
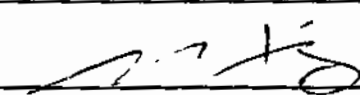
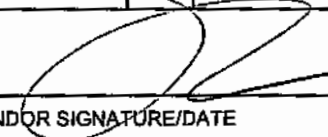


TERM CONTRACT AWARD		CONTRACT NO: MA-IS-1140174-5	VERSION DATE
INTERNAL SERVICES DEPARTMENT		PROCUREMENT FOLDER: 199922	
<div style="border: 1px solid black; padding: 5px;"> XEROX CORPORATION 700 S. FLOWER ST., STE. 700 LOS ANGELES CA 90017-4109 </div>		BUYER: Zheng Huang PHONE: 323-267-2200 EMAIL: ZHuang@lsd.lacounty.gov	
		VENDOR NO: 039310 CONTACT: JON ALBERT PHONE: 213-614-0214	
		FISCAL YEAR: EFFECTIVE DATE: 01/01/11 EXPIRATION 12/31/13	

PHOTOCOPY EQUIPMENT

LINE NO.	COMMODITY/SERVICE DESCRIPTION	QUANTITY	UOM	PRICE TYPE	VALUE
1	COMMODITY CODE: 985-26-00-037062 PHOTOCOPIER TERM LEASE/RENTAL INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	0.000		DISCOUNT	0.0000 %
2	COMMODITY CODE: 985-26-00-041621 PHOTOCOPIER LEASE PURCHASE INCLUDES ALL MODELS AND MULTIFUNCTIONAL DEVICES	0.000		DISCOUNT	0.0000 %
3	COMMODITY CODE: 939-27-00-041622 PHOTOCOPIER FULL SERVICE MAINTENANCE SERVICE INCLUDES REPLENISHMENT OF BLACK TONER/COPY CARTRIDGE/DEVELOPER AND FUSER LUBRICANTS (NOT INCLUDED ARE COLOR TONER TONERS, STAPLERS, PAPER, SPECIALTY APPLICATION SUPPLY PRODUCTS)	0.000		DISCOUNT	0.0000 %

 COUNTY OF LOS ANGELES	 VENDOR SIGNATURE/DATE	8/30/2011
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PRICE SHEET		TERM CONTRACT AWARD			
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LINE NO.	COMMODITY/SERVICE DESCRIPTION	QUANTITY	UOM	PRICE TYPE	VALUE
4	COMMODITY CODE: 015-15-00-041623 PHOTOCOPIER CHEMICALS & SUPPLIES FOR BOND PAPER TYPE COPY MACHINES	0.000		DISCOUNT	0.0000 %
5	COMMODITY CODE: 600-38-00-041624 PHOTOCOPIER PURCHASE ALL MODELS AND MULTIFUNCTIONAL DEVICES INCLUDES PARTS AND ACCESSORIES	0.000		DISCOUNT	0.0000 %
6	COMMODITY CODE: 600-61-00-041625 FAX MACHINE PURCHASE ALL MODELS INCLUDES PARTS AND ACCESSORIES	0.000		DISCOUNT	0.0000 %
7	COMMODITY CODE: 962-46-00-041626 DELIVERY AND SETUP FOR PHOTOCOPIER & FAX MACHINES - NO CHARGE NOTE: PRICE OF EQUIPMENT INCLUDES NORMAL DELIVERY, INSTALLATION AND SET UP. TERMS AND CONDITIONS ARE ACCORDANCE WITH RFQ-IS-11260168	0.000		DISCOUNT	0.0000 %

DISTRIBUTORS

TERM CONTRACT AWARD

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VENDOR NO: 105294

VENDOR: INSIGHT INVESTMENTS CORP.

ADDRESS: 600 CITY PKWY. W., STE. 500

ORANGE CA 92868-2946

CONTACT: MICHELLE RAUSO

PHONE: 714-939-2314

RETAILER'S PERMIT #SRZ OHB 98040852 00093AB

FURNISHED AS NEEDED THROUGH DECEMBER 31 2013, RENEWABLE FOR TWO ADDITIONAL 12-MONTH PERIODS BY MUTUAL CONSENT. PRICES TO BECOME EFFECTIVE AS OF JANUARY 1, 2011.

F.O.B. DELIVERED.

FREIGHT PREPAID AND ALLOWED

VENDOR: PAYS FREIGHT COST, OWN TITLE IN TRANSIT, FILE CLAIM(S)

COUNTY: TAKES OWNERSHIP AT DESTINATION

IF MANUFACTURER'S PRICE LIST OR DISCOUNT STRUCTURE CHANGES, VENDOR SHALL NOTIFY THE COUNTY OF LOS ANGELES PURCHASING DEPARTMENT IN WRITING IMMEDIATELY, IDENTIFYING AGREEMENT BY NUMBER, FURNISHING 2 COPIES OF NEW LIST AND/OR ACCEPTABLE EVIDENCE OF CHANGE IN MANUFACTURER'S DISCOUNT STRUCTURE. IT SHALL BE VENDORS RESPONSIBILITY TO KEEP THE COUNTY OF LOS ANGELES INFORMED OF CHANGES.

PARTICIPATING PUBLIC AGENCIES

COUNTY AND AWARDED VENDOR MAY ALLOW OTHER GOVERNMENTAL ENTITIES, INCLUDING BUT NOT LIMITED TO: STATES, COUNTIES, CITIES, SPECIAL DISTRICTS, POLITICAL SUBDIVISIONS, SCHOOL DISTRICTS, HIGHER EDUCATION, AND OTHER MUNICIPALITIES (PARTICIPATING PUBLIC AGENCIES) TO PURCHASE PRODUCTS OR SERVICES FROM THIS AGREEMENT ON THE SAME TERMS, CONDITIONS AND PRICING AS THE COUNTY, SUBJECT TO ANY APPLICABLE LOCAL PURCHASING ORDINANCES AND THE LAWS OF THE STATE OF PURCHASE.

THE COUNTY SHALL NOT BE CONSTRUED AS A DEALER, RE-MARKETER, REPRESENTATIVE, PARTNER OR AGENT OF ANY TYPE OF VENDOR AWARDED THIS AGREEMENT. PARTICIPATING PUBLIC AGENCIES SHALL BE RESPONSIBLE FOR THE ORDERING OF PRODUCTS UNDER THIS AGREEMENT. PAYMENT FOR PRODUCTS OR SERVICES AND INSPECTIONS AND ACCEPTANCE OF PRODUCTS OR SERVICES ORDERED BY A PARTICIPATING PUBLIC AGENCY SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PROCURING PARTY.

THE COUNTY SHALL NOT BE OBLIGATED, LIABLE OR RESPONSIBLE FOR ANY ORDER MADE BY ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF FOR ANY PAYMENT REQUIRED TO BE MADE WITH RESPECT TO SUCH ORDER; AND THAT ANY DISPUTES BETWEEN A PARTICIPATING PUBLIC AGENCY AND VENDOR AWARDED THIS AGREEMENT ARE NOT THE RESPONSIBILITY OF THE COUNTY. THE EXERCISE OF ANY RIGHTS OR REMEDIES BY THE PARTICIPATING PUBLIC AGENCY OR AWARDED VENDOR SHALL BE THE EXCLUSIVE OBLIGATION OF SUCH PARTY.

THE COUNTY MAKES NO REPRESENTATION OR GUARANTY WITH RESPECT TO ANY MINIMUM PURCHASES BY THE COUNTY OR ANY PARTICIPATING PUBLIC AGENCY OR ANY EMPLOYEE THEREOF UNDER THIS AGREEMENT.

UTILIZATION RECAPITULATION REPORT:

SPECIAL TERMS & CONDITIONS**TERM CONTRACT AWARD**

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120 DAYS PRIOR TO TERMINATION OF THIS AGREEMENT, VENDOR SHALL FURNISH THE COUNTY OF LOS ANGELES WITH A LIST SHOWING THE AMOUNT OF EACH ITEM DELIVERED. THIS LIST SHALL BE BY INDIVIDUAL ITEM AND SHALL SHOW THE TOTAL DELIVERED TO COUNTY OF LOS ANGELES DURING THE PRIOR YEAR OR PORTION THEREOF. IN ADDITION, A TOTAL DOLLAR VALUE SOLD TO ALL PARTICIPATING AGENCIES DURING THE SAME PERIOD SHALL BE FURNISHED.

RETURN OF GOODS RECEIVED:

VENDOR AGREES TO ACCEPT FOR CREDIT ANY MERCHANDISE RETURNED IN GOOD CONDITION WITHIN FIVE DAYS AFTER RECEIPT OF GOODS WITHOUT ANY HANDLING CHARGES; HOWEVER, NO RETURN SHALL BE MADE OF ANY MATERIAL WHICH HAS BEEN PUT INTO OPERATION OTHER THAN FOR TEST. WHEN PRODUCTS DELIVERED FAIL TO MEET SPECIFICATION, COST OF INSPECTION SHALL BE FOR ACCOUNT OF VENDOR.

THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO CANCEL THIS AGREEMENT IF DELIVERY OR SERVICES PROVE UNSATISFACTORY (DEFAULT) AND MAY PROCURE THE ARTICLES OR SERVICES FROM OTHER SOURCES AND MAY DEDUCT FROM UNPAID BALANCE DUE THE VENDOR FOR EXCESS COSTS SO PAID. THE PRICES PAID BY THE COUNTY OF LOS ANGELES SHALL BE CONSIDERED THE PREVAILING MARKET PRICE AT THE TIME SUCH PURCHASE IS MADE. THE COUNTY OF LOS ANGELES SHALL BE SOLE JUDGE AS TO SATISFACTORY PERFORMANCE.

INSURANCE COVERAGE REQUIREMENTS:

GENERAL LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CG 00 01 OR ITS EQUIVALENT) WITH LIMITS OF NOT LESS THAN THE FOLLOWING:

GENERAL AGGREGATE: \$2 MILLION

PRODUCTS/COMPLETED OPERATIONS AGGREGATE: \$1 MILLION

PERSONAL AND ADVERTISING INJURY: \$1 MILLION

EACH OCCURENCE: \$1 MILLION

AUTOMOBILE LIABILITY: INSURANCE (WRITTEN ON ISO POLICY FORM CA 00 01 OR ITS EQUIVALENT) WITH A LIMIT OF LIABILITY OF NOT LESS THAN \$1 MILLION FOR EACH ACCIDENT. SUCH INSURANCE SHALL INCLUDE COVERAGE FOR ALL 'OWNED' 'HIRED' AND 'NON-OWNED' VEHICLES, OR COVERAGE FOR 'ANY AUTO'.

PAYMENT TERMS: PAYMENT TERMS ARE NET 30 DAYS FROM COUNTY'S RECEIPT OF A CORRECT AND PROPER INVOICE, AS PREPARED IN ACCORDANCE WITH THE TERMS HEREIN. IN NO EVENT SHALL COUNTY BE LIABLE FOR ANY LATE CHARGES. INVOICES SHALL ONLY BE ISSUED AFTER COUNTY'S ACCEPTANCE OF THE GOODS AND/OR PRODUCTS. DISCOUNTS SHALL BE AS SET FORTH HEREIN.

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PRODUCTS PURCHASED AS A RESULT OF THIS CONTRACT ARE TO BE SUPPLIED AS OFFERED AND ACCEPTED WITHOUT SUBSTITUTION OF MATERIAL OR STYLE. COSTS INCURRED BY THE COUNTY OF LOS ANGELES FOR INTERNAL ACTIVITIES REQUIRED TO RECALL AND REPLACE AN UNAUTHORIZED SUBSTITUTE WILL BE DOCUMENTED AND APPLIED TO THE ACCOUNT OF THE SUPPLIER.

