of Bank:</b> _____

**Payment Terms:** 20% down payment, 70% due upon delivery, 10% due upon availability of first clinical use.

**UCC:** UCC Lien may be filed.

**Freight:** FOB Destination, estimated freight charges are included in price above.

**Estimated Delivery:** 30 days from receipt of order

**Installation:** Included in the price above, M-F 8-5PM.

**DR Panel Warranty:** Three (3) year manufacturer's parts warranty, batteries six (6) months warranty  
One-year labor provided by Merry/SourceOne, M-F 8-5PM.

**MinXray Upgrade Kit Warranty:** 24 Months Warranty which includes replacement of any parts.

**All orders are subject to credit approval.**

**Payment terms on purchase order must reflect those on the quote.**

**Note:** A dedicated phone line or Secure VPN access is mandatory on all products that are capable of remote diagnostics. It is the customers responsibility both physically and financially to install or have installed and maintain such access. The customer understands that such access is secured by means of login ids and passwords and that all Merry/SourceOne personnel with such access have signed a letter of HIPAA compliance ensuring patient confidentiality.

**Site Readiness Requirements**

The following general conditions are required prior to the delivery of equipment. The conditions will insure the best possible environment for the installation, and protection of computers, electronics, x-ray tubes, image intensifiers, cameras, monitors, and mechanical equipments. Please note if these conditions are not met at the time of delivery the Merry X-Ray/SourceOne Project Manager should reschedule the installation start date.

- All necessary approvals, permitting, shielding reviews, required by either state or local governing agencies will be the customer's responsibility.
- Power available at the designated power cabinet, with phase rotation checked (where three phase power is specified).
- Walls to be sanded and primed, floor covering installed, ceiling completed, doors hung with finish applied, and lead barriers installed.
- HVAC complete, functioning properly, and tested two days prior to equipment delivery.

- All vendor base plates, reinforcement plates, and overhead grid installed as designated. It will be the responsibility of the customer's design engineer to furnish recommended methods of anchoring and attachment for all applicable Merry X-Ray/SourceOne equipment.
- All cable trays, conduits, and raceways correctly sized and installed according to the provided installation drawings. All lighting installed and functioning at the time of delivery.
- Room and immediate vicinity to be dust free, and remain so during the duration of the installation.
- Customer supplied processors, laser imagers, cameras, computers, printers (and peripherals), routers, networks and network drops are to be installed and verified operational prior to Merry/SourceOne installing image acquisition and processing hardware and software. Additionally, firewalls, backup power sources, virus software and other security software and hardware are the Customer's responsibility to acquire, install and maintain current. (Unless prior arrangements have been made for Merry/SourceOne to provide this equipment.) Merry/SourceOne will connect to customer installed network drops but assumes no responsibility for proper operation of Customer's network and associated hardware. It is strongly suggested that the Customer retain an IT person to be available for network related issues that may arise with the system over its useful life. Merry/SourceOne is not responsible for computer malfunctions due to Customer or patient's unauthorized use or installation of computer programs for their personal use.
- Merry/SourceOne supplied servers are not allowed to have updates installed without Merry/SourceOne prior consent.
- Telephone service installed and operational as designated.
- It will be the customer's responsibility to provide a clear and unobstructed pathway for delivery of diagnostic devices, to include room entry.
- Means to dispose of packing materials, crating, etc., shall be provided.
- Removal of old equipment must be quoted by service. Merry X-Ray/SourceOne does not dispose of transformers or tubes. Third party disposal service name and number available upon request.

Thank you for giving Merry X-Ray/SourceOne Healthcare Technologies an opportunity to quote these products. Please visit our Website at [www.merryxray.com](http://www.merryxray.com). If you have any questions, please feel free to contact me.

**CUSTOMER ACCEPTANCE AS QUOTED**

**REQUESTED DELIVERY DATE**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Merry X-Ray/SourceOne Healthcare Technologies

Bruce Heinz  
Account Executive  
443-578-2204  
[Bruce.Heinz@merryxray.com](mailto:Bruce.Heinz@merryxray.com)  
Prepared by: Jen Lawrence

Fax your signed quotation and purchase order to 440-701-1413.

