

SERVICE MAINTENANCE AGREEMENT

15 JUN 2020

This Agreement entered into this _____ day of _____ 2020 at Pasay City, by and between:

SECURITIES AND EXCHANGE COMMISSION, a government agency created by virtue of Commonwealth Act No. 83 as amended, with office address at Secretariat Building, Philippine International Convention Center, Pasay City represented herein by **VICENTE GRACIANO FELIZMENIO, JR.**, OIC-Director of the Information and Communications Technology Department, duly authorized to sign this Agreement under SEC Resolution No. 270, series of 2019 copy of which is hereto attached and, marked as Annex "A", hereinafter referred to as the "**SEC**";

-AND-

MICROIMAGING SALES AND SERVICES, INC., a domestic corporation duly organized and existing under the laws of the Philippines, with principal office address at 7490 M. Santillan Street, Pio Del Pilar, Makati City, herein represented by its Director for Operations, **MARTIN JEREMY U. CASTRO** duly authorized to sign this contract as indicated in the secretary's certificate dated December 10, 2019 copy of which is hereto attached as annex "B" hereinafter referred to as "**MSSI**";

WHEREAS, the SEC Bids and Awards Committee (BAC) conducted a Re-bidding for the project, **Maintenance of Microfilm Scanner Machines, Microfilm Printer Machines for a Period of One (1) Year** with an Approved Budget for the Contract of **Php 2,000,000.00**;

WHEREAS, on November 25, 2019, the Invitation to Bid for the said project was posted in the PhilGEPS and SEC Websites, as well as in all SEC Bulletin Boards;

WHEREAS, on December 4, 2019, only Microimaging Sales and Services Incorporated (MSSI) attended the scheduled Pre-Bid Conference.

WHEREAS, on December 16, 2019, the deadline for submission and opening of Bids, only MSSI submitted their bid documents;

WHEREAS, on the same date, after preliminary examination of Bids, the BAC, using a non-discretionary pass/fail criterion, declared the bid of MSSI compliant with the bidding requirements as well as its financial offer in the amount of One Million Nine Hundred Eighty thousand Pesos (Php 1,980,000.00), VAT inclusive, and was declared as the **Single Calculated Bid**;

WHEREAS, on January 8, 2019, MSSI, submitted its post-qualification documents;

WHEREAS, in the BAC Resolution No. 2020-005 dated January 22, 2020, the BAC resolved to recommend to the SEC Chairperson as the Head of Procuring Entity (HOPE) the award of the contract for the **Maintenance of Microfilm Scanner Machines, Microfilm Printer Machines(Re-bidding) for a Period of One (1) Year** to **MSSI**;

WHEREAS, on January 28, 2020 the HOPE approved the recommendation of the BAC and accordingly, issued the Notice of Award;

WHEREAS, on February 7, 2020, MSSI submitted its Performance Security in the form of **Performance Bond** issued by Intrastrata Assurance, Corporation in the amount of Five Hundred Ninety-Four Thousand Pesos (Php594,000.00);

NOW, THEREFORE, for and in consideration of the foregoing the parties hereto agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES

A. IMAGE PRO - REGULAR PM SERVICE PLUS EMERGENCY SERVICES PLUS PARTS: MSSSI shall perform the Preventive Maintenance calls **four (4) times** a year. Should the equipment require services outside the scheduled PM calls, MSSSI shall provide the emergency call free of service charge. Parts damaged resulting from normal use will be replaced free of charge except lamps which are subject to 50% discount.

B. MSSSI shall perform the Preventive Maintenance calls/services at the address stated herein during its normal working hours for the purpose of cleaning, testing, and placing the equipment in good operating condition consistent with MSSSI standards and specifications. Preventive Maintenance and/or emergency calls performed outside of MSSSI's normal working hours (8:00 am to 5:00 pm, Mondays thru Fridays) will be charged according to MSSSI's regular per call rate and terms.

2. TERM

A. The term of this Agreement shall commence on March 6, 2020 to March 5, 2021;

B. This Agreement shall remain in force for a period of one (1) year and/or until terminated by either party upon thirty (30) days prior written notice to the other. Notwithstanding the foregoing, either party may terminate this Agreement at any time for failure of the other party to comply with any of its terms and conditions.

C. The SEC will be charged separately for both parts and labor if additional calls are required due to damages caused by misuse (mishandling and improper operations by the user.), abuse (operating the machine beyond its normal operating capacity), accident, negligence, pest infestation, unauthorized equipment relocation, modifications or alterations, installation of attachments or accessories, or the repair and adjustment by any party other than MSSSI's authorized service representative.

D. The SEC shall notify MSSSI in writing should the equipment be relocated to a different address. In the absence of such prior notice, MSSSI reserves the right to charge the SEC a reasonable amount for the costs incurred in performing the PM services in a place other than the SEC's current offices.