UNLESS OTHERWISE QUALIFIED, VENDOR AGREES, FOR THE PERIOD OF THIS AGREEMENT, THAT PRICES QUOTED ARE MAXIMUM.

IF PRICES DECLINE, OR SHOULD VENDOR AT ANY TIME DURING THE LIFE OF THIS AGREEMENT SELL THE SAME MATERIALS OR SERVICE UNDER SIMILAR QUANTITY AND DELIVERY CONDITIONS TO THE STATE OF CALIFORNIA, OR ANY COUNTY, MUNICIPALITY OR LEGAL DISTRICT OF THE STATE OF CALIFORNIA AT PRICES BELOW THOSE QUOTED HEREIN, SUCH LOWER PRICES SHALL BE IMMEDIATELY EXTENDED TO THE COUNTY OF LOS ANGELES.

EQUIPMENT OFFERED MUST BE NEW, UNUSED, CURRENT MODELS.

SPECIFICATIONS OF EQUIPMENT DESCRIBED HAVE BEEN DEEMED ADEQUATE TO SATISFY THE PERFORMANCE REQUIREMENTS OF THE REQUISITIONING DEPARTMENT. THE COUNTY OF LOS ANGELES RESERVES THE RIGHT TO MAKE AN AWARD ON EQUIPMENT WHICH MEETS FUNCTIONAL NEEDS AND IS SUITABLE FOR THE SERVICE REQUIRED.

DAMAGE TO BUILDINGS, APPURTENANCES AND FURNISHINGS MUST BE AVOIDED. DAMAGE CAUSED BY CONTRACTOR'S OPERATIONS SHALL BE REPAIRED, AS DIRECTED, AT NO COST TO THE COUNTY OF LOS ANGELES.

ALL PACKAGES OF HAZARDOUS MATERIALS MUST BE CLEARLY MARKED WITH THE PROPER SHIPPING NAME AND IDENTIFICATION NUMBER AS REQUIRED BY DEPARTMENT OF TRANSPORTATION TITLE 49, SECTION 172.30L.

VENDOR IS REQUIRED TO MAIL MATERIAL SAFETY DATA SHEETS (MSDS) TO THE ATTENTION OF THE SAFETY OFFICER AT THE DELIVERY ADDRESS SHOWN HEREIN WHEN DELIVERY IS TO BE MADE DIRECT TO THE USING DEPARTMENT OR TO THE COUNTY OF LOS ANGELES, DEPARTMENT OF PERSONNEL, ENVIRONMENTAL HEALTH SECTION, 5TH FLOOR, 2615 SO. GRAND AVE., LOS ANGELES, CA 90007, WHEN DELIVERY IS TO BE MADE TO THE CENTRAL WAREHOUSE ON ELM STREET.

ALL CHARGES, E.G., TRANSPORTATION, PACKING, INSTALLATION, MUST BE INCLUDED IN THE AGREEMENT.

INDEMNIFICATION: VENDOR SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COUNTY, ITS AGENTS, OFFICERS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY, EXPENSE, INCLUDING DEFENSE COSTS AND LEGAL FEES, AND CLAIMS FOR DAMAGES OF ANY NATURE WHATSOEVER ARISING FROM OR CONNECTED WITH VENDOR'S OPERATIONS, GOODS AND/OR COMMODITIES OR SERVICES PROVIDED HEREUNDER. THIS INDEMNITY SHALL INCLUDE, BUT NOT BE LIMITED TO CLAIMS FOR OR BY REASON OF ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT OR COPYRIGHT OR ANY ACTUAL OR ALLEGED TRADE SECRET DISCLOSURE.

DEFAULT: IN THE EVENT VENDOR FAILS TO PERFORM HEREUNDER AND DOES NOT CURE SUCH FAILURE WITHIN FIFTEEN (15) CALENDAR DAYS OF THE DATE COUNTY'S NOTICE WAS SENT TO VENDOR, COUNTY MAY, AT ITS SOLE DISCRETION, CANCEL OR TERMINATE THIS PURCHASE ORDER. SUCH CANCELLATION OR TERMINATION SHALL BE AT NO COST TO COUNTY. SHOULD COUNTY SO CANCEL OR TERMINATE, COUNTY MAY AT ITS SOLE DISCRETION, PROCURE THE ITEMS OR SERVICES FROM OTHER SOURCES AND VENDOR SHALL BE LIABLE TO COUNTY FOR ANY AND ALL EXCESS COSTS, DETERMINED BY COUNTY, FOR SUCH ITEMS OR SERVICES.

NONEXCLUSIVITY: NOTHING HEREIN IS INTENDED NOR SHALL IT BE CONSTRUED AS CREATING ANY EXCLUSIVE ARRANGEMENT WITH VENDOR.

INDEPENDENT CONTRACTOR STATUS: VENDOR SHALL AT ALL TIMES BE ACTING IN THE CAPACITY OF INDEPENDENT CONTRACTOR. THIS AGREEMENT AND/OR PURCHASE ORDER ARE NOT INTENDED, AND SHALL NOT BE OR CONSTRUED, TO CREATE THE RELATIONSHIP OF AGENT, SERVANT, EMPLOYEE PARTNERSHIP, JOINT VENTURE OR ASSOCIATION, AS BETWEEN COUNTY AND VENDOR. THE EMPLOYEES AND AGENTS OF ONE PARTY SHALL NOT BE OR CONSTRUED TO BE, THE EMPLOYEES OR AGENTS OF THE OTHER PARTY FOR ANY REASON WHATSOEVER.

GRATUITIES

IT IS IMPROPER FOR ANY COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT CONSIDERATION, IN ANY FORM, FROM A PROPOSER WITH THE IMPLICATION, SUGGESTION OR STATEMENT THAT THE PROPOSER'S PROVISION OF THE CONSIDERATION MAY SECURE MORE FAVORABLE TREATMENT FOR THE PROPOSER IN THE AWARD OF THE CONTRACT OR THAT THE PROPOSER'S FAILURE TO PROVIDE SUCH CONSIDERATION MAY NEGATIVELY AFFECT THE COUNTY'S CONSIDERATION OF THE PROPOSER'S SUBMISSION. A PROPOSER SHALL NOT OFFER OR GIVE, EITHER DIRECTLY OR THROUGH AN INTERMEDIARY, CONSIDERATION, IN ANY FORM TO A COUNTY OFFICER, EMPLOYEE OR AGENT FOR THE PURPOSE OF SECURING FAVORABLE TREATMENT

WITH RESPECT TO THE AWARD OF THE CONTRACT.
A PROPOSER SHALL IMMEDIATELY REPORT ANY ATTEMPT BY A COUNTY OFFICER, EMPLOYEE OR AGENT TO SOLICIT SUCH IMPROPER CONSIDERATION. THE REPORT SHALL BE MADE EITHER TO THE COUNTY MANAGER CHARGED WITH THE SUPERVISION OF THE EMPLOYEE OR TO THE COUNTY AUDITOR-CONTROLLER'S EMPLOYEE FRAUD HOTLINE AT (213) 974-0914 OR (800) 544-6881. FAILURE TO REPORT SUCH A SOLICITATION MAY RESULT IN THE PROPOSER'S SUBMISSION BEING ELIMINATED FROM CONSIDERATION. AMONG OTHER ITEMS, SUCH IMPROPER CONSIDERATION MAY TAKE THE FORM OF CASH, DISCOUNTS, SERVICE, THE PROVISION OF TRAVEL OR ENTERTAINMENT OR TANGIBLE GIFTS.

AUTHORIZATION WARRANTY

CONTRACTOR REPRESENTS AND WARRANTS THAT THE PERSON EXECUTING THIS AGREEMENT FOR CONTRACTOR IS AN AUTHORIZED AGENT WHO HAS ACTUAL AUTHORITY TO BIND CONTRACTOR TO EACH AND EVERY TERM, CONDITION AND OBLIGATION OF THIS AGREEMENT AND THAT ALL REQUIREMENTS OF CONTRACTOR HAVE BEEN FULFILLED TO PROVIDE SUCH ACTUAL AUTHORITY.

Notice to Bidder: In line with the County policy for the procurement of energy-efficient equipment and products, preference will be given to those products that meet the Federal Energy Management Program (FEMP) standards or possess an Energy Star Label.

PRICE PER UNIT INDICATED ON EACH ITEM F.O.B. DESTINATION.

WORKERS COMPENSATION AND EMPLOYERS' LIABILITY: INSURANCE PROVIDING WORKERS COMPENSATION BENEFITS, AS REQUIRED BY THE LABOR CODE OF THE STATE OF CALIFORNIA OR BY ANY OTHER STATE, AND FOR WHICH CONTRACTOR IS RESPONSIBLE. IF CONTRACTOR'S EMPLOYEES WILL BE ENGAGED IN MARITIME EMPLOYMENT, COVERAGE SHALL PROVIDE WORKERS COMPENSATION BENEFITS AS REQUIRED BY THE U.S. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, JONES ACT OR ANY OTHER FEDERAL LAW FOR WHICH CONTRACTOR IS RESPONSIBLE.

IN ALL CASES, THE ABOVE INSURANCE ALSO SHALL INCLUDE EMPLOYERS' LIABILITY COVERAGE WITH LIMITS OF NOT LESS THAN THE FOLLOWING:

EACH ACCIDENT: \$1 MILLION

DISEASE - POLICY LIMIT: \$1 MILLION

DISEASE - EACH EMPLOYEE: \$1 MILLION

CAL/OSHA - STATEMENT OF COMPLIANCE

THE ITEMS SHOWN HEREIN MUST MEET ALL APPLICABLE LOCAL, STATE AND FEDERAL STATUTES, REGULATIONS, CODES, ETC., INCLUDING BUT NOT LIMITED TO CAL/OSHA REQUIREMENTS AS SET FORTH IN THE CALIFORNIA ADMINISTRATIVE CODE, TITLE 8, CHAPTER 4. SUBMISSION OF A BID

SPECIAL TERMS & CONDITIONS**TERM CONTRACT AWARD****CONTRACT NO: MA-IS-1140174-5****PAGE****9**

CONSTITUTES THE REPRESENTATION OF THE VENDOR THAT ALL ITEMS MEET OR EXCEED ALL SUCH APPLICABLE LAWS, STATUTES, CODES, ETC., AND THAT THE DETERMINATION THAT ANY ITEM DOES NOT DO SO SHALL BE GROUNDS, AT THE OPTION OF THE PURCHASING AGENT, TO TERMINATE OR RESCIND THE AGREEMENT, PURCHASE OR LEASE, AND ENTITLE THE COUNTY TO ANY DAMAGES SUFFERED BY REASON THEREOF.

THE USE OF BRAND NAMES IN THIS INVITATION FOR BID IS FOR VENDOR INFORMATION ONLY AND DOES NOT SIGNIFY COMPLIANCE WITH THE ABOVE CODES AND REGULATIONS.

Agreement amendment #2: Accept revised additional terms and conditions negotiated by the County and Xerox effective on June 23, 2011

Agreement amendment #1: Accept attached additional terms and conditions negotiated by the County and Xerox effective on June 23, 2011

STANDARD TERMS & CONDITIONS**TERM CONTRACT AWARD**

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The County of Los Angeles accepts your offer to furnish our requirements (and such requirements as may be ordered by cities and /or districts indicated herein) of the listed commodity, or service, as needed, subject to conditions of the stated quotation and as provided herein. All Purchase Agreements, Purchase Orders and Contracts will be deemed to be made and entered into the State of California under the constitution and laws of this state and are to be so construed.

PRICE GUARANTEE: Unless otherwise provided herein, prices are maximum for the period of this agreement. In the event of a price decline, or, should you at any time during the life of this agreement sell the same material or service under similar quantity and deliver conditions to the State of California, or legal district thereof, or to any county or Municipality within the State of California at prices below those stated herein, you will immediately extend such lower prices to the County of Los Angeles.