Please mail down payment to:

MXR / SourceOne Healthcare  
8020 Tyler Blvd.  
Mentor, OH 44060



## TERMS AND CONDITIONS OF SALE (Equipment & Durables)



FD-041810J

### 1. EXCLUSIVE TERMS OF SALE.

(a) The equipment and all other goods ("Equipment" or "Product(s)") described in the quotation ("Quotation") to which these terms and conditions ("Terms and Conditions") are attached or to which they apply are offered to you ("Customer") by Merry X-Ray Corporation and/or SourceOne Healthcare Technologies, Inc. (individually or collectively, "Seller") exclusively on the terms and conditions set forth on the face of the Quotation and herein.

(b) The Quotation and these Terms and Conditions supersede all prior agreements (including quotations) with respect to the Products.

(c) If Customer orders a Product from the Quotation, whether by purchase order, facsimile, electronic data interchange (EDI) or telephonically, Customer agrees that (i) these Terms and Conditions apply to the sale of the Product, and (ii) any references to Customer's purchase order, acknowledgement or other document are only for administrative purposes, and shall not be binding on Seller unless specifically accepted in writing by an authorized representative of Seller.

(d) There are no written or oral agreements, statements, representations, or understandings which shall in any way relate to, affect, or control the validity or enforcement of the Quotation or these Terms and Conditions, except as expressly provided herein or as provided in an amendment hereto signed by an authorized representative of Seller.

(e) The execution of the Quotation by a representative of Customer shall constitute a binding acceptance of each and every term of the Quotation and these Terms and Conditions. All sales are subject to Seller management review and approval and Seller's approval of Customer's credit.

(f) Unless otherwise stated, prices quoted are valid for thirty (30) days from the date of the Quotation.

### 2. CHANGES, CANCELLATIONS.

(a) Quotations provided by or orders accepted by Seller are not subject to changes or cancellation by Customer except with Seller's written consent and upon payment to Seller of Seller's cancellation charges. Any cancellation made not in accordance with this Paragraph 2 shall be deemed a default by Customer and Seller shall be entitled to those remedies provided herein.

(b) Changes and cancellations shall be subject to a restocking charge of not less than 25%. All returns for other than service shall be subject to a restocking charge of not less than 25%.

(c) Except as may otherwise be provided in the Quotation, Seller's Quotation is subject to change or rescission by Seller at any time prior to receipt of Customer's written acceptance of the Quotation.

### 3. PRICES.

(a) The price for the Products shall be as set forth in the Quotation ("Price"), but the Price does not include: (i) installation of any Products unless specifically included on the face of the Quotation; (ii) transportation of any Products unless specifically included on the face of the Quotation; (iii) any taxes or duties, including without limitation all sales, use and excise taxes, whether local, state and federal taxes imposed on or applicable to the Products, installation and freight ("Taxes"); (iv) any handling, rigging, uncrating, storage, or other charges incidental to shipment, delivery or installation of the Products, or (v) applications training unless specifically included on the face of the Quotation.

(b) Customer shall be responsible for all Taxes, and agrees to pay all such Taxes when due.

### 4. TERMS OF PAYMENT.

(a) Unless modified by the express terms of the Quotation or pursuant to Section 1(b), Customer shall pay Seller on the following schedule: Twenty percent (20%) of the aggregate Price upon Customer's acceptance of this Quotation (or acceptance of Customer's order by Seller, if applicable), seventy percent (70%) of the aggregate Price upon delivery of substantially all of the Products covered by this Quotation or by Customer's order, whichever is applicable, and the balance of ten percent (10%) of the aggregate Price upon the first to occur of (i) Customer's execution of Seller's Warranty/Acceptance form, or (ii) the satisfactory initial clinical use of the Equipment by Customer, its agents or employees. For purposes of this paragraph, "delivery of substantially all of the Equipment" shall mean delivery to the location specified by Customer of eighty percent (80%) of the dollar value of the Equipment.

(b) All payments will be made in U.S. Dollars in immediately available funds. Unless otherwise specified in writing, payments are due at the payment address indicated on Seller's invoice no later than (30) thirty days from the date of invoice. A service charge of 1.5% per month, not to exceed the maximum rate allowed by law, shall be made on any portion of Customer's outstanding balance that is not paid within (30) thirty days after invoice date.

