



KONICA MINOLTA

SALES, MAINTENANCE AND RENTAL AGREEMENT AND CALL OFF ORDERS

APPLICABLE TO OFFICE, PRODUCTION PRINT AND GRAPHIC ARTS PRODUCTS



Sector 1	Sector 2	Sector 3	Sector 4	Sector 5
\$ 31,565.00	\$ 62,190.00	\$ 60,338.00	\$ 4,132.00	\$ 7,453.00
\$ 56,032.00	\$ 43,885.00	\$ 37,129.00	\$ 14,000.00	\$ 6,985.00
\$ 86,726.00	\$ 34,548.00	\$ 62,191.00	\$ 16,226.00	\$ 22,739.00
\$ 27,862.00	\$ 15,001.00	\$ 7,207.00	\$ 28,764.00	\$ 30,760.00
\$ 21,784.00	\$ 9,822.00	\$ 60,406.00	\$ 35,685.00	\$ 55,000.00
\$ 59,225.00	\$ 30,359.00	\$ 29,305.00	\$ 35,685.00	\$ 69,415.00
\$ 16,477.00	\$ 27,178.00	\$ 12,545.00	\$ 12,731.00	\$ 49,100.00
\$ 47,572.00	\$ 15,816.00	\$ 42,795.00	\$ 79,164.00	\$ 73,915.00
\$ 41,374.00	\$ 36,266.00	\$ 11,822.00	\$ 42,530.00	\$ 75,576.00

**CONTRACTS MANAGEMENT TEAM
COMMERCIAL FINANCE
(SS/V2 SEPTEMBER 2018)**

Giving Shape to Ideas

OPTIMISED END-TO-END
BUSINESS SOLUTIONS



THIS SALES, MAINTENANCE AND RENTAL AGREEMENT IS MADE BETWEEN:

SERVICE PROVIDER DETAILS

Full Trading Name: Konica Business Solutions (UK) Limited

Registered / Principal Address:
Konica House, Miles Gray Road, Basildon, Essex, SS14 3AR

Company Registration Number: 01132885

CUSTOMER DETAILS

Full Trading Name:
(if unincorporated, please insert name and business structure)

Registered / Principal Address:

Company Registration Number:

VAT Number (where available)

Principal Contact:

A. The Service Provider and the Customer (such term to include the Customer's Affiliated Company, where the context applies) will contract with each other for the provision and payment of the Products and Services on the terms of Schedule 1 to Schedule 5 and any other schedule which may be agreed between the Parties, from time to time.

B. The Customer wishes to purchase the Products and Services using of the Call Off Order Form at Schedule 2 from the Service Provider either as a cash sale or by lease, and the Service Provider agrees to supply such Products and Services on a 'call off' basis from time to time with each Call Off Order becoming a separate contract upon the signature of the Service Provider to which the terms of this Agreement shall apply.

SERVICE PROVIDER

Signed on behalf of: Service Provider

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:

CUSTOMER

Signed on behalf of: Customer

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:

SCHEDULE 1

STANDARD TERMS AND CONDITIONS TO THE SALES, MAINTENANCE AND RENTAL AGREEMENT



KONICA MINOLTA

1. DEFINITIONS

Words and expressions used in this Agreement shall have the following meaning:

“Acceptance Date”: shall be the earlier of:

- (a) the date the Customer confirms acceptance of the Products, or
- (b) in the absence of (a), the expiry of five (5) working days following installation.

“Additional Charges”: the charges for the Additional Services.

“Additional Services”: any services not included in the Services provided at the Effective Date.

“Affiliated Company”: a holding, subsidiary or sister company to the Customer located within the UK and as set out in Annex A.

“Agreement”: these Schedules, duly executed Call Off Order(s), Annex A and any subsequent agreed written variations.

“Assignee”: a Person providing third party funding in respect of the Products.

“Billing Period”: for:

- (a) Fixed Charges, quarterly in advance; and
- (b) Service Charges, quarterly in arrears; and
- (c) Any other charges billing set up at intervals as agreed by the Service Provider.

“Blue Button Training”: basic training given by the Service Provider to up to two (2) users per Equipment.

“Call Off Order(s)”: the form in the format of Schedule 2 to be used by the Customer or its Affiliated Company to purchase and/or lease the Products and Services.

“Charges”: the Fixed Charges, Service Charges, Additional Charges or any other charges due from the Customer and payable to the Service Provider and/or any Assignee.

“Confidential Information”: non-public information whether oral or written of a confidential nature and obtained from the disclosing party and shall include any data within the meaning of the Data Protection Law.

“Consumables”: supplies consumed in the Products e.g. Toner, toner cartridges, ink and developer.

“Customer”: the Person named overleaf and in the relevant Call Off Order who shall be liable in respect of the sales, purchases, rental, service and all matters relating to the Products and Services.

“Data Protection Law”: the Data Protection Act 1998, the General Data Protection Regulation, UK Data Protection Act 2018 or later replacement or further re-enactment.

“Delivery”: the delivery date agreed between the Parties.

“Effective Date”: the last signature date by the Service Provider’s authorised representative to this Agreement and Call Off Order Form, where applicable.

“Equipment”: multifunctional printer and/or photocopier equipment and any reference to ‘hardware’ or ‘devices’.