ATTENTION: VENDOR/DEPARTMENT - SPECIAL NOTE: County departments are not authorized to use this agreement as a purchasing source for products not specifically covered herein. Changes of items, equipment, or modifications to prices, specifications, or conditions, etc., of this agreement can be made only by the Purchasing Agent by issuance of official amendment and in accordance with properly authorized changes agreed upon prior to consummation.

Los Angeles County will not pay for items not listed below that have not been processed in accordance with the above paragraph. Vendor will incur payment problems.

County's Quality Assurance Plan. The County or its agent will evaluate Contractor's performance under this agreement on not less than annual basis. Such evaluation will include assessing Contractor's compliance with all contract terms and performance standards. Contractor deficiencies which County's determines are severe or continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this agreement or impose other penalties as specified in this agreement.

CONTRACTOR RESPONSIBILITY AND DEBARMENT

1. A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the County's policy to conduct business only with responsible contractors.
2. The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the contract, debar the Contractor from bidding on County contracts for a specified period of time not to exceed 5 years, and terminate any or all existing contracts the Contractor may have with the County.
3. The County may debar a contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated any term of a contract with the County, (2) committed any act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County or any other public entity, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.
4. If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is, the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

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<p>5. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a proposed decision, which shall contain a recommendation regarding whether the contractor should be debarred, and, if so, the appropriate length of time of the debarment. If the Contractor fails to avail itself of the opportunity to submit evidence to the Contractor Hearing Board, the Contractor may be deemed to have waived all rights of appeal.</p> <p>6. A record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.</p> <p>7. These terms shall also apply to (subcontractors/subconsultants) of County Contractors.</p>	
<p style="text-align: center;">PROHIBITION AGAINST USE OF CHILD LABOR</p>	
<p>VENDOR shall:</p>	
<p>1. Not knowingly sell or supply to COUNTY any products, goods, supplies or other personal property produced or manufactured in violation of child labor standards set by the International Labor Organizations through its 1973 Convention concerning Minimum Age for Employment.</p>	
<p>2. Upon request by COUNTY, identify the country/countries of origin of any products, goods, supplies or other personal property bidder sells or supplies to COUNTY, and</p>	
<p>3. Upon request by COUNTY, provide to COUNTY the manufacturer's certification of compliance with all international child labor conventions.</p>	
<p>Should COUNTY discover that any products, goods, supplies or other personal property sold or supplied by VENDOR to COUNTY are produced in violation of any international child labor conventions, VENDOR shall immediately provide an alternative, compliant source of supply.</p>	
<p>Failure by VENDOR to comply with the provisions of this clause will be grounds for immediate cancellation of this Purchase Order or termination of this Agreement and award to an alternative vendor.</p>	
<p>A. Jury Service Program.</p>	
<p>This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.</p>	
<p>B. Written Employee Jury Service policy.</p>	
<p>1. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. This policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.</p>	

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2. For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means 40 hours or more worked per week, or a lesser number of hours if the lesser number is a recognized industry standard and is approved as such by the County. If Contractor uses any subcontractor to perform services for the County under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a Copy of the Jury Service Program shall be attached to the agreement.

3. If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the county's satisfaction that Contractor either continues to remain outside of the Jury service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

4. Contractor's violation of this Section of the contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

PRICE SPECIFIC CONTRACTS AND PURCHASE ORDERS

Vendors are entitled to receive payment for goods received by, or services provided to the county specific to the Contract or Purchase Order price amount. Under no circumstances will those Suppliers, Contractors or Vendors who supply goods or otherwise contract services with the County of Los Angeles be entitled to or paid for expenditures beyond the Contract or Purchase Order amounts. Vendors are prohibited from accepting prepayment for goods or services without the express written approval of the County Purchasing Agent.

ASSIGNMENT BY CONTRACTOR

A. Contractor shall not assign its rights or delegate its duties under the Agreement, or both whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall require a written amendment to the Agreement, which is formally approved and executed by the parties. Any payments by county to any approved delegate or assignee on any claim under the Agreement shall be deductible, at County's sole discretion, against the claims which Contractor, may have against county.

B. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Agreement, such disposition is an assignment requiring the prior written consent of County in accordance with applicable provisions of this Agreement.

C. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without county's express prior written approval, shall be a material breach of the Agreement which may result in the termination of the Agreement. In the event of such termination, County shall be entitled to pursue the same remedies against Contractor as it could pursue in the event of default by Contractor.

**Xerox Clarifications to
County of Los Angeles
Contract Number MA-IS-1140174
Photocopy Equipment**

Please note that the following clarifications and comments are incorporated into the County of Los Angeles Term Contract for PHOTOCOPY EQUIPMENT, County Award Number MA-IS-1140174-1, and the County's Request for Quote, Solicitation Number RFQ-IS-11260168-1. Should there be a conflict between the various documents the order of precedence shall be:

1. The County's Contract MA-IS-1140174
2. The County's RFQ-IS-11260168-1
3. Xerox Clarifications and Additional Terms plus appropriate acquisition offering terms

Xerox's Clarifications to the County's Award # MA-IS-1140174-1

Award Section

F.O.B Delivered. Please note that title to purchased equipment will pass to the County upon the equipment's installation and title to the equipment acquired under a Lease or Service Order will remain with Xerox until the County exercises the equipment purchase option.

Return of Goods Received. Xerox agrees to repair or replace any equipment that does not perform to its published specification, provided the equipment is covered by a Xerox maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage. Please note that equipment cannot be returned to Xerox unless equipment's performance capabilities was misrepresented

Right to Cancel the Agreement. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct a performance failure for a Lease or Installment Purchase Order and 60 days for a Service Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

Xerox agrees that the County can terminate the Master Agreement and stop placing additional equipment orders with 30 days prior written notice. However, this cancellation provision does not pertain to any in-place equipment installed under a Lease, Installment Purchase, or Service Agreement prior to the County's termination notice. In the event the Master Agreement is terminated, individual lease, installment purchase, and service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease Agreement.

Payment Terms. Please note that Xerox will not invoice the County until Xerox has received a signed order or purchase order from the County, and the equipment has been delivered, installed, and is available for the County's use. Any equipment that does not perform to its published standard will be repaired or replaced at Xerox's expense provided the equipment is covered under the Xerox Total Satisfaction Guarantee and Services Guarantee provisions.

Future Price Decreases. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to any other Xerox contract offering, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go forward price for future order activity only

Equipment Offered. In order to meet the County's new equipment requirement, Xerox will provide either newly manufactured or factory produced new model equipment both of which are currently manufactured by Xerox and defined as new. None of the equipment provided will be remanufactured, reconditioned, recycled, refurbished, or used, although the equipment may contain some recycled components that meet newly manufactured standards. Regardless of the equipment type provided, the County will be the first user of the newly manufactured and factory produced new model equipment.

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Delivery / Transportation Charges. The Xerox offer includes all expenses associated with the equipment's freight, its shipment to and removal from the County's delivery dock, and its inside delivery/removal, excluding any unique delivery or removal expenses. The County will be responsible for any non-standard inside delivery or removal expenses, such as the additional time or resources required to disassemble the equipment due to the lack of adequate facility access or the movement of the equipment up/down stairways using stair creepers. If any excess rigging is required, Xerox will include the details and associated rigging costs with the individual equipment proposal prior to performing the actual service.

Indemnification / Infringement. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

Price Guarantee. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and adjust the mutually agreed go-forward price for future order activity only.

County's Quality Assurance Plan. Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Lease or Services Order. In the event the Agreement is terminated, individual Lease and Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease, Purchase, or Services Order.

Assignment by Contractor. Please note that Xerox routinely assigns its leases to a wholly owned subsidiary or affiliate of Xerox, or to securitize the equipment under the Agreement. Such assignment will be transparent to the County. Although the assignee will have all of the Agreement rights, Xerox will continue to be responsible for the provision of maintenance services and all other contractual obligations, with all payments continuing to be made to Xerox. Xerox will not assign the contract to any external third party financing organization without the County's prior written consent. Any assignment of the maintenance services will require the County's prior written consent. Selected services such as the equipment delivery and removal, supply deliveries, and customer training may be performed by authorized Xerox contractors.

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Section

9 – Delivery Charges. The Xerox offer includes all expenses associated with the equipment's freight, its shipment to and removal from the County's delivery dock, and its inside delivery/removal, excluding any unique delivery or removal expenses. The County will be responsible for any non-standard inside delivery or removal expenses, such

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as the additional time or resources required to disassemble the equipment due to the lack of adequate facility access or the movement of the equipment up/down stairways using stair creepers. If any excess rigging is required, Xerox will include the details and associated rigging costs with the individual equipment proposal prior to performing the actual service.

36 – County's Quality Assurance Program. Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Agreement. In the event the Agreement is terminated, individual Lease or Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease, Purchase, or Services Order.

Terms and Conditions of Purchase

7 – Cancellation. Xerox agrees that the County can cancel an open / uninstalled equipment order based on a change in its business requirements without penalty. However, this cancellation flexibility does not pertain to any equipment installed under a Lease or Services Order. Any installed equipment will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and the individual Lease, Purchase, or Services Order.

12 – Indemnification. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

13 – Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders.

17 – Force Majeure. Xerox agrees that neither party will be in breach of their performance obligations if a force majeure event prevents the party from fulfilling its obligations. The County's payment obligation will be suspended with respect to any Equipment that is rendered inoperable during a force majeure event if Xerox is prevented from providing maintenance services. The payment suspension will continue until the end of the force majeure event or until Xerox restores the Equipment to operating condition. If payment is suspended, the term of this Agreement will be extended for a period equal to the County's payment suspension.

19 – Most Favored Customer. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go-forward price for future order activity only.

21 – Acceptance. Unless the Lease or Service Order is preceded by a Trial order, the equipment will be deemed accepted on the equipment's installation date, which is the date Xerox determines the equipment to be operating satisfactorily, as demonstrated by the successful completion of diagnostic routines, and is available for the County's use. The Installation Date for equipment and software designated as "Customer Installable" will be the equipment delivery date. Any equipment that does not perform to its published specification will be repaired or replaced by

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Xerox at its expense, provided the equipment is covered by a Xerox warranty or maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage.

32 – Payroll Records. Xerox agrees, upon reasonable written request, to make available to the County the financial and other records that are required to substantiate the Services and accurate billings under the Agreement, and excludes any information deemed by Xerox to be confidential or proprietary.

Other Items

Page 17, Assignment by Contractor. Please note that Xerox routinely assigns its leases to a wholly owned subsidiary or affiliate of Xerox, or to securitize the equipment under the Agreement. Such assignment will be transparent to the County. Although the assignee will have all of the Agreement rights, Xerox will continue to be responsible for the provision of maintenance services and all other contractual obligations, with all payments continuing to be made to Xerox. Xerox will not assign the contract to any external third party financing organization without the County's prior written consent. Any assignment of the maintenance services will require the County's prior written consent. Selected services such as the equipment delivery and removal, supply deliveries, and customer training may be performed by authorized Xerox contractors.

Page 21, Off-Peak (Hours) – Delivery of Commodities. Xerox agrees to cooperate with the end-user to schedule equipment deliveries and removals during off-peak hours consistent with the end-users business requirements.

Xerox agrees that the County can terminate the order taking provision of the Agreement based on Xerox's performance during the annual contract review. However, this cancellation provision does not pertain to any equipment installed under the Agreement prior to the County's termination of the Lease or Services Order. In the event the Agreement is terminated, individual Lease and Service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease, Purchase, or Services Order.