### 5. THIRD PARTY ORGANIZATIONS.

(a) In the event Customer has contracted with a third party 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 Products provided to Customer, Seller agrees, per Customer's written request, to route invoices for payment for Products to such Third Party Organization, and accept payment from them on Customer's behalf. The written request must include company name, address, phone number, contact name, and effective date. Until Seller receives a written notification, Customer agrees to pay for all Products. Notwithstanding the above, Customer agrees that the Products provided by Seller are pursuant to the items and conditions set forth in this Agreement, and Customer guarantees the payment of all monies due or that may become due under this Agreement, in spite of any collateral obligations Customer may have with such Third Party Organization or any payment Customer has made to the Third Party Organization. To the extent that the Products Seller provides are not covered by Customer's arrangement with such Third Party Organization, Customer agrees to promptly pay for such Products on Customer's own account.

(b) Order of Precedence: Seller's Quotation and these Terms and Conditions supersede all prior agreements with respect to the Products, provided, however, if Customer is 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 Products shall be (i) the terms of the GPO Agreement, (ii) the Quotation, and (iii) these Terms and Conditions.

### 6. DELIVERY.

Delivery terms for all purchases are understood to be FOB destination, unless otherwise specified in the accepted Quotation. Except for warranty obligations specifically identified herein, risk of loss passes to Customer upon delivery. Buyer shall have risk of loss in transit only in cases where shipment is made FOB Seller's or manufacturer's shipping point. Title to Equipment (excluding licensed intellectual property) will pass to Buyer upon Seller's receipt of payment in full.

### 7. FREIGHT CLAIMS.

(a) Damages or Shortages. Both Customer and the carrier shall examine the contents of shipments suffering visible damage or shortage, and both the carrier's copy and consignee's copy of the delivery receipt shall be endorsed as to damage or shortage. Customer will report all damages or shortages to Seller promptly (but no later than three (3) days of delivery), and request Seller's inspection of the Equipment in order to substantiate the proper amount of any damage. All damaged Equipment shall be held by Customer for disposition by the carrier and/or Seller. In no event shall any loss, damage, injury or destruction operate in any manner to release Customer from the obligation to make payments required herein.

(b) Filing Claims. If delivery is FOB destination, Seller shall file claims with the carrier within the period required by carrier, and Customer shall promptly provide to Seller copies of the following: (i) the original bill of lading; (ii) the original paid freight bill; (iii) the original invoice; (iv) the carrier's documents pertaining to the particular shipment involved; and, (v) such other documents as Seller or carrier may require. If delivery is FOB Seller's or manufacturer's shipping point, Customer shall be responsible for filing claims with the carrier, and shall contact its Seller representative and carrier for further instructions and administrative details in handling freight claims.

### 8. INSURANCE.

Customer shall at its expense keep the Equipment insured against all risks of loss from every cause whatsoever for not less than the full price stated in this Quotation or its replacement value, whichever is greater, until all payments for the Equipment (including the aggregate Price) have been received by Seller. Customer shall maintain liability insurance for bodily injury, property damage and personal injury in an amount not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. All insurance shall be in a form and with a company reasonably satisfactory to Seller. Customer shall provide a Certificate of Insurance that names Seller as an additional insured, and provide an Evidence of Property Coverage that indicates Seller is named as Loss Payee on the Equipment. The proceeds of such insurance, payable as a result of the Product being lost, stolen, taken, destroyed or damaged, shall be applied, at the option of Seller, (1) toward the replacement, restoration or repair of the Product, or (2) toward payment of the Price and/or any and all other obligations of Customer under the Quotation or these Terms and Conditions.

### 9. SITE PREPARATION AND INSTALLATION.

(a) Customer shall be responsible for preparing its site for installation of the Equipment in accordance with the manufacturer's specifications, with applicable laws, rules, regulations and ordinances (collectively "laws"), and, if applicable, as specified in the Quotation. Customer shall provide an installation site that is safe, clean and suitable for the Equipment.

(b) Customer will provide to Seller (including its employees, agents and contractors) full, free, and immediate access to the installation site and a suitable, secure space for storage of the Equipment before and during installation work.

(c) Customer is responsible for moving the Equipment from its point of delivery or storage site to the installation site (the installation site shall hereafter sometimes be referred to as "Premises"). Any scaffolding, platforms, lifting equipment, rigging, radiation protection requirements, building alterations, fire safety requirements, climate controls, power supplies and requirements, line conditioners, step-up transformers, electrical circuits, warning lights, safety switches, power outlets, conduits, wiring (including interconnecting wiring), equipment control and/or power cable lengths in excess of manufacturers' standard supplied lengths, architectural and seismic preparations, structural support, lighting, utilities, plumbing, carpentry, or other modifications or work required by any applicable laws (including health and safety laws), by the manufacturer, or by Seller in connection with installation of the Equipment, will be provided by Customer at its own expense. All such installations shall be completed and available for use at the time Equipment is delivered.