“Fixed Charges”: the lease/rental payments for the Products.

“Force Majeure”: an unforeseeable event beyond the reasonable control of the Parties, including, but not limited to, acts of God, war, riot, fire, earthquake, explosion, flood, strike, lockout, injunction or telecommunications, electrical or source of supply failure, or the unavailability of Services, personnel, Products or materials, and not attributable to the acts or omission of the Party relying on the Force Majeure.

“Good Industry Practice”: the exercise of that degree of skill, care, prudence, efficiency, as would be expected within the Service Provider’s industry or business sector.

“Image”: for Equipment which is described by the Service Provider and/or manufacturer as:

- (a) ‘Office Products Equipment’ – the Image shall be a single sided A4 print and a single sided A3 print counts as two (2) Images; or
- (b) ‘Production Print/Graphic Art Devices’ the Image shall be a single sided SRA3 print.

“Intellectual Property Right”: any pre-owned and existing rights in any registered or unregistered patent, design right, copyright, database right, topography right, trade mark, service mark, logo, any application to register these rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world.

“Maintenance”: the carrying out of repairs, replacement of parts, or adjustment to the Equipment, to rectify a fault during Working Hours (remotely or by an on-Site visit, as determined by the Service Provider).

“Material”: documents or other material that might be supplied by the Customer to the Service Provider in hard copy or electronic format for production or reproduction.

“Person”: a third party individual, firm, corporation, business trust, partnership, or other entity and shall include any successor of such entity.

“Personal Data”: personal data (as defined by Data Protection Law) either voluntarily supplied by the Customer to the Service Provider for the purpose of providing the Products or which is collected and held by the Service Provider on behalf of the Customer in the course of providing the Services.

“Products”: the Equipment, ancillaries, Software, Solutions, Toner, Consumables and or other products provided by the Service Provider.

“Requirements”: the Customer’s requirements for the Products and/or Services and/or Software and as detailed in any statement of requirements and/or subsequent statement of works may be requested from the Service Provider and agreed between the Parties.

“Services”: installation and/or configuration of the Products following Delivery, Maintenance and Support, as set out in Schedule 3 (Description of Services).

“Service Charges”: the charges payable for the Services provided to the Customer.

“Service Levels”: the level of service to be met by the Service Provider as agreed in Schedule 4 (Service Levels).

“Service Termination Sum”: the service charges payable by the Customer on termination of the Services, calculated using the average monthly copy volume of the Equipment measured during the period from the Start Date to the date of termination multiplied by the number of months remaining to the end of the Term.

“Site”: the location(s) where the Products and Services are to be delivered as set out in Schedule 2 (Call off Order) or as specified by the Customer.

“Software”: the programs in object code form and either identified by title and reference number in Schedule 2 (Call off Order) or supplied as embedded software.

“Solutions”: the solution(s) in response to the Customer’s Requirements, as may be agreed between the Parties. e.g. as described in a statement of requirements and/or subsequent statement of works.

“Special Terms and Conditions”: any variations to the terms of the Schedules as agreed by the Parties and set out in Schedule 6 (Special Terms and Conditions) or the additional comments within the Call Off Order.

“Start Date”: the date stated in the Call Off Order.

“Support”: Maintenance and advice whether given by telephone, e-mail, via the Service Provider’s website, remotely or by on-Site visit (as determined by the Service Provider), during Working Hours in relation to a fault to a Product (following receipt of a request from the Customer to diagnose and/or rectify such fault).

“Term”: the minimum term applicable to the duration of this Agreement and the duration of any Call Off Order.

“Termination Sum”: a sum equal to the total of all Fixed Charges which would (but for termination) have become due and payable from the date of termination until the end of the Term less a 2% yearly compounded discount for each Fixed Charge.

“Toner”: toner solely produced and supplied by the Service Provider in the following colours: yellow, black, cyan and magenta.



“Total Loss”: Products that whilst in use by or in the possession of the Customer, are lost, stolen, confiscated, requisitioned or damaged beyond economic repair.

“Training”: any training other than or in addition to the Blue Button Training.

“Uptime”: the number of Working Hours during the period during which the Equipment is functioning correctly, expressed as a percentage of the total number of available Working Hours, excluding any hours that the Equipment is unavailable due to planned preventative maintenance, customer network failure, failure to load consumables, or resulting from any Customer act or omission.

“Working Day”: Monday to Friday excluding UK bank or public holidays.

“Working Hours”: hours of 0900 to 1730 on a Working Day.

2. CALL OFF ORDERS

2.1 The Customer (and an Affiliated Company) must use the Call Off Order Form in the form of Schedule 2 to purchase and/or lease/rent the Products and/or Services.

2.2 Where an Affiliated Company places an order, all references in this Agreement or Call Off Order to the “Customer” shall be reference to the Affiliated Company who agrees to be bound by the terms of this Agreement in respect of any and all orders placed.

2.3 Unless otherwise stated by the Service Provider, termination or expiration of this Agreement shall not affect the duration of any Call Off Order placed during the Term of this Agreement.

2.4 The Service Provider has the right to terminate a Call Off Order, without liability, on thirty (30) days’ written notice due to the Customer’s breach or non-compliance to this Agreement.

3. SITE

3.1 The Customer shall, at its own cost, prepare the Site and give the Service Provider access to enable the Service Provider to carry out a pre-site survey inspection to deliver and install the Products and provide the Services.

