



Stinger Medical Maintenance Agreement

THIS MAINTENANCE AGREEMENT, made this ____ day of _____ 20____, by and between Stinger Industries, LLC, a Tennessee limited liability company, DBA Stinger Medical, (hereinafter the "Company" and _____, a _____ corporation (hereinafter the "Customer").

Background

Customer has purchased the Equipment, as defined below, from Company and now desires to have Company maintain such Equipment. The Company desires to provide such maintenance services on the terms and conditions set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements hereinafter set forth, the parties intending to be legally bound, hereby agree as follows:

Agreement

Section 1. Purchase of Services. Customer agrees to purchase and Company agrees to furnish maintenance services at the Customer's place of business located at _____ (the "Site") on the equipment described in Schedule 1 attached hereto (the "Equipment"), subject to the terms and conditions of this Agreement.

Section 2. Company Obligations.

a. In consideration of the fee(s) set forth in Schedule 2 attached hereto, once every _____, at a time mutually agreed to by the parties, Company shall provide maintenance services to Customer at the Site. Company shall notify Customer of the expected date of the service visit at least seventy-two (72) hours prior to the visit. Maintenance required by this Subsection shall include, without limitation, the following:

i. A Stinger CARE ("Customers Always Receive Excellence") team representative shall perform routine service on the Equipment, such as replacing and tightening fasteners, adjusting pole, adjusting drawer slides, realigning casters and any other necessary items in order to maintain the original integrity of the mobile workstation.

ii. Inspect power system to confirm it is performing to specifications. Inspect cord reel or power cable for proper operations. Check output voltage. Check airflow and replace fan filter.

- b. The Company shall provide to Customer at no additional cost,
 - i. telephone consultation through Company's principal offices in Murfreesboro, Tennessee; and
 - ii. updates to product information previously provided to Customer.
 - iii. a written report on the condition of workstations and the services performed.
- c. Conditions.
 - i. If products are found to need repairs after the expiration of the applicable warranty period, such repairs will be conducted only pursuant to a separate quote. If Customer accepts Company's quote for the repairs, the products will be repaired onsite if possible and at a time mutually agreed upon by the parties.
 - ii. The Customer shall cooperate in good faith with any maintenance and/or repairs including, without limitation, providing workspace for maintenance and transporting products to and from workspace.
 - iii. Products under warranty found to be defective will be repaired on site, if possible during the maintenance visit. If such products cannot be repaired during the visit, repairs will be scheduled at a mutually agreed date.
- d. The Company shall, for the additional charges referred to in Section 4(a) below, provide maintenance services and make required repairs to the Equipment when either is required due to causes not attributable to normal wear and tear including, but not limited to:
 - i. the failure of Customer to continually maintain the installation site in conformance with Company's specifications;
 - ii. impairments in the performance of the Equipment resulting from changes in the design of the Equipment made by Customer or mechanical, electrical, or electronic interconnections made by Customer;
 - iii. damage caused by accidents or natural disasters, or the negligence of, or improper use or misuse of the Equipment by Customer;
 - iv. damage or necessity of repair resulting from unauthorized maintenance by Customer or any third party other than Company or its authorized representative; or
 - v. damage or repair necessitated as a result of relocation of the Equipment.
- e. Company may, at its option, designate a third-party contractor to provide maintenance services to Customer hereunder. The appointment by Company of such an authorized representative shall not relieve Company of its obligations hereunder nor be considered an "assignment" under Section 9 of this Agreement.

Section 3. Customer Obligations. Customer's personnel shall not modify the Equipment, or perform maintenance or attempt repairs to Equipment while such Equipment is being maintained under this Agreement, without Company's prior written approval.

Section 4. Charges and Payments.

a. In addition to the maintenance charges set forth in Schedule 2 hereto, Customer agrees to pay Stinger's invoices for parts, labor and travel expenses incurred by Company in connection with:

i. maintenance and/or repairs due to causes not attributable to normal wear and tear including, without limitation, those instances described in Section 2(c) above;

ii. maintenance and/or repairs required due to normal wear and tear performed during normal business hours at the request of Customer; and

iii. maintenance services which, in the sole opinion of Company, is not necessary; and

b. The Company may adjust the maintenance charges in Schedule 2 upon the expiration of the initial term set forth in Section 6 hereof or by giving Customer at least thirty (30) days prior written notice and customer may elect to terminate agreement within those 30 days.

c. Customer shall pay (or reimburse Company), in addition to the charges for the maintenance services specified herein and as a separate item, all taxes (exclusive of Company's net income taxes), however designated, or amounts legally levied in lieu thereof, based on or measured by the charges set forth in this Agreement or on this Agreement, or on the services rendered hereunder, now or hereafter imposed under the authority of any federal, state or local taxing jurisdiction.

d. The maintenance charges as specified on Schedule 2 shall be invoiced annually in advance. All other charges payable hereunder shall be invoiced during the month in which they have been incurred. All charges hereunder shall be due and payable thirty days after the date of the respective invoice. Interest at the rate of 1.5% per month shall automatically be charged on all amounts past due. .