(d) Customer shall be responsible for obtaining all required professional reviews, drawings, certifications, government consents and approvals (including building permits, health and public safety clearances and zoning) and all third party consents and approvals required for the purchase, installation, and use of the Equipment, as well as fulfilling any and all reporting requirements for any regulatory activity performed by persons other than Seller's authorized personnel. Seller will only report activity performed by its authorized personnel.

(e) If applicable, Customer will, at its expense, provide DICOM 3.0 Storage Service Class User functionality on all modality equipment from which the Equipment is to receive exam images in DICOM 3 format. Customer will, at its expense, provide DICOM 3.0 Modality Worklist Service Class User functionality on all modality equipment to which Customer desires Modality Worklist Services to be provided by the Equipment. Customer will, at its expense, provide HL7 message streams containing ADT, Orders, and Results information.

(f) The Equipment will be installed during normal working hours. Installation shall be in conformity with manufacturer's specifications, and installation services will be considered complete and accepted upon completion of Seller's final calibration and checkout per Seller's procedures guidelines for the intended use of the Equipment, and verification that the Equipment substantially complies with the manufacturer's published performance specifications.

(g) Acceptance of the Equipment will occur upon the first to occur of: (i) Customer's execution of Seller's Warranty/Acceptance form, or (ii) the satisfactory initial clinical use of the Equipment by Customer, its agents or employees.

► Customer's Initials \_\_\_\_\_ ◀

Service is our only product.



(h) The installation price quoted includes only those services specifically described in the Quotation or herein, and does not include any additional time required or delay(s) experienced in installing the Equipment resulting from the condition or location of the Premises, the condition or location of power supplies, outlets, switches, conduits, wiring, or circuits, delay(s) in completing site preparation, the failure or non-occurrence of any obligation of Customer, or any other cause(s) which are not within the scope of Seller's installation responsibilities. Any labor and/or material costs in excess of standard installation services and any overtime incurred by Seller employees in respect to such additional time required or delay(s) experienced (as well as any extra labor or overtime work performed at the request of Customer) will be invoiced to Customer and paid at then-prevailing Seller demand service rates.

(i) If trade union obligations of Customer preclude Seller from performing installation and connection of the Equipment, Customer shall make all required arrangements with trade union(s) to enable Seller to complete its installation and connection of the Equipment. Seller's obligations under such circumstances will be limited to providing engineering supervision of installation and connection of Equipment to existing wiring. Any additional cost related to such labor issues will be the responsibility of Customer.

(j) SELLER OFFERS NO WARRANTY AND ASSUMES NO LIABILITY FOR THE FITNESS OR ADEQUACY OF THE PREMISES (OR THE UTILITIES AVAILABLE AT THE PREMISES) ON OR INTO WHICH THE EQUIPMENT IS TO BE INSTALLED, USED, OR STORED. CUSTOMER AGREES TO INDEMNIFY, DEFEND, AND HOLD SELLER HARMLESS AGAINST ANY LOSS, DAMAGE, OR CLAIM ARISING OUT OF THE CONDITION OF SUCH PREMISES (OR UTILITIES).

10. CREDIT TERMS, SECURITY AGREEMENT, AND CUSTOMER DEFAULT.

(a) Seller may establish or change the credit and payment terms extended to Customer when in Seller's sole opinion Customer's financial condition or previous payment record warrants such action. Customer's signature on this Quotation constitutes an agreement to honor the credit and payment terms so established or changed. Customer will provide promptly upon request such financial information as may be requested by Seller to complete its credit review of Customer.

(b) The Equipment shall be and remain personal or moveable property notwithstanding its mode of attachment to realty or other property.

(c) In signing this Quotation, Customer grants to Seller a purchase money security interest in all of the Equipment identified herein until Seller has received the aggregate Price for all the Equipment. Customer agrees to secure, to sign, and to deliver such promissory notes, security agreements, financing statements, landlord and mortgage waivers, and other documents as may be required by Seller, or by any of Seller's assignees, to evidence or to perfect the security interest in the Equipment (if the Equipment is to be delivered in Louisiana, Customer hereby grants Seller, and to Seller assignees, a vendor's lien against the Equipment and agrees to sign such documents as may be required to perfect such lien). Where permitted by applicable law, Customer's signature on this Quotation constitutes authorization for the employees or agents of Seller, or of Seller's assignees, to execute and file financing statements (and any amendments thereto) and other documents on behalf of Customer in order to perfect the security interest in the Equipment, as long as any balance is due hereunder.