3.2 The Site at which the Products are located may be amended in writing and on notice to the Service Provider (which must not be less than five (5) Working Days) including relocation of any Products to the Customer UK locations. The Customer acknowledges that the Service Provider reserves its right to amend the Service Charges in relation to any relocated Products.

4. CHARGES

4.1 The Charges are payable in accordance with the relevant Billing Period.

4.2 Image volumes:

- The Equipment may contain an automated diagnostic facility which will provide the Service Provider with information about the use of the Products, including Image volumes and faults.
- If the Equipment does not have a diagnostic facility, or if this is not used to measure Image volume, the Customer must provide meter readings at every Billing Period, whether or not requested.
- Where readings described under clause 4.2(b) are not provided, an estimate of the Image volumes will be made by the Service Provider based on the number of Image volumes made in previous Billing Periods.

(d) Copy volumes collected with accounting software will not be used for billing purposes.

4.3 Toner:

- Where Toner is included in the Service Charges, it must only be used in the Equipment provided by the Service Provider.
- If Toner (or Consumables) is ordered and/or used in excess of the number required to produce the anticipated number of Images made during the Billing Period in respect of any Equipment, the Customer will be required to pay Additional Charges to cover the costs of such excessive order/usage.
- The Additional Charges referred to in clause 4.3(b) will be calculated by reference to the average annual Toner consumption data for the relevant Equipment. The Customer agrees to pay such Additional Charge on demand.
- Upon termination or expiration of the Agreement, the Customer must return any unused Toner or Consumables to the Service Provider. In default of this request, the Customer must allow the Service Provider access to the Site for the purpose of removing any such supplies.

4.4 The Customer shall pay the Service Provider in pounds sterling, and within thirty (30) days’ of the invoice date in full without any deduction, reduction, set-off, claim or counterclaim for damages or any other reason.

4.5 Unless otherwise agreed, the Service Charges are fixed for a minimum period of twelve (12) months from the Start Date. Thereafter, the Service Charges will be reviewed by the Service Provider on an annual basis.

4.6 Following a clause 4.5 review, the Service Provider may increase the Service Charges for the forthcoming twelve (12) monthly period at 5% per annum and give notification of such increase.

4.7 If the Customer wishes to dispute the Service Charges, it must provide written notice to the Service Provider within twenty (20) days of the date of the invoice outlining the nature of its dispute.

4.8 The Customer may not dispute the Fixed Charges (since the Fixed Charges are the fixed rentals agreed by the Service Provider at the outset of any Call Off Order) unless this is due to the Service Provider’s billing procedures, in which case, the Customer must notify the Service Provider within twenty (20) days as provided under clause 4.7.

4.9 Without prejudice to any other rights it may have, the Service Provider reserves the right to charge:

- interest on any overdue undisputed Charges at a minimum of 3% per annum above the bank lending rate of the Bank of England from the due date until payment in full; and
- costs incurred to make the Customer comply with the payment terms.

4.10 The Service Provider has calculated the Charges (and where applicable) any Additional Charges assuming that there will be no change in law, or HM Custom and Excise practices during the Term affecting the sale of the Products and Services. In the event there is a change, the Customer shall be liable to pay the Service Provider the amount of any increased costs, expenses or loss of profits suffered by the Service Provider due to entering into this Agreement as a result of changes to HM Custom and Excise practices, or the rate or the availability of writing down allowances or compliance with any law or regulation, made after the Effective Date.



5. MAINTENANCE AND SUPPORT

5.1 Maintenance and Support does not include the correction of any fault due to:

- (a) the Customer's failure to maintain an industry acceptable environment for the Products at the Site; or
- (b) the Customer's neglect or omission to operate the Products within design specification or contrary to the manufacturer's or licensor's instruction manuals; or
- (c) the alteration or modification of the Products by any party other than the Service Provider; or
- (d) the relocation of Products on Site or to another location by any party other than the Service Provider; or
- (e) the use of defective or inappropriate Consumables supplied by any party other than the Service Provider; or
- (f) the failure of, or changes to, or connection and disconnection from any external device (e.g. USB device) or system; or
- (g) failure or damage caused by, act of violence, fires, floods, explosions, power surge, or adverse environmental or other natural conditions; or
- (h) where the Service Provider reasonably considers that the Equipment cannot be economically repaired because it is:
 - (a) past its duty lifecycle;
 - (b) is beyond seven (7) years old from new;
 - (c) parts are no longer available from the manufacturer;
 - (d) the Equipment is of excessive wear or deterioration; or
- (i) damage or performance hindered by the use of third party toner and toner cartridges not produced and supplied by the Service Provider.

5.2 If the Equipment is not performing to the manufacturer's specification, the Service Provider will upon the Customer's request and subject to availability replace the Equipment with an identical model or one with similar features and capabilities, provided that the Equipment was supplied by and only maintained by the Service Provider.

5.3 The undertaking under clause 5.2 will only apply to the extent that the fault has not arisen for any of the reasons stated in clause 5.1 and the Customer is not in default of payment of any Charges, and the Equipment was new when originally supplied.