3. SERVICE FEE

A. For services to be rendered by MSSSI to the SEC under the terms hereof, the SEC shall pay the SERVICE FEE of PESOS: ONE MILLION NINE HUNDRED EIGHTY THOUSAND PESOS **(P1,980,000.00) per annum, inclusive of VAT** or an equivalent of FOUR HUNDRED NINETY-FIVE THOUSAND PESOS (P495,000.00) quarterly after service billing scheme.

B. The Service Fee shall be paid to MSSSI within 30 days from the date of invoice.

C. MSSSI shall shoulder all taxes and charges for services rendered, including Value-Added tax (VAT).

4. EXCLUSION

A. This Agreement does not cover and/or include:

1) General cleaning and maintenance of the equipment on a day to day basis, removal of film jams, loading of sensitized materials and the mixing of chemicals and any work outlined in the Equipment Instruction Handbook or the user's Manual which is responsibility of the customer;

2) Services related to overhauling, equipment relocations, equipment pull-out/delivery, building renovations, environment controls, extensive repair adjustment or testing, plumbing or leaks;

electrical work, painting which cannot be completed at the customer's premises: and;

3) Consumable items such as films, paper, chemicals, toners, photodrums and other similar supplies.

4) MSSSI is not liable to any damages caused by water or chemical leaks, equipment movements, renovations and those caused beyond the control of MSSSI such as fire, lightning, typhoon, earthquake, war, riot, power fluctuations or failures.

B. Service calls and parts falling under Section 4A hereof will be charged according to MSSSI's regular per call rates and terms.

5. MISCELLANEOUS

A. The SEC shall allow any duly authorized MSSSI representative/s free and unhampered access to the equipment to enable them to render the maintenance service hereunder, subject to the former's right to refuse access for security and other valid reasons.

B. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter hereof. Any and all amendments and/or supplements hereto shall be in writing and signed by authorized representatives of the parties. This Agreement and all amendments and/or supplements hereto shall be governed by and/or interpreted according to the laws of the Republic of the Philippines.


C. The failure or delay of either party hereto to enforce or exercise any right or power under this Agreement shall not operate as a waiver thereof. Any single or partial exercise of such right or power shall not preclude any further exercise thereof unless such further exercise has been waived in writing by the party concerned. No waiver of any breach of this Agreement shall be deemed to be a waiver of any subsequent breach.

D. There shall be no employer-employee relationship between the personnel of MSSSI, on the one hand, and the SEC on the other.

E. MSSSI shall have entire charge, control and supervision over the work and services herein agreed upon. It is hereby agreed and understood that MSSSI shall have the exclusive authority to select, engage and discharge its Representative or otherwise direct and control their services hereunder. The determination of the wages, salaries or compensation of the employees of MSSSI shall be within its full control. MSSSI hereby warrants that it carries on an independent business and has substantial capital investment in the form of tools, equipment and machineries, work premises, and other materials, which are necessary in the conduct of its business. MSSSI agrees to comply with all the requirements of local laws, ordinances, rules and regulations. MSSSI, in the performance of its obligations hereunder, is subject to control and discretion of the SEC only insofar as the objectives to be accomplished under this agreement is concerned.

F. CONFIDENTIALITY. During the effectivity of this Agreement and after its expiration, MSSSI shall not at any time or in any manner, either directly or indirectly, divulge, disclose, or communicate to any person, corporation, or other entity in any manner whatsoever, any information concerning matters affecting or relating to the business of the SEC, including, without limitation, any of its clients, its projects, or any other information concerning the SEC's business, financial or other data, without regard to whether all of the above-stated matters are or will be deemed by the SEC to be important, material, and confidential. The parties herein specifically and expressly stipulate that as between them, the above-mentioned matters and information are important, material and confidential, and gravely affect the effective and successful conduct of the business of the SEC and its goodwill, and that any breach of the terms of this section shall be a material breach of this Agreement.

G. PERFORMANCE SECURITY. Simultaneously to the signing of this Agreement. MSSSI shall submit to the SEC a surety bond issued by a surety company of good standing and not blacklisted by the Insurance Commission in an amount equivalent to Thirty Percent (30%) of the contract price to guarantee the faithful compliance and performance of this Agreement and to answer any damages that may be suffered by the SEC and third parties due to the negligence of MSSSI. In the event of the rescission of this Agreement or breach thereof, the bond, at the option of the SEC. Otherwise, the bond shall remain in force until the expiration of this Agreement.



H. WARRANTY- A warranty for a period of one (1) year from acceptance by the SEC of the service shall be required from MSSSI, the obligation of which shall be covered by either retention money in an amount equivalent to at least ten percent (10%) of every progress payment, or a special bank guarantee equivalent to at least ten percent (10%) of the total contract price. The said amounts shall only be released after the lapse of the warranty period or, in the case of Expendable Supplies, after consumption thereof: Provided, however, that the supplies delivered are free from patent and latent defects and all the conditions imposed under the contract have been fully met.