(d) Default. If Customer does not pay any amount when due or does not meet any of its other obligations hereunder, then (in addition to any other remedies available at law or in equity) Seller may accelerate any balance due and require immediate payment thereof, may cease any and all work under this or any other contract with Customer (including without limitation providing service for the Equipment), may enter Customer's premises peacefully and remove any Equipment purchased hereunder inoperable, may repossess the Equipment, and may charge Customer for all costs incurred by Seller in repossessing, removing, transporting, reconditioning, storing, and reselling the Equipment. All costs of repossessing, removing, transporting, reconditioning, storing, and reselling the Equipment, and any other associated costs, will be added to the unpaid balance owed by Customer and proceeds from the sale of the Equipment will be first applied against such costs. Customer will remain liable for any deficiency that remains after such resale, and Seller will return to Customer any net proceeds in excess of Customer's unpaid balance.

(e) In any action initiated to enforce the terms of this Agreement following Customer's default, Seller shall recover as part of its damages, all costs, expenses, and attorney fees incurred in connection with such action.

(f) Until Customer has paid in full for the Equipment, Customer will keep the Equipment free and clear of all claims, liens, security interests or other encumbrances. Customer will not in any other manner attempt to dispose of the Equipment or, without Seller's written consent, remove the Equipment from the installation site until Customer has paid in full for the Equipment.

11. WARRANTY, DISCLAIMERS AND LIMITATIONS ON LIABILITY.

(a) Seller warrants that it shall have good and marketable title to the Equipment and that the same shall be transferred to Customer free and clear of any and all mortgages, liens, and encumbrances (except the purchase money security interest retained by Seller as provided in Paragraph 10(c) above).

(b) Seller provides specific warranties with respect to Equipment it manufactures. Other Equipment is covered by warranty terms extended by the manufacturers or suppliers of such Equipment, copies of which are either attached hereto or are available from Seller upon written request. Customer's sole source of warranty for Equipment manufactured by persons other than Seller or its affiliates, if any, is the original manufacturer's warranty.

(c) No warranty extended by Seller shall apply to any Equipment that has been modified, altered, or repaired by persons other than those authorized or approved by Seller, or to Equipment sold as "used." Seller's obligation under this warranty is limited to labor hour costs only, and does not cover costs of parts or travel and lodging costs.

(d) Seller warrants that services provided hereunder shall be free from defects in workmanship under normal use and service for the warranty period specified on the Quotation. Seller will provide warranty services on third party hardware and software.

(e) Seller's warranty does not apply to consumable materials, unless specifically stated in writing, nor to products or parts thereof manufactured by Customer. Preventative or routine maintenance is specifically excluded for the Equipment sold under this Agreement, and is not included under the Equipment warranty.

(f) Warranty services will be provided during normal business hours. Warranty services provided at night, on weekends and holidays will be charged at Seller's then-current hourly rate for such times, if warranty services are performed during these times at the request of Customer.

(g) THE WARRANTIES REFERENCED IN THIS SECTION ARE GIVEN EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, ON THE PART OF SELLER. SELLER NEITHER GIVES NOR ASSUMES (NOR HAS SELLER AUTHORIZED ANY PERSON TO GIVE OR ASSUME FOR IT) ANY OTHER WARRANTY OR LIABILITY IN CONNECTION WITH THE EQUIPMENT. IN THE EVENT OF ANY BREACH OF THE MANUFACTURER'S OR SUPPLIER'S WARRANTY, SELLER'S SOLE OBLIGATION SHALL BE TO PROVIDE THE WARRANTY SERVICE DESCRIBED ABOVE.

(h) SELLER SHALL HAVE NO LIABILITY FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES BY REASON OF ANY ACT OR OMISSION OR ARISING OUT OF OR IN CONNECTION WITH THE EQUIPMENT OR ITS (OR THEIR) SALE, DELIVERY, INSTALLATION, MAINTENANCE, OPERATION, PERFORMANCE, OR USE. IF CUSTOMER TRANSFERS TITLE TO OR LEASE THE PRODUCTS SOLD UNDER THIS AGREEMENT TO ANY THIRD PARTY, CUSTOMER AGREES TO OBTAIN FROM SUCH THIRD PARTY A COMMITMENT AFFORDING SELLER THE PROTECTIONS ENUMERATED HEREIN.