5.4 If so requested, the Service Provider may provide the Customer with Additional Services for an Additional Charge, for example, but not limited to, services to:

- (a) correct any faults as described in clause 5.1,
- (b) Maintenance or Support required outside Working Hours;
- (c) supply or renew the Consumables not included in the Charges;
- (d) provide additional Training;
- (e) relocate Products on or from the Site to a Site outside the UK;
- (f) connect and configure the Products to a computer network or other system;
- (g) supply upgrades, software patches or service packs, unless supplied free of charge by the manufacturer; or
- (h) any requirement to carry out an annual or other test on the Products to satisfy the Customer's own statutory compliance (but not caused by the Service Provider's failure to repair).

6. INSURANCE, RISK AND TITLE

6.1 Liability for loss or damage to Products shall pass to the Customer upon Delivery.

6.2 Title to the Products and the rights in the use of the Software (if applicable) shall be retained by the Service Provider and/or its Assignee, unless the Products are purchased outright and payment in full has been received by the Service Provider, in which case title shall pass to the Customer.

6.3 The Customer shall from Delivery:

- (a) keep the Products safe and secure at the Site for its business use only, and
- (b) not sell, dispose of, lend, hire or part with possession of the Products, and
- (c) not alter, modify or add to the Products without the prior written consent of the Service Provider, and
- (d) not do or permit any act nor purport to do or permit any act which would or could have the effect of subjecting the Products or any of them to any encumbrance or to become a fixture, and
- (e) bear all risk of loss of or damage to the Products from Delivery (whether such risk is insured against or not).

6.4 The Customer shall insure the Products with a reputable insurer for the greater of either the:

- (a) full cost of replacing it; or
- (b) the amount that would be payable under clause 15 to settle this Agreement from the Effective Date of this Agreement until repossession of the Products by the Service Provider against all the risks insured against by prudent persons, including third party, public liability claims and risks of terrorism.

6.5 If a Total Loss has occurred, the Customer shall either:

- (a) within twenty-eight (28) days replace the same with equivalent Products to that lost, stolen, confiscated, requisitioned or damaged, such equivalent Products being new and of the same or greater value (measured by reference to capital cost as new) and being of the same or higher specification and utility and the Service Provider will give the Customer any relevant insurance monies the Service Provider receives; or
- (b) settle this Agreement by paying the Service Provider the amounts left owed under this Agreement, including all sums under clause 15.

6.6 The Customer shall if requested produce copies of all insurance policies required to verify the existence and extent of the cover given by those policies.

6.7 In the event that the Customer does not comply with the request under clause 6.6 or in the event the insurance policies provided are not acceptable to the Service Provider and/or Assignee, the Service Provider shall:

- (a) arrange insurance for the Customer and the Customer appoints the Service Provider as agent to do so;
- (b) the Customer will indemnify the Service Provider the full cost of any insurance arranged by the Service Provider; and



(c) the Service Provider shall collect the insurance premiums from the Customer, payable within thirty (30) days of request.

6.8 The Customer shall ensure that title to any replacement products obtained shall pass directly to the person who held title to the Products they are replacing. Such replacement Products shall be subject to the terms of this Agreement.

7. SOFTWARE

7.1 The Customer shall use the Software in accordance with all software licences required by the licensors including licences (if any) for software included within the Equipment.

7.2 In the event of any conflict between the terms of the applicable licensor's licence agreement and this Agreement, the licensor's conditions shall prevail only in relation to the use of the Software.

7.3 The Service Provider reserves the right to substitute the Equipment or Software or part thereof with equipment or software, which will operate in accordance with or in excess of the Solution.

8. SERVICE PROVIDER'S WARRANTY

8.1 The Equipment may be new or remanufactured and supplied with the warranties applicable to new Equipment.

8.2 Whilst the Service Provider can help the Customer to select Products and Services based on the Requirements specified by the Customer, the Customer's assessment and selection of the Solution remains the Customer's sole responsibility without recourse from the Service Provider.

8.3 The Service Provider warrants that the Equipment will perform to the manufacturer's specification. If an item of Equipment fails to perform to the manufacturer's specification and as long as this is not attributable to the Customer's use of the Equipment or contrary to clause 5.1 above and/or the manufacturer's instructions or Service Provider's training or guidance, the Customer may request a replacement Equipment in accordance with clause 5.2.

8.4 The Service Provider warrants that the Services and any Additional Services shall be performed in accordance with the approved standard of the manufacturer, Good Industry Practice, and the Service Provider's own established procedures and practices.

8.5 The warranties given within this Agreement are the Service Provider's only warranties concerning the Products and Services and made expressly in lieu of all other warranties, representations or conditions, express or implied, by statute, common law, or otherwise arising under contract or tort.

9. THE CUSTOMER'S WARRANTY

9.1 The Customer will:

- (a) following Delivery, keep the Products at the Site;
- (b) provide the Service Provider with such information, as it requires to perform its obligations under this Agreement. Such information must be in writing, complete and correct and provided within reasonable timescales;

(c) grant the Service Provider such access to the Site and Products as the Service Provider may reasonably require in order to provide the Services;

- (d) provide all assistance, Material and other information necessary for the Service Provider to diagnose and/or remedy any fault; and
- (f) maintain current backups of all data and adequate virus protection systems for its business.

9.2 The Customer warrants that it is the owner of the Material and/or properly authorised licensee of the Material and that it violates no third party's Intellectual Property Right by having the Service Provider perform the Services.