Page 26, Price Decreases. Please note that Xerox's price offering provided under this Contract represent the maximum prices that the County will be charged during the Contract term. Order time promotions, and other discounts based on the type(s) and number of products ordered, and the equipment installation term are also available. Xerox cannot guarantee the price relationship of this offer compared to other Xerox contract offerings, as this contract has been customized based on the specific equipment quantities, impression volumes, agreement term, and service/support requirements included in the County's RFP. Additionally, Xerox does not have the means to compare an individual County equipment order with any other customer order. However, Xerox agrees to review the County's contract price offering every 24-months and to adjust, as appropriate, the mutually agreed go-forward price for future order activity only.

Page 26, Supplied Equipment. In order to meet the County's new equipment requirement, Xerox will provide either newly manufactured or factory produced new model equipment both of which are currently manufactured by Xerox and defined as new. None of the equipment provided will be remanufactured, reconditioned, recycled, refurbished, or used, although the equipment may contain some recycled components that meet newly manufactured standards. Regardless of the equipment type provided, the County will be the first user of the newly manufactured and factory produced new model equipment.

Page 27, Return of Goods Received. Xerox agrees to repair or replace any equipment that does not perform to its published specification, provided the equipment is covered by a Xerox maintenance plan. Any equipment that needs to be replaced will be replaced with an identical model, or at Xerox's option a unit with similar capabilities, and comparable usage. Please note that equipment cannot be returned to Xerox unless equipment's performance capabilities was misrepresented.

Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct a performance failure for a Lease or Installment Purchase Order and 60 days for a Service Order. If the performance shortfall is not corrected to the contracted standard within the agreed upon timeframe, Xerox will either issue a check or issue a separate credit invoice to the County. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders

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Xerox agrees that the County can terminate the Master Agreement and stop placing additional equipment orders with 30 days prior written notice. However, this cancellation provision does not pertain to any in-place equipment installed under a Lease, Installment Purchase, or Service Agreement prior to the County's termination notice. In the event the Master Agreement is terminated, individual lease, installment purchase, and service equipment placements will continue until their scheduled expiration date, and continue to be governed by, and be subject to, the terms and conditions of the Agreement and individual Lease Agreement.

Page 27, Right to Audit. Xerox agrees, upon reasonable written request, to make available to the County the financial and other records that are required to substantiate the Services and accurate billings under the Agreement, and excludes any information deemed by Xerox to be confidential or proprietary.

Page 29, Indemnification. Xerox agrees to defend the County from and pay any ultimate judgment for, infringement in the United States for any Xerox-branded Equipment or Software of any patent, trademark, trade secret, protected semiconductor chip mask work, or copyright if County promptly notifies Xerox in writing of any alleged infringement, allows Xerox to defend, and cooperates with Xerox. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox agrees to them in writing. Xerox is not liable for any infringement due to Equipment or Software being made or modified by the County requested specifications or designs, or being used or sold in combination with equipment, software, or supplies not provided by Xerox. Xerox makes no other express or implied warranty of non-infringement and has no other liability for infringement or any damages. To avoid an infringement (even if not alleged) Xerox may, at its option, at no charge to Customer, obtain a license to use, modify, or substitute an equivalent item for the infringing equipment or software.

Page 29, Default. Xerox agrees that it will be responsible for any additional costs incurred by the County if Xerox fails to deliver the requested product(s) or service(s), providing the County notifies Xerox in writing of the performance failure and provides Xerox 30 days to correct the performance for a Lease or Installment Purchase Order, or 60 days for a Services Order. Pending correction of the failure, the County is expected to pay all undisputed amounts, including the Monthly Minimum Charge, which is not subject to dispute. Xerox agrees that an individual lease, installment purchase or services equipment agreement can be terminated if Xerox fails to correct the identified performance failure within 30 days for Lease Orders and 60 days for Service Orders

**** Last Xerox Clarification *****

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Xerox Additional Terms

General Terms

1. **Products.** "Products" means Xerox-brand equipment ("Equipment"), Software, Consumable Supplies and Maintenance Services ordered under this Agreement.
2. **Total Satisfaction Guarantee.** "SP Equipment" means any iGen3, iGen4, and Xerox Continuous Feed Equipment. Except for SP Equipment identified as "Previously Installed", if, during any 90 day period, the performance of SP Equipment delivered under this Agreement is not at least substantially consistent with the performance expectations outlined in the SP Equipment's Customer Expectations Document ("Expectations Document"), Xerox will, at Customer's request, replace the SP Equipment without charge with identical SP Equipment or, at Xerox's option, with Xerox equipment with comparable features and capabilities. The SP Equipment Guarantee does not apply during the first 180 days after installation and will expire 3 years after the Installation Date, unless the SP Equipment is being financed under this Agreement for more than 3 years, in which event it will expire at the end of the initial Term of the subject Installment Purchase, Lease, or Services IA. This SP Equipment Guarantee applies only to SP Equipment that has been (i) continuously maintained by Xerox under a Xerox maintenance agreement, and (ii) operated at all times in accordance with the Expectations Document.

"Non-SP Equipment" means any Equipment other than SP Equipment. If Customer is not totally satisfied with any Non-SP Equipment delivered under an IA under this Agreement, Xerox will, at Customer's request, replace it without charge with identical Non-SP Equipment or, at the option of Xerox, with Xerox equipment with comparable features and capabilities. The Non-SP Equipment Guarantee applies only to Non-SP Equipment that has been continuously maintained by Xerox under a Xerox maintenance agreement. For "Previously Installed" Non-SP Equipment, the Non-SP Equipment Guarantee is effective for one (1) year after the Installation Date. For all other Non-SP Equipment, the Non-SP Equipment Guarantee is effective for 3 years after the Installation Date, unless the Non-SP Equipment is being acquired under an Installment Purchase, Lease, or Services IA with an initial Term of more than 3 years, in which event it will expire at the end of the initial Term of the subject Installment Purchase, Lease, or Services IA.

The SP Equipment Guarantee and Non-SP Equipment Guarantee replace and supersede any other guarantee from Xerox, whether made orally or in writing, styled a "Total Satisfaction Guarantee", "Satisfaction Guarantee" or otherwise covering the subject matter set forth above.

3. **Order Documents.**
 - A. Xerox may accept this Agreement or any Order under the Agreement either by signature or by a signed purchase order.
 - B. Customer will issue documents that Customer or Xerox require for acquisitions under the Master Agreement, including purchase orders and Xerox's standard form "Order Document(s)" for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address and product description, including any Trade-In Equipment. Regardless of the form, the Order Documents must reference the Master Agreement contract number. Notwithstanding anything contained in any Order Document which is at variance with or additional to the Master Agreement, Order Documents will incorporate and be subject solely to the terms and conditions of the Master Agreement, except for standard Xerox agreement terms and conditions related to options selected by Customer.
 - C. Upon acceptance by Xerox, the Order Document creates an individual agreement ("IA") for the Products identified under this Agreement.
4. **Relocation.** Until Customer has paid in full under a Purchase or Installment Purchase or while Equipment is subject to a Lease or Services Order, all Equipment relocations must be arranged, or approved in advance, by Xerox. The relocation will be at Customer's expense and while the Equipment is being relocated, Customer remains responsible to make all payments under the applicable Order.
5. **Trade-In Equipment.** Customer warrants that Customer has the right to transfer title to the equipment Customer is trading in as part of an Order ("Trade-In Equipment"), and that the Trade-In Equipment is in good working order and has not been modified from its original configuration (other than by Xerox). Title and risk of loss to the Trade-In Equipment will pass to Xerox when Xerox removes it from Customer's premises. Customer will maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox. Customer will pay all accrued charges for the Trade-In Equipment (up to and including payment of

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the final principal payment number) and all applicable maintenance, administrative, supply and finance charges until Xerox removes the Trade-In Equipment from Customer's premises.

6. **Funding.** Customer represents and warrants that all payments due and to become due during Customer's current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the acquisition of the Products, and it is Customer's intent to use the Products for the entire Lease or Services equipment term and to make all payments required under this Agreement or an Order. If (1) through no action initiated by Customer, Customer's governing body does not appropriate funds for the continuation of this Agreement or an Order for any fiscal year after the first fiscal year and has no funds to do so from other sources, and (2) Customer has made a reasonable but unsuccessful effort to find an assignee within Customer's general organization who can continue this Agreement or an Order, the Agreement may be terminated. To effect this termination, Customer must, 30 days prior to the beginning of the fiscal year for which Customer's governing body does not appropriate funds for the upcoming fiscal year, notify Xerox that Customer's governing body failed to appropriate funds and that Customer has made the required effort to find an assignee. Customer's notice must certify that canceled Equipment is not being replaced by equipment performing similar functions during the ensuing fiscal year. Customer agrees to release the Equipment to Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. Customer will then be released from any further payments obligations beyond those payments due for the current fiscal year.
7. **Maintenance Services.** Except for Equipment identified as "No Svc.", Xerox will keep the Equipment in good working order ("Maintenance Services"). Maintenance Services are provided as a mandatory part of a Lease or Services Order, or under a Maintenance Order.
 - A. **Basic Services.** Maintenance Services will be provided during Xerox's standard working hours, 8 A.M. to 5 P.M., Monday through Friday. Maintenance Services excludes repairs due to: (a) misuse, neglect or abuse; (b) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (c) use of options, accessories or products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; or (e) failure to perform operator maintenance procedures identified in operator manuals.
 - B. **Replacement Parts.** Replacement parts may be new, reprocessed or recovered and all replaced parts become Xerox's property.
 - C. **Installation Site.** Customer is responsible to prepare and maintain the equipment installation site per Xerox's equipment environmental specifications.
 - D. **Cartridges.** Cartridges packed with Equipment and replacement Cartridges may be new, remanufactured, or reprocessed. Remanufactured and reprocessed Cartridges meet Xerox's new Cartridge performance standards and contain new and/or reprocessed components. To enhance print quality, Cartridge(s) for many models of Equipment have been designed to cease functioning at a predetermined point.
 - E. **Consumable Supplies.** If "Consumable Supplies" is identified in Maintenance Plan Features or specified on a Services Order, Maintenance Services will include black toner and/or solid ink and color toner, and/or solid ink, if applicable ("Consumable Supplies"). Highlight color toner, clear toner, and custom color toner are excluded. Depending on the equipment model ordered, Consumable supplies may also include, developer, fuser agent, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print cartridges, drum cartridges, waste trays, staples (for Equipment with a stapling feature installed under a Lease, Installment Purchase, or Services Order), and cleaning kits. Consumable Supplies are Xerox's property until used by Customer, and Customer will use them only with the Equipment for which "Consumable Supplies" is identified in Maintenance Plan Features. If Consumables Supplies are furnished with recycling information, Customer will return the used item, at Xerox's expense, for remanufacturing. Shipping information is available at Xerox.com/GWA. Upon expiration of this Agreement, Customer will include any unused Consumable Supplies with the Equipment for return to Xerox at the time of removal. If Customer's use of Consumable Supplies exceeds Xerox's published yield by more than 10%, Xerox will notify Customer of such excess usage. If such excess usage does not cease within 30 days after such notice, Xerox may charge Customer for such excess usage. For the avoidance of doubt, Xerox's yields are based on prints, impressions, linear feet, or copies containing the normal mix of text and graphics to determine the expected yield of Consumable Supplies under normal operating conditions. Upon request, Customer will provide current meter reads and/or an inventory of Consumable Supplies in its possession.