(i) IN NO EVENT SHALL SELLER'S LIABILITY EXCEED THE PURCHASE PRICE OF THE EQUIPMENT WITH RESPECT TO WHICH A CLAIM IS MADE (OR THE INSTALLATION PRICE IF A CLAIM IS MADE WITH RESPECT TO INSTALLATION WORK), REGARDLESS OF WHETHER SUCH CLAIM IS BROUGHT AT LAW OR IN EQUITY AND REGARDLESS OF WHETHER SUCH CLAIM IS BROUGHT UNDER CONTRACT, BREACH OF WARRANTY, TORT OR ANY OTHER THEORY OF LAW OR EQUITY.

12. EQUIPMENT OPERATION.

(a) Customer agrees that all Equipment purchased hereunder shall be operated exclusively by duly qualified technicians and/or licensed physicians in a safe and reasonable manner in accordance with manufacturer's instructions and for the purpose for which the Equipment was intended, and in compliance with the standards of the National Bureau of Standards and the Department of Health, Education and Welfare, as revised from time to time.

(b) Customer agrees to indemnify and hold Seller and Seller's officers, directors, employees, agents and subcontractors harmless from and against any causes of action, judgments and costs, including reasonable attorney's fees arising out of or in connection with the selection, use, operation and/or modification of the Equipment by Customer.

13. FORCE MAJEURE/SHORTAGE.

(a) Seller shall not be liable for any delay or default caused by events beyond its control, including but not limited to any acts of God, acts of third parties, acts of Customer (or any of the Customer's employees, agents or representatives), acts of civil or military authorities, fire, floods, and other similar or dissimilar natural causes, riots, wars, sabotage, vandalism, embargoes, labor disputes, strikes, lockouts, unavailability of water, transportation, labor, materials, supplies, fuel, or power, delays in receiving any permits or licenses, delays caused by any laws, regulations, proclamations, ordinances, or any government action or inaction, delays caused by contractors and subcontractors, and any other cause or condition beyond Seller's control. The time for performance of Seller's obligations hereunder shall be extended for a commercially reasonable period of time in the event of any delay or default for such cause(s).

(b) Seller reserves the right to allocate its available resources (including labor, service, equipment) among its customers, on such basis as Seller may deem fair and practical, without liability for any resulting failure or performance.

14. MISCELLANEOUS.

(a) Seller (or Seller's suppliers or manufacturers of the Equipment) may change the construction, design, or configuration of the Equipment without notice to Customer as long as the general function of the Equipment is not thereby altered.

(b) The Quotation and these Terms and Conditions may not be modified or amended except by a writing signed by an authorized representative of Seller.

(c) These Terms and Conditions are to be interpreted and enforced under the laws of the State of Ohio without regard to principles of choice of law.

(d) The invalidity or unenforceability of any provision hereof will not affect any other provision, and all Terms and Conditions will be construed in all respects as if any such invalid or unenforceable provision(s) were omitted.

(e) Course of dealing, prior dealings, industry standards and customary practice shall not serve as references in interpreting this Agreement.

(f) The failure of Seller at any time to require the performance of any obligation will not affect the right to require such performance at any time thereafter. The waiver of any remedy with respect to any default will not be taken as a waiver of any remedy for any succeeding default. Unless otherwise provided herein, no limitation or restriction on the remedies available to either party is intended by these Terms and Conditions. Clerical errors are subject to correction.

(g) Customer's obligations hereunder are independent of any other obligations Customer may have under any other quotation, order, contract or account with Seller. Customer will not exercise any right of offset with respect to any right, obligation, or agreement between Customer and Seller.

(h) Any drawings, data, designs, workflow processes, implementation strategies, or other technical information supplied by Seller to Customer in connection with the sale of the Products are confidential ("Confidential Information") and will be held in strict confidence by Customer. Confidential Information will not be reproduced or disclosed to others without Seller's prior written consent.

(i) Equipment delivered by Seller to Customer may contain software supplied by third party software providers. Customer agrees to abide by any Software License Agreement provided by said third parties.

(j) The Quotation and these Terms and Conditions may not be assigned by Customer, in whole or in part, without the prior written consent of Seller.

(k) In the event of conflict between these Terms and Conditions and the Quotation, the terms of the Quotation will control.

▶ Customer's Initials ◀