9.3 The Customer will indemnify the Service Provider from and against any claim, liability, damage or cost, including legal costs arising from actual or alleged infringement of any Intellectual Property Right arising from the use of or reproduction of the Material, and any defamatory, libellous or illegal statements contained within the Material.

10. LIABILITY

10.1 Neither Party shall exclude or limit liability (if any) for:

- (a) Fraud;
- (b) Death or personal injury resulting from the Parties' or their employees' negligence; or
- (c) Any matter which cannot be excluded by or limited in law.

10.2 Except as set out in clause 10.1, the Parties' liability, arising out of any one or series of events; whether in contract, tort (including but not limited to negligence) or otherwise, to the other Party shall be the lower of:

- (a) Any and all loss of or damage to tangible property shall not exceed one million pounds sterling (£1,000,000);
- (b) Any other loss or damage that is not excluded in clause 10.3 shall be limited to either:
 - (a) the Charges paid and/or invoiced and payable in the previous six (6) months; or
 - (b) one hundred thousand pounds (£100,000).

10.3 Except as set out in clause 10.1, neither Party shall be liable to the other Party, whether in contract, tort (including but not limited to negligence) or otherwise for any of the following types of losses:

- (a) Loss of profits; or
- (b) Loss of revenue; or
- (c) Loss of or depletion to goodwill; or
- (d) Loss of use of or damage to data or software; or
- (e) Infection of or damage or interference caused to any computer operating systems or programmes (or part thereof) not caused by the Service Providers agents; or
- (f) Loss or damage suffered by a Party as a result of an action brought against the other Party by a third party.

10.4 The Service Provider shall not be responsible for any failure or delay in performing its obligations to the extent that such failures or delays are caused by any:

- (a) Inaccuracies or omissions in:
 - (a) specifications; or



- (b) information supplied or not supplied by the Customer; or
- (b) Acts or omissions of the Customer or a third party (other than the Service Provider's agents); or
- (c) Delays in or failure by the Customer to perform any of its obligations under the Agreement.

10.5 The Service Provider has calculated the Charges and Additional Charges on the basis of the exclusions and limitations of liability contained in this Agreement. The Customer expressly agrees these exclusions and limitations are reasonable and are a true reflection of the Charges which would be higher without these provisions.

10.6 The Customer shall indemnify the Service Provider and/or Assignee from and against:

- (a) loss, theft, destruction of or damage to the Products from whatever cause arising from the Customers' negligence or that of the Customers' employees or agents; and
- (b) all claims, demands, proceedings (civil or criminal), penalties, fines, liabilities, losses, damages, cost (including but without limitation legal costs on full indemnity basis) and expenses of whatsoever nature which may be brought against the Service Provider and/or Assignee or which the Service Provider and/or Assignee may suffer, incur or sustain in connection with or arising directly or indirectly out of this Agreement except for death or personal injury caused by the Service Provider and/or Assignee wilful negligence. This indemnity will survive and remain in full force and effect notwithstanding termination of this Agreement.

11. INTELLECTUAL PROPERTY

11.1 The Service Provider's Intellectual Property Rights shall always remain with the Service Provider and the Customer is not granted any rights in any Intellectual Property embodied in the Products, Services and Additional Services developed by the Service Provider on behalf of the Customer, including but not limited to:

- (a) All patent, copyright; trade mark and other Intellectual Property Rights therein; and
- (b) All methodologies, processes, techniques, ideas, concepts, trade secrets and knowhow embodied in the Products, Services and Additional Services.

11.2 Except to the extent that such operations cannot be prevented or restricted by law, the Customer is not permitted to modify, reverse engineer or decompile the Products in anyway whatsoever.

12. FORCE MAJEURE

12.1 Either Party may terminate this Agreement upon thirty (30) days' prior written notice, if the Services cannot be resumed within a period of sixty (60) days after a Force Majeure event occurs.

12.2 Upon termination for reason of a Force Majeure event the Customer will pay any arrears and Charges due and owing up to the date of termination.

12.3 Where termination is for reason of a Force Majeure event due to the Customer's act or omission, the Customer will:

- (a) pay the Termination Sum as set out in clause 15.2; and
- (b) promptly return the Products in accordance with clause 16 to the extent practicable.

13. DATA PROTECTION & CONFIDENTIALITY

13.1 Except as in relation to any Assignee or sub-contractor referred to in clause 14 or any employee within the Parties' respective group of companies, neither Party shall, without the prior written consent of the other Party, use, publish, or disclose to any other person, nor cause or permit any of its employees, agents or sub-contractors to use, publish or disclose any Confidential Information which it has received from the other, otherwise than for the performance of its duties under this Agreement; other than Confidential Information which:

- (a) becomes generally available in the public domain other than by its unauthorised disclosure by the receiving party; and/or
- (b) has or may come into the possession of one Party otherwise than in breach of a duty of confidence to the other Party; and/or
- (c) is already in the possession of a Party with the right to disclose; and/or
- (d) is required to be disclosed by law, expressly including the obligations of Public Bodies under the Freedom of Information Act.

13.2 The Customer will ensure that any Personal Data provided to the Service Provider has been obtained fairly and lawfully and that it has obtained all necessary consents and otherwise complied with Data Protection Law to enable it to pass such Personal Data to the Service Provider and for the Service Provider to process such Personal Data in accordance with this Agreement.