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- F. **Meter Reads.** Customer will provide meter reads using the method and frequency identified by Xerox. If Customer does not provide a meter reading, Xerox may reasonably estimate the reading and bill Customer accordingly.
- G. **Replacement.** Xerox will, as Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, replace the Equipment with an identical model or, at Xerox's option, another model with comparable features and capabilities. There will be no additional charge for the replacement Equipment during the remainder of the Equipment's initial Term.
- H. **End of Service.** Xerox has no obligation to maintain or replace Equipment beyond the "End of Service" for that particular model of Equipment. End of Service ("EOS") means the date announced by Xerox after which Xerox will no longer offer maintenance services for a particular Equipment model. An EOS Equipment List is available upon request.
8. **Remote Services.** Certain models of Equipment are supported and serviced using data that is automatically collected by Xerox from the Equipment via electronic transmission from the Equipment to a secure off-site location. Examples of automatically transmitted data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. All such data will be transmitted in a secure manner specified by Xerox. The automatic data transmission capability will not allow Xerox to read, view, or download any Customer data, documents, or other information residing on or passing through the Equipment or Customer's information management systems.
9. **Warranty Disclaimer & Waivers.** XEROX DISCLAIMS THE IMPLIED WARRANTIES OF NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
10. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property indemnity indemnification obligations set forth in this Agreement, Xerox will not be liable to Customer for any direct damages relating to this Agreement or any Order written hereunder in excess of the sum of the amounts paid and to be paid during the initial Term of the applicable Order. Neither party will be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this Agreement or any Order written hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory.
11. **Default.** Customer will be in default under an Order if Xerox does not receive any payment within 15 days after the date it is due (45-days after the invoice date) or Customer breaches any other obligation under this Agreement, any Order, or any other agreement with Xerox.
12. **Amendment.** All changes to this Agreement or any Order must be made in a writing signed by both parties.
13. **Notices.**
- A. Unless provided otherwise in this Agreement, notices under this Agreement or any IA must be sent in writing to the party's address at the end of this Agreement. Notices will be deemed given 5 days after mailing by first class mail, 2 days after sending by nationally recognized overnight courier, or on the date of electronic confirmation of receipt of a facsimile transmission, when followed by mailing of such notice as provided herein.
 - B. Invoices are not considered notices under this Agreement. All payment related notices under an Order will be sent: (a) to Customer at the "Bill to" address in the Order, and (b) to Xerox at the inquiry address on the most recent invoice.
14. **Miscellaneous.**
- A. **Communication.** Customer authorizes Xerox or its agents to communicate with Customer by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address Customer provides to Xerox
 - B. **Contract Documents.** Each party may retain a reproduction (e.g., electronic image, photocopy, facsimile) of this Agreement and each Order under the Agreement, which will be admissible in any action to enforce it
 - C. **Data Security.** Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability, and use of data security features are solely Customer's responsibility. Upon request, Xerox will provide additional information to Customer regarding the security features available for particular Equipment models

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Software

15. **Software License.** Xerox grants Customer a non-exclusive, non-transferable license to use in the U.S.: (a) software and accompanying documentation provided with Xerox-brand Equipment ("Base Software") only with the Xerox-brand Equipment with which it was delivered; and (b) software and accompanying documentation identified in an Order as "Application Software" only on any single unit of equipment for as long as Customer is current in the payment of all applicable software license fees. "Base Software" and "Application Software" are referred to collectively as "Software".
- A. Customer has no other rights and may not: (i) copy, distribute, modify, create derivatives of, decompile, or reverse engineer Software; (ii) activate Software delivered with the Equipment in an inactivated state; or (iii) allow others to engage in same.
 - B. Title to, and all intellectual property rights in, Software will reside solely with Xerox and/or its licensors, who will be considered third-party beneficiaries of this section.
 - C. Software may contain code capable of automatically disabling the Equipment. Disabling code may be activated if: (i) Customer is notified of a default under the Agreement or an Order; (ii) Xerox is denied access to reset periodically the code; or (iii) Customer's license is terminated or expires. Xerox will provide written notification to the County identifying the specific default and 30 days to correct the issue before activating any disabling code.
 - D. The Base Software license will terminate; (i) upon the expiration of any IA under which Customer has rented or leased the Equipment, unless Customer has exercised an option to purchase the Equipment; (ii) if Customer no longer uses or possesses the Equipment; or (iii) Customer is a lessor of the Equipment and its first lessee no longer uses or possesses it.
 - E. Neither Xerox nor its licensors warrant that Software will be free from errors or that its operation will be uninterrupted.
 - F. The foregoing terms do not apply to Diagnostic Software or to software/documentation accompanied by a clickwrap or shrinkwrap license agreement or otherwise made subject to a separate license agreement.
16. **Software Support.** Xerox (or an authorized service provider) will provide the software support set forth below ("Software Support"). For Base Software, Software Support will be provided during the initial Term of the applicable Order and any renewal period but in no event longer than 5 years after Xerox stops taking Customer orders for the subject model of Equipment. For Application Software, Software Support will be provided as long as Customer is current in the payment of all applicable software license and support fees.
- A. Xerox will maintain a web-based or toll-free hotline during Xerox's standard working hours to report Software problems and answer Software-related questions.
 - B. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its user documentation, (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (a) the current Release and (b) the previous Release for a period of 6 months after the current Release is made available to Customer. Xerox will not be required to provide Software Support if Customer has modified the Software.
 - C. New releases of Software that primarily incorporate compliance updates and coding error fixes are designated as "Maintenance Releases" or "Updates". Maintenance Releases or Updates that Xerox may make available will be provided at no charge and must be implemented within 6 months. New releases of Software that include new content or functionality ("Feature Releases") will be subject to additional license fees at Xerox's then-current pricing. Maintenance Releases, Updates, and Feature Releases are collectively referred to as "Releases". Each Release will be considered Software governed by the Software License and Software Support provisions of this Agreement, unless otherwise noted. Implementation of a Release may require Customer to procure, at Customer's expense, additional hardware, and/or software from Xerox or another entity. Upon installation of a Release, Customer will return or destroy all prior Releases. Xerox may annually increase the Annual Renewal and Support-Only Fees for Application Software.
17. **Diagnostic Software** Software used to evaluate or maintain the Equipment ("Diagnostic Software") is included with the Equipment. Diagnostic Software is a valuable trade secret of Xerox. Title to Diagnostic Software will remain with Xerox or its licensors. Xerox does not grant Customer any right to use Diagnostic Software, and Customer will not access, use, reproduce, distribute or disclose Diagnostic Software for any

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purpose (or allow third parties to do so). Customer will allow Xerox reasonable access to the Equipment to remove or disable Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox, provided any on-site access to Customer's facility will be during Customer's normal business hours.

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Specific Terms for Lease Orders

These Lease Terms are in addition to Xerox's Additional Terms

1. **Non-Cancelable Agreement.** LEASE ORDERS CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED HEREIN. Customer's OBLIGATION TO MAKE ALL PAYMENTS, AND TO PAY ANY OTHER AMOUNTS DUE OR TO BECOME DUE, IS ABSOLUTE AND UNCONDITIONAL AND NOT SUBJECT TO DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF XEROX'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER. ANY CLAIM AGAINST XEROX MAY BE ASSERTED IN A SEPARATE ACTION AND SOLELY AGAINST XEROX.
2. **Title and Risk of Loss.** Title to the Equipment remains with Xerox until Customer exercises its Purchase Option. Risk of loss or damage to the Products passes to Customer upon delivery. Customer will be responsible to insure Products against loss or damage. Customer agrees that: (i) the equipment will remain personal property; (ii) Customer will not attach the equipment as a fixture to any real estate; (iii) Customer will not pledge, sub-lease, or part with possession of the equipment or file, or permit to be filed, any lien against the equipment; and, (iv) Customer will not make any permanent alterations to the equipment.
3. **Lease Commencement & Term.** The Term for each unit of Equipment will commence upon: delivery of customer-installable Equipment; or the installation of Xerox-installable Equipment, and will expire on the last day of the final full calendar month of the contracted term of the Lease Agreement. Unless either party provides notice of termination at least 30 days before the expiration of the initial Term, it will renew on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Equipment upon at least 30 days notice. Upon termination, Customer will make the Products available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).
4. **Invoicing.** The Minimum Lease Payment, which may include a guaranteed number of copies (copy allowance), plus any additional Print Charges covers the cost of (1) the use of the equipment; (2) the equipment's maintenance; and (3) consumable supplies, if applicable. The Minimum Lease Payment will commence following Equipment installation and will be billed monthly. Charges for excess prints will be reconciled and billed monthly or quarterly, as applicable, in arrears. Xerox is responsible for paying and reporting personal property taxes on equipment acquired under a lease arrangement.
5. **Refinance Amounts.** Any "Amount Refinanced" is included in the amount financed under this Agreement. If the Amount Refinanced is under an agreement with a third party, Customer acknowledges Customer has the right to terminate the agreement and Customer will provide Xerox with a statement from the third party identifying the equipment at issue, the amount to be paid off and the payee's name and mailing address. If the Amount Refinanced is under an agreement with Xerox, the refinancing will render Customer's prior agreement null and void. If Customer breaches any of Customer's obligations under this Agreement, the full Amount Refinanced will be immediately due and payable.
6. **Maintenance Component Price Increase.** Unless Customer elects a fixed price term option, Xerox may annually increase the maintenance component of the Minimum Payment and Print Charges. This adjustment will take place at the commencement of each of Customer's annual contract cycles.
7. **End of Term Lease Options:**
 - A) **Fair Market Value Lease Purchase Option.** If not in default hereunder, Customer may purchase the Equipment, "AS IS, WHERE-IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term of a Lease Order for the equipment's then current fair market value, plus all applicable Taxes.
 - B) **Fixed Purchase Option Purchase Option.** If not in default hereunder, Customer may purchase the Equipment, "AS IS, WHERE-IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE, at the end of the initial Term of a Lease Order for the purchase option indicated in the Order, plus all applicable Taxes.
 - C) **Lease Renewal Option.** Unless either party provides notice of termination at least 30 days before the end of the initial Term of an Order, it will renew automatically on a month-to-month basis on the same terms and conditions. During this renewal period, either party may terminate the Lease IA upon at least 30 days notice.

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- D) **Lease Return.** Upon termination, Customer will make the Equipment available for removal by Xerox. At the time of removal, the Equipment will be in the same condition as when delivered (reasonable wear and tear excepted).
8. **Customer Default & Xerox Remedies.** If Customer defaults under the Agreement or any Order, Xerox may, in addition to its other remedies (including cessation of Maintenance Services), remove the Equipment at Customer's expense and require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; (b) the Minimum Payments (less the Maintenance Services and Consumable Supplies components thereof, as reflected on Xerox's books and records) remaining in the initial Term of the Equipment Order discounted at 4% per annum; and (c) the Purchase Option, if applicable. If Customer notifies Xerox and makes the Equipment available for removal by Xerox in the same condition as when delivered (reasonable wear and tear excepted) within 30 days after notice of default, upon recovery of the Equipment Customer will receive a credit for the fair market value of the Equipment (as determined by Xerox), less any costs incurred by Xerox.
9. **Finance Lease.** A MAJOR ACCOUNT LEASE IS A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED UNDER THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY CALIFORNIA LAW, Customer WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A. That is, Xerox shall not be required to sell the equipment on the used market and be obligated to use proceeds of that sale to offset or mitigate the early termination charges resulting from the County's early termination of the agreement.
10. **Fixed Purchase Option Tax Treatment (where applicable).** Xerox has accepted this Fixed Purchase Option Lease Order based on Customer's representation that Xerox may claim any interest paid by Customer as exempt from federal income tax under Section 103(c) of the Internal Revenue Code ("Code"). Customer will comply with the information reporting requirements of Section 149(e) of the Code. Such compliance includes the execution of 8038-G or 8038-GC Information Returns. Customer appoints Xerox as Customer's agent to maintain, and Xerox will maintain, or cause to be maintained, a complete and accurate record of all assignments of this Agreement in form sufficient to comply with the book entry requirements of Section 149(a) of the Code and the regulations there under from time to time. Should Xerox lose the benefit of this exemption as a result of Customer's failure to comply with or be covered by Section 103(c) the Code or the regulations there under, then, subject to the availability of funds and upon demand by Xerox, Customer will pay Xerox an amount equal to its loss in this regard. Customer shall provide Xerox with a properly prepared and executed copy of US Treasury Form 8038 or 8038-GC.