Section 5. Disclaimer of Warranty and Limitation of Remedies. THE WARRANTIES SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WHICH ARE HEREBY DISCLAIMED AND EXCLUDED BY THE COMPANY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE AND ALL OBLIGATIONS OR LIABILITIES ON THE PART OF THE COMPANY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE, REPAIR, OR PERFORMANCE OF THE EQUIPMENT. THE COMPANY SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY DELAY IN FURNISHING EQUIPMENT AND SERVICES OR ANY OTHER PERFORMANCE UNDER OR PURSUANT TO THIS AGREEMENT. THE SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF ANY AND ALL WARRANTIES AND THE SOLE REMEDIES FOR THE COMPANY'S LIABILITY OF ANY KIND (INCLUDING LIABILITY FOR NEGLIGENCE) WITH RESPECT TO THE EQUIPMENT AND SERVICES COVERED BY THIS AGREEMENT SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF A DEFECTIVE ITEM OF EQUIPMENT EITHER AT THE PLANT OF THE COMPANY OR IN PLACE AT COMPANY'S OPTION. IF THE COMPANY FAILS TO REPLACE OR REPAIR AS AFORESAID, THE COMPANY'S ENTIRE LIABILITY SHALL NOT EXCEED THE ENTIRE AMOUNT PAID TO THE COMPANY BY CUSTOMER UNDER THIS AGREEMENT. IN NO EVENT SHALL THE COMPANY'S LIABILITY OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF THE COMPANY SHALL

HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

Section 6. Term. This Agreement shall become effective as of the first day of _____ and shall continue for an initial term of one (1) year, unless earlier terminated pursuant to Section 7 below, and shall remain in effect thereafter until termination by either party on ninety (90) days' prior written notice.

Section 7. Termination.

a. In the event Customer defaults on any payment due under this Agreement, Company shall be entitled to immediately terminate this Agreement on written notice.

b. In the event either party commits a material breach of any of its obligations hereunder, except for a default in payment by Customer as provided for in this Section 7(a) above, the other party may terminate this Agreement on written notice to the defaulting party unless the defaulting party cures such breach within thirty (30) days of written notice thereof.

Section 8. Force Majeure. If the performance of either party is made impossible by reason of any circumstances beyond such party's reasonable control, including without limitation, fire, explosion, power failure, acts of God, war, revolution, civil commotion, or acts of public enemies, any law, order, regulation, ordinance, or requirement of any government or legal body or any representative of any such government or legal body, labor unrest, including without limitation, strikes, slowdowns, picketing or boycotts, then the affected party shall be excused from such performance on a day-to-day basis to the extent of such interference, provided that it shall use reasonable efforts to remove such causes of nonperformance. Under no circumstances shall economic considerations or economic impossibilities and inefficiencies delay performance or be considered an event of force majeure.

Section 9. General Provisions.

a. This Agreement may not be assigned by either party without the prior written consent of the other party.

b. This Agreement and each and every provision hereof, shall be binding on and shall inure to the benefit of the parties, their respective successors, successors-in-title and permitted assigns. .

c. Alterations, modifications or amendments of any provision of this Agreement by either party shall not be binding unless such alterations, modifications or amendments are in writing and signed by authorized representatives of Company and Customer. If a provision of this Agreement is rendered invalid, the remaining provisions shall remain in full force and effect.

d. Any and all claims, controversies or disputes arising out of or in connection with this Agreement shall be resolved in accordance with this Section. The Parties acknowledge and agree that Nashville Tennessee is the exclusive venue for any litigation brought against Customer, and that, for the purpose of such litigation, any state or federal court in Nashville Tennessee has jurisdiction over this Agreement and the Parties. The Parties further acknowledge and agree that Nashville Tennessee is the exclusive venue for any litigation brought against

Company and that, for the purpose of such litigation, any state or federal court in Nashville Tennessee has jurisdiction over this agreement and the Parties. Both Parties' obligations under this Section survive termination or expiration of this Agreement. The prevailing Party in any action shall be entitled to recover its costs and attorneys' fees

e. Except as otherwise expressly provided herein, any notice, request, consent, demand or other communication required or permitted to be given by this Agreement shall be in writing and shall be personally served or sent by U.S. mail, certified mail, return receipt requested, postage prepaid to the individuals and addresses set forth below for Company and Customer. Any written notice delivered personally shall be deemed communicated and received as of the date of delivery; notices sent by certified mail shall be deemed to have been communicated and received three (3) calendar days (excluding Saturdays, Sundays and national holidays) after the day on which the same was deposited in the mail, with postage prepaid and properly addressed.

f. Nothing herein shall be construed as creating a partnership, an employment relationship or any agency relationship between the parties, or as authorizing either party to act as agent for the other. The parties hereto are independent contractors for all purposes.

g. No failure to exercise and no delay in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege hereunder preclude further exercise of the same right or the exercise of any other right hereunder. Any waiver of a provision of this Agreement shall not be binding unless such waiver is in writing and signed by the party waiving such provision.

h. If a provision of this Agreement is rendered invalid, the remaining provisions shall remain in full force and effect.

i. The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the performance hereof by the parties hereunder shall so survive the completion of the performance, cancellation or termination of this Agreement.

Section 10. 72 hour on-site support may be purchased in addition to the Preventative Maintenance Agreement.

a. 72 hours on-site support is offered within two hour driving distance of the following cities; Dallas TX, Fort Worth TX, Murfreesboro TN, Nashville TN, Franklin TN, and New York City NY.

b. On-site support is defined as, a Stinger Medical representative going on-site to support Singer Medical products and Integriti products.

c. This offering will not exceed four (4) on-site visits.

IN WITNESS WHEREOF, the parties hereby indicate their approval and acceptance of the terms of this Agreement.

COMPANY

_____ By: _____
Date

CUSTOMER

_____ By: _____
Date