13.3 For the purposes of any processing under this Agreement, the Customer agrees it is the 'Controller' and the Service Provider is the 'Processor' as such terms are defined under Data Protection Law.

13.4 The Customer shall indemnify the Service Provider against all losses, costs, expenses (including but not limited to legal cost and disbursements), damages, liabilities, demands, claims, action or proceedings which the Service Provider sustains or incurs as a result of any breach by the Customer due the provisions of this clause 13.

14. ASSIGNMENT AND SUBCONTRACTING

14. Neither Party shall assign, transfer and/or sub-contract any benefit or obligation under this Agreement without the other Party's prior written consent, save that the Service Provider will be permitted to:

- (a) assign any benefit under this Agreement to an Assignee for the purpose of arranging funding for the rental of the Products; and/or
- (b) sub-contract the Services to a third party supplier.

15. TERMINATION

15.1 The Service Provider may terminate this Agreement with immediate effect on written notice:

- (a) if the Customer fails to make payment of any Charges within the Services Provider's agreed payment terms;



- (b) if the Customer fails to remedy any breach of any term of this Agreement within thirty (30) days of written notice given by the Service Provider to the Customer;
- (c) if a Total Loss occurs;
- (d) if the Customer tries to sell the Products or do anything that affects the ownership and rights in the Products;
- (e) if the Customer or any guarantor of this Agreement is unable to pay its debts as they fall due, or becomes bankrupt, or begins negotiations with its creditors, or goes into liquidation or administration, or has a receiver or administrative receiver appointed over all or any of its assets, or is dissolved;
- (f) a bailiff or other officer attaches, cedes, or impounds any of the Customer's goods pursuant to a Court Order or in Scotland an attachment is levied or attempted against any of its assets;
- (g) if the landlord of the Site where the Products are kept threatens to take any steps of distraint over the Products or in Scotland to exercise its right of hypothec over them or any of them;
- (h) if the Customer ceases to carry on business or a material part of its activities;
- (i) if there shall be any material change (e.g. fifty percent (50%+) in the shareholding control of the Customer;
- (j) if the Service Provider becomes aware that any information supplied by the Customer pursuant to this Agreement is found to be false in a material respect;
- (k) where the Customer is in material breach of any loan, debt or other financial obligation to the Service Provider or another company in the group of companies of the Service Provider;
- (l) where the Service Provider has reason to believe clauses 15.1(a), 15.1(d), 15.1(e), 15.1(f), 15.1(g), 15.1(h), 15.1(i), 15.1(j) or 15.1(k) may apply.

15.2 In the event of termination under clause 15.1, the Customer will immediately pay to the Service Provider (or where applicable, its Assignee) any arrears, plus:

- (a) Fixed Charges: the Termination Sum; and
- (b) Service Charges: a sum equal to the higher of: (a) the total of twelve (12) calendar months' Service Charges; or (b) the Service Termination Sum, whichever is the higher.

15.3 The Customer may terminate the provision of Services under this Agreement with immediate effect on prior written notice if the Service Provider is in material breach of any term of this Agreement provided that it has notified the Service Provider in writing of the breach and given the Service Provider not less than thirty (30) days in which to correct the breach.

15.4 On termination of this Agreement for any reason the Customer will return the Products in accordance with clause 16.

15.5 Subject to the provisions of clause 15.8, the Customer may terminate either the provision of Services under this Agreement or this Agreement in its entirety with immediate effect on written notice if:

- (a) the Service Provider or any guarantor of this Agreement is unable to pay its debts as they fall due, or becomes bankrupt, or begins negotiations with its creditors, or goes into liquidation or administration, or has a receiver or administrative receiver appointed over all or any of its assets, or is dissolved;

- (b) a bailiff or other officer attaches, cedes, or impounds any of the Service Provider's goods pursuant to a Court Order or in Scotland administrative purposes only and none of its terms and conditions shall be of any force or effect against the Service Provider. No other agreements, representations or warranties, whether oral or written, shall be deemed to bind the Parties with respect to this Agreement.

15.6 Termination of this Agreement pursuant to clause 15.3 and clause 15.5, will be conditional upon the Customer paying the Termination Sum and all contractually due payments under the Agreement to the Service Provider or its Assignee. Unless and until the Service Provider receives such amounts in full this Agreement will continue with all payments falling due and payable in accordance with its terms.

15.7 In the event of termination of the provision of Services pursuant to clause 15.3 and clause 15.5, and to protect the Assignee's interest in the Equipment, the Customer will either:

- (a) enter into a service agreement with a third party authorised service provider of the manufacturer to provide the Services (to maintain the Products) and will continue to pay all Fixed Charge(s) to the Assignee (or where payment is collected) by the Service Provider for the remainder of the Term; or
- (b) immediately pay the Assignee, the Termination Sum and all contractually due payments in respect of the Products.

15.8 In the event this Agreement is terminated before the end of the Term and subject to the Customer's compliance to clause 16, the Service Provider shall following receipt of the returned Equipment use all reasonable endeavours to sell the Equipment and apply the net sales proceeds (if any) after deducting any selling costs against any sums due from the Customer to the Service Provider.