***** End of Lease Offering *****

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Specific Terms for Purchase and Maintenance Orders

These Purchase and Maintenance Terms are in addition to Xerox's Additional Terms

1. Cash Purchase. The following additional terms and conditions apply to a Cash Purchase Orders:

- A) **Title and Risk.** Title and risk of loss or damage to Equipment will pass to Customer upon delivery, installation, and activation of the equipment as demonstrated by the successful completion of diagnostic routines and performance confirmation that the equipment is running and is available for the County's use.
- B) **Payment.** Customer's payment under a Cash Purchase IA shall consist of the Net Price amount for the Equipment purchased there under and all applicable Taxes.
- C) **Remedies.** If Customer defaults under this Agreement or a Cash Purchase IA, Xerox, in addition to its other remedies (including the cessation of Basic Services if applicable), may require immediate payment of all amounts then due (including all applicable Taxes).

2. Installment Purchase (where applicable). The following additional terms and conditions apply to Installment Purchase orders:

- A) **Title and Risk.** Title and risk of loss or damage to Equipment will pass to Customer upon delivery, installation, and activation of the equipment as demonstrated by the successful completion of diagnostic routines and performance confirmation that the equipment is running and is available for the County's use. Until the Products are paid in full, Customer will insure the Products against loss or damage.
- B) **Payment.** Customer's payment under an Installment Purchase IA shall consist of the Installment Sale Payments, along with a separate maintenance charge for the provision of Basic Services if applicable, all additional Print Charges and all applicable Taxes.
- C) **Remedies.** If Customer defaults under this Agreement or an Installment Purchase IA, Xerox, in addition to its other remedies (including the cessation of Maintenance Services, if applicable), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (1) all amounts then due; (2) the remaining Installment Sale Minimum Payments in the Installment Purchase IA's term less any unearned finance charges (as reflected on Xerox's books and records) and (3) all applicable Taxes. In addition, if an Installment Purchase includes maintenance, Xerox may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (1) the lesser of the remaining Minimum Periodic Base Payments in the IA's term or six (6) such payments for one-year agreements (and twelve (12) such payments for multi-year agreements); and, (2) all applicable Taxes.
- D) **Prepayment of Balance.** Customer, at any time, may prepay the remaining principal balance on an Installment Purchase IA, thereby eliminating the obligation to pay future finance charges

3. Maintenance Terms for Customer Owned Equipment

- A) **Individual Agreement Term.** Maintenance IA s will commence at the end of any warranty period and expire on the last day of the 12th, 24th, 36th, 48th or 60th full calendar month thereafter, as applicable.
- B) **Individual Agreement Pricing.** Except for fixed prices as agreed to by the parties in a Maintenance Order, Xerox may, annually increase the Periodic Base and Print Charges with thirty (30) days prior written notice, and such increases, including Consumable Supplies, if applicable, shall not exceed five percent (5%).
- C) **Payment.** Each Minimum Periodic Base Charge may include a Periodic Minimum Number of Prints ("Minimum Prints"). The Minimum Periodic Base Charge, along with any additional Print Charges for prints made in excess of the Minimum Prints and all applicable Taxes, cover Customer's cost for the Equipment's maintenance (provided as Maintenance Services) in a Maintenance IA written hereunder. The Minimum Periodic Base Charge may be billed in advance and additional Print Charges are billed in arrears
- D) **Remedies.** If Customer defaults under this Agreement or a Maintenance IA, Xerox, in addition to its other remedies (including the cessation of Maintenance Services), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; (b) the lesser of (i) the remaining Minimum Periodic Base Charge in such Maintenance IA's term or (ii) six (6) such payments for one year agreements or twelve (12) such payments for multi-year agreements; and, (c) all applicable Taxes.

***** End of Purchase and Maintenance Offering *****

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Specific Terms for Service and Solutions Orders

These Service and Solutions Terms are in addition to Xerox's Additional Terms

1. **Scope.** The acquisition of (i) "Services" (collectively managed services and consultative services), (ii) Xerox-brand equipment ("Equipment"), third party hardware ("Third Party Hardware"), Xerox-brand software ("Software") and/or third party software ("Third Party Software") (collectively "Products") and/or (iii) Maintenance Services by Customer is subject to the prices and terms and conditions set forth in this Services and Solutions Agreement ("SSA"). Third Party Hardware and Third Party Software are, collectively, "Third Party Products". Services, Products, and Maintenance Services are, collectively, "Offerings". "Deliverables" include, but are not limited to, Products, Output of Services, Assessments, and Documentation.
2. **Services Guarantee.** Xerox will provide the Services set forth in each Order and, if the Services do not comply with the service levels set forth in a Statement of work ("SOW") during its term, Customer agrees to notify Xerox in writing detailing its concerns regarding the same. No later than ten (10) days following Xerox's receipt of said notice, Xerox and Customer agree to meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan") to remedy such alleged non-compliance. As Customer's exclusive remedy for Xerox's non-compliance, Xerox, within sixty (60) days of finalizing the Plan or a time period as otherwise agreed to in writing by the parties, will either modify such Services so they are compliant with such SOW or re-do the work at no additional charge. Customer will dispose all hazardous waste generated from use off Third Party Hardware or supplies
3. **Orders.**
 - A. Services and Deliverables provided by Xerox will be set forth in one or more Services and Solutions Orders ("SSO") which will be mutually agreed upon and signed by the Customer. SSOs assigned the same 10 digit number constitute a "Services Contract". Unless otherwise provided in a SSO, terms and conditions in a SSO that is part of a Services Contract shall be applicable to all SSOs constituting that Services Contract. Customer may also issue purchase orders to Xerox for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address, services description and term, and applicable Trade-In Equipment. Such purchase orders shall incorporate and be subject solely to the terms and conditions of the applicable Services Contract, notwithstanding anything contained in any such purchase order at variance with or in addition to the applicable Services Contract. Any SSO or Customer-issued purchase order shall be an individual order ("Order") hereunder and, irrespective of its form, must reference the contract number of the applicable Services Contract.
 - B. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, and any services utilized by Customer that Xerox needs to enable Xerox to perform the Services (collectively "Customer Assets").
 - C. Orders may be submitted via hard copy or electronic means and those submitted electronically by Customer shall be considered for all purposes to (i) be a "writing" or "in writing"; (ii) be "signed"; (iii) constitute an "original" when printed from electronic records established and maintained in the ordinary course of business; and, (iv) be valid and enforceable
4. **Term.**
 - A. This SSA shall commence on the date it is accepted by Xerox, and shall continue for the contracted term as determined by the parties and included in the actual SSA Agreement unless terminated earlier by either party upon not less than ninety (90) days prior written notice to the other party. In the event this SSA expires, or either party elects to terminate this SSA, each Order hereunder shall remain in full force and effect until the end of its term (including any renewals or extensions thereto) or it is terminated, and shall at all times be governed by the terms and conditions of this SSA as if it were still in effect.
 - B. The term of each SSO hereunder shall be set forth under the heading "Term" in the "Order Summary" area on the face of said SSO, and shall continue for the term stated. If an Order is terminated, the term of any remaining Orders shall continue unaltered.
 - C. Unless either party provides notice at least thirty (30) days before the end of the term of any Order hereunder of its intention not to renew same, it will continue on a month-to-month basis at the same price and on the same terms and conditions set forth in said Order. During said continuation, either party may terminate such Order on at least thirty (30) days notice.

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5. **Pricing.** Pricing shall be as set forth in an Order. The monthly charge ("Monthly Minimum Charge" or "MMC"), along with any Additional Impression Charges, covers Customer's monthly cost for the Services, Products and Maintenance Services hereunder and such MMC will change with each Order. The MMC may also include, but not be limited to, lease buyout funds, Third Party Funds, supplemental funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, amounts being financed or refinanced, analyst services and/or customer training services. One-time items ("One-Time Items") are billed separately from the MMC.
6. **Payment.** If Services begin partially and/or early, Xerox will bill Customer on a pro rata basis, based on a 30-day billing month, and the terms and conditions of this SSA will apply. Services requested and performed outside Customer's standard working hours will be at Xerox's then-current overtime rate. Xerox is responsible for all standard delivery and removal charges for Equipment and Third Party Hardware and Customer is responsible for any non-standard delivery and removal charges. Customer authorizes Xerox (or its agent) to obtain credit reports from commercial credit reporting agencies. Xerox reserves the right to review and approve Customer's credit prior to acceptance of each Order.
7. **Default.** Customer will be in default if Xerox does not receive any payment within thirty (30) days after the date it is due or if Customer breaches any other obligation under this Agreement, or any Order hereunder, or any other Agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment, to the extent permitted by law, liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due and (b) any applicable machine equipment charges and/or early termination charges. Xerox's decision to waive or forgive a particular default shall not prevent Xerox from declaring any other default. If Customer defaults under the Agreement, Customer shall pay all of the costs Xerox incurs to enforce its rights against Customer, including reasonable attorneys' fees and actual costs.
8. **Early Termination – Services and Personnel.** Except as otherwise set forth in a SOW, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or personnel without incurring ETCs. Notwithstanding the foregoing, if any Services or personnel are terminated (i) by Xerox due to Customer's default or (ii) by Customer and Customer acquires Services from another supplier within six (6) months of the termination of such Services or personnel, Customer shall pay, to the extent permitted by law, all amounts due as of the termination date, together with ETCs, for loss of bargain and not as a penalty, equal to the then current MMC for said terminated or reduced Services or personnel multiplied by the number of months remaining in their term, not to exceed six (6) months. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
9. **Early Termination – Xerox Equipment and Software.** Xerox is providing Equipment for the entire term of the Order under which it is installed. If, prior to the end of the term of an Order, Customer terminates any equipment under an Order, require equipment be removed or replaced, or Xerox terminates an Order due to Customer's default, Customer shall pay, to the extent permitted by law, all amounts due Xerox as of that date, together with the Xerox-calculated monthly equipment component ("MEC"), which is available upon request for the affected Equipment multiplied by the number of months remaining in the Order. In addition, Customer shall either make the subject Equipment (in the same condition as when delivered, reasonable wear and tear excepted) and its Software available for removal by Xerox when requested to do so or purchase the subject Equipment "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the equipment's Fair Market Value ("FMV") at the conclusion of its scheduled term. Customer agrees to return terminated or Traded Equipment in the same condition as when delivered, reasonable wear and tear accepted. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
10. **Early Termination – Third Party and Amortized Services.** Certain Xerox Services, such as consulting and training, may be amortized over the life of an Order ("Amortized Services"). Xerox may provide funds to acquire Third Party Hardware, to license Third Party Software and/or to retire debt on existing Third Party Hardware ("Third Party Funds"). Collectively, Third Party Funds and Amortized Services are "Funds". The Funds amount will be included in the MMC. Notwithstanding the provision entitled "EARLY TERMINATION – SERVICES AND PERSONNEL", should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, to the extent permitted by law, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds for

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loss of bargain and not as a penalty. Customer agrees to maintain the manufacturer's maintenance agreement for any Third Party Hardware and applicable Third Party Software licenses. Any express warranties for such Third Party Hardware or Third Party Software shall be available to Customer. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.