I. VENUE OF ACTIONS - Any litigations arising from, or relating or incidental to, this Contract shall be filed with the competent court of Mandaluyong City, at the option of SEC, to the exclusion of all other courts.

J. NON-ASSIGNMENT OF CONTRACT, RIGHTS, AND OBLIGATIONS -MSSI shall not assign or transfer this Contract, whether in whole or in part, to any party, nor assign, convey or cede its rights and obligations hereunder, without the prior written approval and consent of SEC.


The parties have executed this Agreement through their duly authorized representatives on 15 JUN 2020 at MANAYUNGCITY.

SECURITIES AND EXCHANGE
COMMISSION
TIN 000-190-308-000

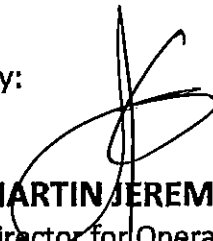
MICROIMAGING SALES AND
SERVICES, INC.
TIN 005-339-584-000

Signing for, and on Behalf of the Chairperson;

By:


VICENTE GRACIANO P. FELIZMENIO JR.
ICTD-OIC Director
TIN:116-242-160

By:

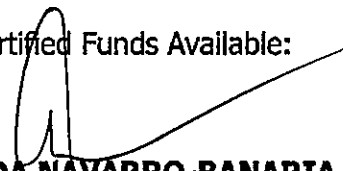

MARTIN JEREMY U. CASTRO
Director for Operations
TIN: 236-060-400

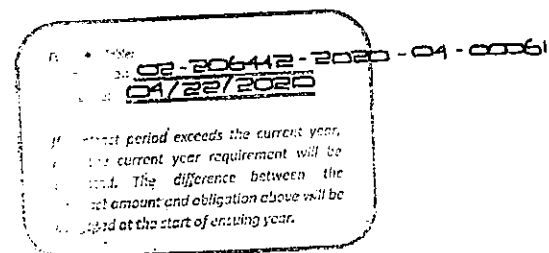
SIGNED IN THE PRESENCE OF


NOEL B. ARA
ICTD-End User Representative


CHRISTOPHER M. PECAJAS
Service Assurance Manager-MSSI

Certified Funds Available:


ADELAIDA NAVARRO-BANARIA
Director-Financial Management Department





ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
PASAY CITY) S.S.

AUG 03 2020

BEFORE ME, in the City of Pasay on this _____ day of _____ 2020, personally came and appeared the following; and presenting competent evidence of identity, as follows:

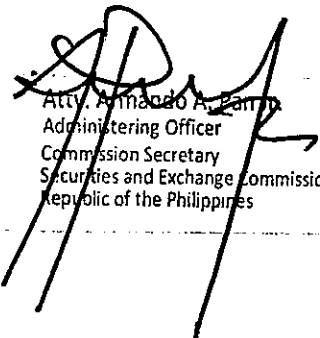
NAME	ID TYPE	NUMBER	DATE ISSUED	PLACE ISSUED
VICENTE GRACIANO P. FELIZMENIO JR.	TIN	116-242-160		
NOEL B. ARA	TIN	157-002-136		

all known to me and to me known to be the same persons who executed this Agreement consisting of Six (6) including this page, where the acknowledgement is written, and they acknowledged to me that the same is their free and voluntary act and deed as well as the entity/corporation they represent.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and at the place first hereinabove written.

NOTARY PUBLIC

Doc. No. _____
Page No. _____
Book No. _____
Series of 2020 _____


Atty. Armando A. Pantoja
Administering Officer
Commission Secretary
Securities and Exchange Commission
Republic of the Philippines

ACKNOWLEDGEMENT

REPUBLIC OF THE PHILIPPINES)
PASAY CITY) S. S.

MAKATI CITY

15 JUN 2020

BEFORE ME, in the City of PASAY on this ____ day of _____ 2020, personally came and appeared the following; and presenting competent evidence of identity, as follows:

NAME	ID TYPE	NUMBER	DATE ISSUED	PLACE ISSUED
MARTIN JEREMY U. CASTRO	TIN	236-060-400		
CHRISTOPHER M. PECAJAS	TIN	191-327-403		

all known to me and to me known to be the same persons who executed this Agreement consisting of Six (6) including this page, where the acknowledgement is written, and they acknowledged to me that the same is their free and voluntary act and deed as well as the entity/corporation they represent.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and at the place first hereinabove written.

[Signature]
 DWIGHT M. GALARRITA
 APPOINTMENT NO. 254-13
 NOTARY PUBLIC
 NOTARY PUBLIC FOR MAKATI CITY
 OTR NO. 10095307/01-07-2018/MKT.
 IBP NO. 02.06 /01-07-2018 QUEZON
 MELE IY NO. 0421190/07-09-20
 Roll No. 28947

Doc. No. _____
 Page No. _____
 Book No. _____
 Series of 2020 _____

[Signature]

[Signature]