16. RETURN CONDITIONS

16.1 Subject to the provisions of clause 12 or clause 17, on expiry or termination of this Agreement and where title for the Products remain with the Service Provider or Assignee, the Customer shall arrange, at its own expense (unless the termination is due to the Service Provider's breach in which case such expenses shall be met by the Service Provider), for the Products to be returned within five (5) working days of the termination or Expiry Date ("Return Date") to the UK address specified by the Service Provider. In the event the Customer fails to return the Products by the Return Date, the Service Provider shall be entitled to claim liquidated damages from the Customer. The liquidated damages shall be calculated in accordance with clause 16.2.

16.2 The liquidated damages, which the Parties agree are a genuine pre-estimate of the costs to be incurred by the Service Provider in arranging the return of the Products, shall be calculated at the rate equivalent to the quarterly Fixed Charge pro rata for each day of the delay payable by the Customer (including any Service Charges incurred during this period) until such time as the Products are returned to the Service Provider.

16.3 The payment of liquidated damages shall not relieve the Customer from its obligations to return the Products or pay all due Service Charges in accordance with this Agreement.



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16.4 The Products will be returned in the same original, working order as when the Customer accepted it, taking into account normal wear and tear resulting from its proper use. The Service Provider shall determine whether particular damage constitutes fair wear and tear. All data stored in the Products (whether intentionally or otherwise) shall be removed from the Products by the Customer prior to its return as the Service Provider accepts no liability for any Customer data not so removed.

16.5 Where the Customer does not comply fully with the returns provisions, the Service Provider may arrange for the Products to be removed and returned. Should this become necessary, the Customer shall indemnify the Service Provider for all costs, charges and expenses (including legal costs on a full indemnity basis) incurred by the Service Provider from any claim made against it by the Assignee, and the Customer waive all claims for any damages arising from the Service Provider removal of the Products. Furthermore, the Customer shall pay to the Service Provider any reasonable expenses resulting from failure by the Customer to maintain the Products in accordance with the condition described in 16.4. The Customer warrants that it shall provide the Service Provider with reasonable access to the site where the Products are located in order that the Service Provider may perform such removal.

17. GENERAL PROVISIONS

17.1 This Agreement contains the entire agreement between the Parties in respect of the supply of the Products, Services and Additional Services, to the exclusion of any other document (for example, statement of requirements and any statement of works unless agreed in writing), or the Customer's purchase order or terms. No other agreements, representations or warranties, whether oral or written, shall be deemed to bind the Parties with respect to this Agreement.

17.2 This Agreement may be varied in writing as agreed and executed by senior authorised officers of each Party.

17.3 Except as in relation to any Assignee or sub-contractor referred to in clause 14, the Parties hereby agree that a Person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999.

17.4 If any clause or part of a clause is found to be unenforceable then that clause or part may be severed and will not affect the enforceability of any other provisions of this Agreement.

17.5 The waiver of a breach or default by either Party shall not be construed as a waiver of any succeeding breach of the same or other provisions; nor shall any delay or omission on the part of either party to exercise or avail itself of any right; power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other Party.

17.6 Any notice shall be in writing and served upon the recipient at its address set out in this Agreement by registered post or receipted email.



SCHEDULE 2

EQUIPMENT

Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:
Model:	Ancillaries:	Quantity:	Site No:

SOLUTIONS

Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:
Type:	Quantity:

LOCATIONS

Site 1
Site 2
Site 3
Site 4
Site 5
Site 6
Site 7
Site 8
Site 9



SCHEDULE 2

MOVES AND RELOCATION SERVICE

Where the Service Provider is required by the Customer to move/relocate Equipment

- (a) from an office or building which the Customer has closed down;
- (b) where the Customer has relocated an office or building; or
- (c) any Equipment at the Customer's request

Charge £

Where the Customer is leasing the Products, please tick to confirm your consent that under this agreement the Service Provider may assign the benefit of the funding arrangement to its panel of lease providers. The Customer must continue to pay the Service Provider in respect of the Fixed Charges and the Service Provider will continue to perform all other obligations.

MOVES AND RELOCATION SERVICE

You have asked Konica Minolta Business Solutions (UK) Limited to remove the equipment detailed below, and in so doing you confirm that you are the owner of the equipment and/or have the owner's written permission to remove the equipment. You confirm that by the date of collection, each equipment will be decommissioned and that any toner and oil have been removed. If this has not been done, you will postpone the collection to do so or where you fail to do so you agree to indemnify Konica Minolta against any damaged caused due to the equipment not being fully decommissioned.

ADDITIONAL COMMENTS

CUSTOMER

Signed on behalf of: Customer

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:

SERVICE PROVIDER

Signed on behalf of: Service Provider

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:



SCHEDULE 3

DESCRIPTION OF SERVICES

1. INSTALLATION

The Service Provider's Product installation service shall include the following;

- 1.1 the provision of the Product to the Customer at the Site(s) specified in Schedule 2 (Call Off Order);
- 1.2 the installation and configuration of the Products;
- 1.3 Blue Button Training relating to the Product;
- 1.4 the removal of all Product packaging at each Site, and subsequent disposal or recycling in accordance with any applicable legislation; and
- 1.5 all related project management.