11. **Personnel.** Xerox agrees to comply with Customer's internal policies Customer provides to Xerox in writing for security and safety that are reasonable and customary under the circumstances, and that do not conflict with this SSA. Customer will provide Xerox with reasonable prior notice of such policies and any changes thereto. Neither party shall, directly or indirectly, actively solicit the employment of the other party's staff providing Services hereunder, which includes Xerox's agents, and their supervisors during the term of this SSA and for a period of one (1) year thereafter. Employment arising from inquiries received via advertisements in newspapers, job fairs, unsolicited resumes, or applications for employment shall not be considered active solicitation.
12. **Services and Third Party Product Warranty / Warranty Limitations, and Warranty Disclaimer/ Waiver.**
 - A. **Services Warranty.** Xerox represents and warrants to Customer that the Services will be performed in a skillful and workmanlike manner; provided however, in no event will Xerox be responsible for any failure to perform Services if the failure is caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to provide Xerox access to Customer's personnel and systems or to transfer to Xerox sufficient rights to use, access and/or modify Customer Assets constituting hardware and software, including software owned or licensed by Customer, and/or Customer Content as necessary for the provision of Services.
 - B. **Warranty Disclaimer and Waiver for Services.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THEREFOR AND XEROX DISCLAIMS ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT
 - C. **Third Party Product Warranty.** FOR THIRD PARTY PRODUCTS SELECTED SOLELY BY XEROX FOR AN ORDER, XEROX WARRANTS THEY WILL OPERATE SUBSTANTIALLY IN CONFORMANCE WITH APPLICABLE SERVICE LEVELS IN THE SOW. IF, WITHIN A REASONABLE TIME AFTER PROVISION OF SUCH THIRD PARTY PRODUCTS, SUCH SERVICE LEVELS CANNOT BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH THOSE IN THE SOW AND SUCH NON-CONFORMANCE IS A RESULT OF XEROX'S USE OF SUCH THIRD PARTY PRODUCTS, Customer's EXCLUSIVE REMEDY FOR THE FOREGOING WARRANTY IS TO RECEIVE A REFUND OF ANY FEES PAID FOR THE NON-CONFORMING THIRD PARTY PRODUCTS UPON THE RETURN THEREOF TO XEROX. XEROX DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AS WELL AS FOR MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AS WELL AS ANY OTHER WARRANTY PERTAINING OR RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY THEREOF WITH Customer's SYSTEMS. XEROX WILL PASS THROUGH TO Customer ANY WARRANTIES PROVIDED TO IT BY THE MANUFACTURER OR LICENSOR OF THIRD PARTY PRODUCTS TO THE EXTENT PERMISSIBLE. XEROX DISCLAIMS, AND Customer WAIVES, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, FOR THIRD PARTY PRODUCTS NOT SELECTED SOLELY BY XEROX.
 - D. THE WARRANTIES AND GUARANTEES SET FORTH IN THIS SECTION OF THE SSA ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES AND DELIVERABLES FOR THEIR INTENDED PURPOSE IN THE SYSTEMS ENVIRONMENT FOR WHICH THEY WERE ORIGINALLY DESIGNED AND SHALL NOT APPLY TO SERVICES OR DELIVERABLES WHICH HAVE BEEN SUBJECT TO MISUSE, ACCIDENT, ALTERATION OR MODIFICATION BY Customer OR ANY THIRD PARTY (EXCEPT AS SPECIFICALLY AUTHORIZED IN WRITING BY XEROX)
13. **Confidential Information.** Each party will disclose to the other certain business information identified as confidential ("Confidential Information")

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- A. Customer Content consists of documents, materials and data provided in hard copy or electronic format by Customer to Xerox containing information about Customer and/or Customer's clients and is considered Customer's Confidential Information.
- B. Developments and Pre-Existing Work (collectively "Xerox Work"), Xerox Tools as defined herein, Orders and SOWs shall be considered Xerox's Confidential Information. "Developments" are items created by Xerox employees, agents, and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship, and "Pre-existing Work" are items used or incorporated into a Deliverable or developed or acquired by Xerox independent of performing the Services. "Output of Services" constitutes electronic images created by scanning tangible documents containing Customer Content, or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable SOW, but shall not include software. "Assessments" are assessment and recommendation reports created as a result of assessment services. "Documentation" means all manuals, brochures, specifications, information, and software descriptions in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for use as part of the Services.
- C. Each party will make reasonable efforts not to disclose the other party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (i) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the non-disclosing party; (ii) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidentiality obligations set forth above shall terminate one (1) year after expiration or termination of this SSA or the last effective Services Contract hereunder, whichever is later; provided however, for Xerox Work and Xerox Tools, confidentiality obligations with respect thereto shall not terminate unless (i), (ii) or (iii) in the preceding sentence of this Section becomes applicable thereto. The parties do not intend for Customer to disclose confidential technical information hereunder, which includes, but is not limited to, computer programs, source code, and algorithms, and Customer will only disclose the same under the auspices of a separate agreement. Upon expiration or termination of this SSA, each party shall return to the other or, if so requested, destroy, all Confidential Information of the other in its possession or control, except such Confidential Information as may be reasonably necessary to exercise rights that survive termination of this SSA.
14. **Intellectual Property.** Customer represents and warrant Customer owns the Customer Content and Customer Assets or otherwise have the right to authorize Xerox to perform Services hereunder and the Customer Content does not, and shall not, contain content that (i) is libelous, defamatory or obscene and/or (ii) infringes on or violate any applicable laws, regulations or rights of a third party of any kind. Xerox, its employees, agents and/or licensors shall at all times retain all rights to Xerox Work and Xerox Tools (with "Xerox Tools" being proprietary tools used by Xerox to provide the Services, and any modifications, enhancements, improvements and derivative works thereof), and except as expressly set forth herein, no rights to Xerox Work and Xerox Tools are granted to Customer. Customer shall have no rights to use, access or operate the Xerox Tools, which will be installed and operated only by Xerox. Customer will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable SOW. All Xerox Tools may be removed at Xerox's sole discretion. Customer acknowledges that Xerox does not license the Xerox Tools separate and apart from the provision of Services associated with their use. Customer agrees not to decompile or reverse engineer any Xerox Work or Xerox Tools. Xerox grants Customer a non-exclusive, perpetual fully paid-up, worldwide right to use, display, and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for Customer's customary business purposes, and not for resale, license, and/or distribution outside of Customer's organization. Customer may not sublicense any rights granted to Customer hereunder, but may authorize a third party ("Designee") to use such rights, solely for Customer's benefit and Customer's internal business purposes. Any Designee operating or maintaining the delivered solution shall be subject to written confidentiality obligations with respect to Confidential Information that shall be no less restrictive than those set forth in this SSA. Output of Services is Customer's sole and exclusive property and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services hereunder. Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services hereunder. Customer may duplicate and distribute Assessments only for Customer's internal business purposes. Recommendations, assessments, and

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processes described in Assessments may only be implemented for Customer by Xerox and only for Customer's internal business purposes. Except as set forth expressly in this Section, no other rights or licenses are granted to Customer. Any rights or licenses that are granted to Customer shall immediately terminate if Customer (i) default hereunder with respect to any of Customer's obligations related to such rights or licenses, (ii) fail to pay amounts due, or (iii) otherwise default under this SSA.

15. Indemnification.

- A. Xerox agrees, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Customer or any ultimate judgment for, all claims by third parties for personal injury (including death) or tangible property damage to the extent proximately caused by the willful misconduct or negligent acts or omissions of Xerox, its officers, employees, or agents in connection with this SSA. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any Customer litigation expenses or settlements unless Xerox pre-approves them in writing.
- B. Xerox, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Xerox or any ultimate judgment for, any claim not identified in (i)-(vi) below or subject to c. below that any Services or Deliverables (excluding Third Party Products) infringe a third party's U.S. intellectual property rights. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox pre-approves them in writing. Excluded herein are claims arising from or relating to: (i) Services performed using Customer Assets and/or Customer Content for which Customer failed to provide to Xerox sufficient rights; (ii) Services performed, or Deliverables provided, to Customer's specification or design, (iii) infringement resulting from or caused by Customer's misuse or unauthorized modification of systems or product; (iv) use of Services or Deliverables in combination with other products, services or data streams not provided by Xerox if such combination forms the basis of such claim; (v) Customer's failure to use corrections or enhancements to the Services or Deliverables provided by Xerox, and (vi) Customer's provision to Xerox of material for duplication in violation of the copyright of a third party and it is agreed and understood by the parties that, under this SSA, Xerox is not undertaking, and will not undertake, any obligation or duty of any kind or type to determine or ascertain whether material provided to it for duplication may be duplicated without violating a third party's copyright therein. If the use of the Services or Deliverables (excluding Third Party Products) are enjoined as a result of a claim under this Section, or in the reasonable opinion of Xerox are likely to be the subject of such a claim, Xerox will, at its option and sole expense, exercise any or all of following remedies: obtain for Customer the right to continue to use such Services or Deliverables; modify such Services or Deliverables so they are non-infringing, replace such Services or Deliverables with non-infringing ones or terminate such infringing Services, and/or, accept the return of such infringing Deliverables and refund to Customer any amount paid for the infringing item, less net benefits realized.
- C. Xerox will not pay any settlement agreed to by Customer for any third party claims subject to b(i)-(vi) above or for infringement of any intellectual property rights arising out of or related to performance of Services using Customer Assets, Customer Content or other materials pursuant to Customer's request or direction or for Customer's breach of the first sentence of the Section herein titled "INTELLECTUAL PROPERTY". Customer is not responsible for Xerox litigation expenses or settlements unless Customer pre-approves them in writing.

16. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property damages as defined herein, Xerox shall not be liable to Customer, in the aggregate, for any direct damages in excess of the amounts paid by Customer to Xerox during the twelve (12) months prior to the claim or \$50,000, whichever is greater, and neither party shall be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this SSA or any Order hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory. This limitation of liability shall not be applicable to any specific indemnification obligations set forth in this SSA or to Customer's breach of confidentiality obligations regarding the Xerox Tools.

17. **Title and Risk of Loss.** Title to Equipment and Third Party Hardware shall remain with Xerox until Customer purchases same. Risk of loss or damage for the Products shall pass to Customer upon delivery. Customer will be responsible to keep the Products insured against loss.

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18. **Reports.** Upon Customer's request, Xerox may issue mutually agreed upon reports reflecting information that is accurate at the time the report is issued, including estimates of information based on pending Orders.