2. POST-INSTALLATION AND BUSINESS AS USUAL (BAU)

Post-installation the Service Provider's BAU service shall include the following;

- 2.1 the provision of Consumables included in the Service Charges;
- 2.2 the on-going maintenance of the Products (the **"Maintenance Services"**) throughout the term of the Contract by appropriately qualified staff, including;
 - (a) remote monitoring of the Product to provide proactive alerts to the Customer of toner levels, meter readings, notification that preventative maintenance is due, paper mis-feed frequency, major component failure and parts required to repair Product;
 - (b) periodic maintenance of the Product;
 - (c) the repair of Product malfunctions;
 - (d) the provision of repair and service parts for the Product;
 - (e) the replacement of faulty equipment.
- 2.3 the provision of effective service and account administration;
- 2.4 the provision of Management Information Reports on a quarterly basis, to include (as a minimum) the following data:
 - (a) black and white/duplex and colour print and copy volumes;
 - (b) the charges levied in relation to the provision of the Services;
 - (c) quarter on quarter usage reports, to identify volume usage per item of Equipment;
 - (d) performance against the Service Levels set out in Schedule 4.

- 2.5 the provision of a digital printing management and refinement service, including:
 - (a) the provision of automated digital printing activities (as described within paragraph 1.2.3, above);
 - (b) the automated harvesting of print count data for billing purposes;
 - (c) the provision of a technical helpdesk to assist with end user queries.

Paragraphs 2.1 to 2.5 together known as **"Maintenance"**.

- 2.6 For the avoidance of doubt, the following service elements will be excluded from the Maintenance Service:
 - (a) bespoke client systems integration and the development of printer drivers and software;
 - (b) adverse service impacts due to any unanticipated (or non-notified) device changes, site changes, and/or site rationalisation within Customer;
 - (c) office fixtures and fittings required for the support of any deployed Product;
 - (d) any electrical extensions or network connectivity points;
 - (e) legacy device retention of which the Service Provider could not reasonably have been aware;
 - (f) support for desktop, local, personal inkjet print devices, and 'off-network' devices; and
 - (g) any Software.



SCHEDULE 4

SERVICE LEVELS

In this Schedule 4, the following words and expressions shall have the following meanings with respect to Equipment Service Level.

“AVERAGE UPTIME”

means the percentage of time that an item of Equipment is available for use (and not reported as faulty) during the Measurement Period, expressed as a proportion of the total Equipment Available Hours excluding any time that the Equipment is unavailable due to:

- (a) intervention by a third party, and/or;
- (b) un-scheduled servicing due directly to the use of consumables other than those specified by the Service Provider, or as detailed in the documentation provided with the Equipment (including paper), and/or;
- (c) failure to maintain an acceptable environment for the Equipment at a Site, and/or;
- (d) unauthorised relocation of Equipment either within a Site, between Sites, or to another site, and/or;
- (e) failure of, or changes to, or connection and disconnection from any external device, and/or;
- (f) act of violence, fires, floods, explosions, power surge, or other adverse natural conditions, and/or;
- (g) where the Equipment cannot be economically repaired because parts are no longer available from the applicable manufacturer, or the Equipment is of an excessive age, wear or deterioration.

“EQUIPMENT AVAILABLE HOURS”

means the aggregated total hours that all Equipment is available during the Measurement Period being the product of:

- (a) the total number of items of Equipment located at all Sites during the Measurement Period, and;
- (b) available Working Hours, and;
- (c) available Working Days.

For Equipment deployed during the Measurement Period, measurement will commence on the next Working Day after deployment.

“SERVICE RESPONSE TIME”

means the time taken for the Service Provider to respond to a service call measured in Working Hours (remotely or by personal attendance at a Site), following receipt of a request from the Customer.

“FIRST TIME FIX”

means, in the event of a service call resulting in a personal attendance at a Site the proportion of repeat Site visits to the same item of Equipment as a proportion of the total Site visits made during the Measurement Period.

“MEASUREMENT PERIOD”

means the quarterly period in which the service levels shall be measured.

DESCRIPTION	STANDARD	MEASUREMENT METHODOLOGY	CALCULATION
A. AVERAGE UPTIME	= 95%	The Service Provider maintains a log detailing the time and date that each individual item of Equipment became unavailable (or was reported as unavailable) and the time and date that the same item of Equipment became available (or was reported as available).	One minus the total number of hours that deployed Equipment was unavailable during the quarter (A), divided by the total number of Equipment Available Hours (B) i.e. $1 - (A / B)$ multiplied by 100 to convert to a percentage.
B. SERVICE RESPONSE TIME	Average 4 Working Hours	The Service Provider maintains a log detailing the date and time of each service call and the date and time that an engineer arrived at the Site in response to a service call.	Total number of service response hours during the Measurement Period divided by the total number of service calls during the Measurement Period.
C. MANAGEMENT INFORMATION REPORT (MIR)	= 100%	The Service Provider provides a Management Information Report on a quarterly basis detailing performance against service SLA's.	N/A



SCHEDULE 5

**SPECIAL TERMS AND CONDITIONS AGREEMENT REFERENCE NUMBER:
CUSTOMER:**

Used to document changes to Schedule 1 Terms and Conditions

CUSTOMER

Signed on behalf of: Customer

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:

SERVICE PROVIDER

Signed on behalf of: Service Provider

Name/Position: (Senior Manager/Director/Company Secretary) Printed

Date:



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