***** End of Service and Solutions Offering *****

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Specific Terms for Managed Services Orders

These Managed Services Terms are in addition to Xerox's Additional Terms

1. **Scope.** The acquisition of (i) "Services" (collectively managed services and consultative services), (ii) Xerox-brand equipment ("Equipment"), third party hardware ("Third Party Hardware"), Xerox-brand software ("Software") and/or third party software ("Third Party Software") (collectively "Products") and/or (iii) Maintenance Services by Customer is subject to the prices and terms and conditions set forth in this Services and Solutions Agreement ("MSA"). Third Party Hardware and Third Party Software are, collectively, "Third Party Products". Services, Products, and Maintenance Services are, collectively, "Offerings". "Deliverables" include, but are not limited to, Products, Output of Services, Assessments, and Documentation.
19. **Services Guarantee.** Xerox will provide the Services set forth in each Order and, if the Services do not comply with the service levels set forth in a Statement of work ("SOW") during its term, Customer agrees to notify Xerox in writing detailing its concerns regarding the same. No later than ten (10) days following Xerox's receipt of said notice, Xerox and Customer agree to meet, clarify the Customer's concern(s) and begin to develop a corrective action plan ("Plan") to remedy such alleged non-compliance. As Customer's exclusive remedy for Xerox's non-compliance, Xerox, within sixty (60) days of finalizing the Plan or a time period as otherwise agreed to in writing by the parties, will either modify such Services so they are compliant with such SOW or redo the work at no additional charge. Customer will dispose all hazardous waste generated from use off Third Party Hardware or supplies.
2. **Orders.**
 - A. Services and Deliverables provided by Xerox will be set forth in one or more Services and Solutions Orders ("MSO") which will be mutually agreed upon and signed by the Customer. MSOs assigned the same 10 digit number constitute a "Services Contract". Unless otherwise provided in a MSO, terms and conditions in a MSO that is part of a Services Contract shall be applicable to all MSOs constituting that Services Contract. Customer may also issue purchase orders to Xerox for order entry purposes only, specifying Customer's requested shipment date, installation site, quantities, bill-to address, services description and term, and applicable Trade-In Equipment. Such purchase orders shall incorporate and be subject solely to the terms and conditions of the applicable Services Contract, notwithstanding anything contained in any such purchase order at variance with or in addition to the applicable Services Contract. Any MSO or Customer-issued purchase order shall be an individual order ("Order") hereunder and, irrespective of its form, must reference the contract number of the applicable Services Contract.
 - B. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, and any services utilized by Customer that Xerox needs to enable Xerox to perform the Services (collectively "Customer Assets").
 - C. Orders may be submitted via hard copy or electronic means and those submitted electronically by Customer shall be considered for all purposes to (i) be a "writing" or "in writing"; (ii) be "signed"; (iii) constitute an "original" when printed from electronic records established and maintained in the ordinary course of business; and, (iv) be valid and enforceable
3. **Term.**
 - A. This MSA shall commence on the date it is accepted by Xerox, and shall continue for a period of months unless terminated earlier by either party upon not less than ninety (90) days prior written notice to the other party. In the event this MSA expires, or either party elects to terminate this MSA, each Order hereunder shall remain in full force and effect until the end of its term (including any renewals or extensions thereto) or it is terminated, and shall at all times be governed by the terms and conditions of this MSA as if it were still in effect.
 - B. The term of each MSO hereunder shall be set forth under the heading "Term" in the "Order Summary" area on the face of said MSO, and shall continue for the term stated. If an Order is terminated, the term of any remaining Orders shall continue unaltered.
 - C. Unless either party provides notice at least thirty (30) days before the end of the term of any Order hereunder of its intention not to renew same, it will continue on a month-to-month basis at the same price and on the same terms and conditions set forth in said Order. During said continuation, either party may terminate such Order on at least thirty (30) days notice.

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4. **Pricing.** Pricing shall be as set forth in an Order. The monthly charge ("Monthly Minimum Charge" or "MMC"), along with any Additional Impression Charges, covers Customer's monthly cost for the Services, Products and Maintenance Services hereunder and such MMC will change with each Order. The MMC may also include, but not be limited to, lease buyout funds, Third Party Funds, supplemental funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, amounts being financed or refinanced, analyst services and/or customer training services. One-time items ("One-Time Items") are billed separately from the MMC.
5. **Payment.** If Services begin partially and/or early, Xerox will bill Customer on a pro rata basis, based on a 30-day billing month, and the terms and conditions of this MSA will apply. Services requested and performed outside Customer's standard working hours will be at Xerox's then-current overtime rate. Xerox is responsible for all standard delivery and removal charges for Equipment and Third Party Hardware and Customer is responsible for any non-standard delivery and removal charges. Customer authorizes Xerox (or its agent) to obtain credit reports from commercial credit reporting agencies. Xerox reserves the right to review and approve Customer's credit prior to acceptance of each Order.
6. **Default.** Customer will be in default if Xerox does not receive any payment within thirty (30) days after the date it is due or if Customer breaches any other obligation under this Agreement, or any Order hereunder, or any other Agreement with Xerox. If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of (a) all amounts then due; and (b) any applicable machine equipment charges and/or early termination charges. Xerox's decision to waive or forgive a particular default shall not prevent Xerox from declaring any other default.
7. **Early Termination – Services and Personnel.** Except as otherwise set forth in a SOW, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or personnel without incurring ETCs. Notwithstanding the foregoing, if any Services or personnel are terminated (i) by Xerox due to Customer's default or (ii) by Customer and Customer acquires Services from another supplier within six (6) months of the termination of such Services or personnel, Customer shall pay, to the extent permitted by law, all amounts due as of the termination date, together with ETCs, for loss of bargain and not as a penalty, equal to the then current MMC for said terminated or reduced Services or personnel multiplied by the number of months remaining in their term, not to exceed six (6) months. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
8. **Termination – Xerox and 3rd Party Equipment/Software.** Prior to the expiration of the term of Equipment, Software, and/or Third Party Products in and as proscribed by the applicable Order, if: (i) Customer terminates Equipment, Software, and/or Third Party Products; (ii) Customer requires that a unit of Equipment or Third Party Hardware be replaced (e.g., traded-in); or (iii) Xerox terminates Equipment, Software, and/or Third Party Products due to Customer's default, Xerox, in addition to its other remedies (including the cessation of Basic Services), may require immediate payment, to the extent permitted by law, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due; and (b) the remaining Monthly Minimum Charges in the term of the Equipment, Software, and/or Third Party Products less any unearned finance, maintenance, and supply charges. In addition to paying the amounts required in the preceding sentence if Customer defaults, Customer shall either make the subject the Equipment, Software, and/or Third Party Products available for removal by Xerox and, at the time of removal, the Equipment, Software, and/or Third Party Products will be in the same condition as when delivered, reasonable wear and tear excepted; or, purchase the subject Equipment or Third Party Hardware "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the Fair Market Value ("FMV") of the Equipment or Third Party Hardware at the conclusion of its term. This provision excludes terminations due to fiscal year funds non-appropriation or an uncured Xerox performance failure.
9. **Personnel.** Xerox agrees to comply with Customer's internal policies Customer provides to Xerox in writing for security and safety that are reasonable and customary under the circumstances, and that do not conflict with this MSA. Customer will provide Xerox with reasonable prior notice of such policies and any changes thereto. Neither party shall, directly or indirectly, actively solicit the employment of the other party's staff providing Services hereunder, which includes Xerox's agents, and their supervisors during the term of this MSA and for a period of one (1) year thereafter. Employment arising from inquiries received via advertisements in newspapers, job fairs unsolicited resumes, or applications for employment shall not be considered active solicitation.

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10. Customer Assets, Equipment, and Software.

- A. During the term of an Order, Customer shall permit Xerox and its agents to use or access, and shall grant or transfer sufficient rights to enable Xerox and its agents to use or access, all hardware, software and/or work space owned, leased, rented, licensed and/or controlled by Customer, any services utilized by Customer (collectively "Customer Assets"), and Customer Content, that Xerox needs to use or access to enable Xerox to perform any of the Services subject to a Order. Customer is solely responsible for backing up Customer's Content and Xerox shall not be responsible for Customer's failure to do so. Customer shall acquire and/or continue, at Customer's expense any maintenance and repair service contracts for all Customer Assets that Customer permits Xerox to use or access.
- B. If Customer revises or removes Products and Xerox advises Customer that the remaining Products are not sufficient to enable Xerox to provide the Services, Xerox shall have no liability for the failure to provide such Services.
- C. Title to Equipment and Third Party Hardware acquired through any Order or Order-related Customer purchase order shall remain with Xerox until Customer purchases the Equipment and Hardware. Until the Equipment or Third Party Hardware is purchased by Customer, Customer agrees that: (i) it shall remain personal property; (ii) Customer will not attach it as a fixture to any real estate; (iii) Customer will not pledge, sub-lease or part with possession of it, or file or permit to be filed any lien against it; (iv) Customer will not make any permanent alterations to it; and, (v) all relocations of it must be arranged (or approved in advance) by Xerox. Customer is not entitled to purchase any Equipment or Third Party Hardware provided under any SOW except as set forth therein. While Equipment and Third Party Hardware is being relocated, Customer remains responsible to make all payments required under the applicable Order. The risk of loss for the Equipment and Third Party Hardware will pass to Customer upon delivery. Unless otherwise agreed to by the parties in a SOW, Customer agrees to use Equipment and Third Party Hardware in accordance with, and to perform all operator maintenance procedures for it as set forth in the applicable product manuals. All parts/materials replaced, including as part of an upgrade, will become Xerox's property.

11. Services and Third Party Product Warranty / Warranty Limitations, and Warranty Disclaimer/ Waiver.

- A. **Services Warranty.** Xerox represents and warrants to Customer that the Services will be performed in a skillful and workmanlike manner; provided however, in no event will Xerox be responsible for any failure to perform Services if the failure is caused by: (i) Customer Assets, Customer Content, or services, maintenance, design implementation, supplies or data streams provided by Customer, Customer's agent or service provider to Xerox for use hereunder, (ii) Customer's failure to contract for the minimum types and quantities of Products required by Xerox to perform the Services, or (iii) Customer's failure to provide Xerox access to Customer's personnel and systems or to transfer to Xerox sufficient rights to use, access and/or modify Customer Assets constituting hardware and software, including software owned or licensed by Customer, and/or Customer Content as necessary for the provision of Services.
- B. **Warranty Disclaimer and Waiver for Services.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION FOR SERVICES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, THEREFOR AND XEROX DISCLAIMS ALL OTHER WARRANTIES FOR SERVICES, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF NON-INFRINGEMENT.
- C. **Third Party Product Warranty.** FOR THIRD PARTY PRODUCTS SELECTED SOLELY BY XEROX FOR AN ORDER, XEROX WARRANTS THEY WILL OPERATE SUBSTANTIALLY IN CONFORMANCE WITH APPLICABLE SERVICE LEVELS IN THE SOW. IF, WITHIN A REASONABLE TIME AFTER PROVISION OF SUCH THIRD PARTY PRODUCTS, SUCH SERVICE LEVELS CANNOT BE BROUGHT INTO SUBSTANTIAL CONFORMANCE WITH THOSE IN THE SOW AND SUCH NON-CONFORMANCE IS A RESULT OF XEROX'S USE OF SUCH THIRD PARTY PRODUCTS, CUSTOMER'S EXCLUSIVE REMEDY FOR THE FOREGOING WARRANTY IS TO RECEIVE A REFUND OF ANY FEES PAID FOR THE NON-CONFORMING THIRD PARTY PRODUCTS UPON THE RETURN THEREOF TO XEROX. XEROX DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO SUCH THIRD PARTY PRODUCTS, AS WELL AS FOR MAINTENANCE THEREOF, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, AS WELL AS ANY OTHER WARRANTY PERTAINING OR RELATING TO DESIGN, PERFORMANCE, FUNCTIONALITY, OR COMPATIBILITY THEREOF WITH CUSTOMER'S SYSTEMS. XEROX WILL PASS THROUGH TO CUSTOMER ANY WARRANTIES PROVIDED TO IT BY THE

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MANUFACTURER OR LICENSOR OF THIRD PARTY PRODUCTS TO THE EXTENT PERMISSIBLE. XEROX DISCLAIMS, AND CUSTOMER WAIVES, ANY AND ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY, FOR THIRD PARTY PRODUCTS NOT SELECTED SOLELY BY XEROX.

- D. THE WARRANTIES AND GUARANTEES SET FORTH IN THIS SECTION OF THE MSA ARE EXPRESSLY CONDITIONED UPON THE USE OF THE SERVICES AND DELIVERABLES FOR THEIR INTENDED PURPOSE IN THE SYSTEMS ENVIRONMENT FOR WHICH THEY WERE ORIGINALLY DESIGNED AND SHALL NOT APPLY TO SERVICES OR DELIVERABLES WHICH HAVE BEEN SUBJECT TO MISUSE, ACCIDENT, ALTERATION OR MODIFICATION BY CUSTOMER OR ANY THIRD PARTY (EXCEPT AS SPECIFICALLY AUTHORIZED IN WRITING BY XEROX.)
12. **Confidential Information.** Each party will disclose to the other certain business information identified as confidential ("Confidential Information").
- A. Customer Content consists of documents, materials and data provided in hard copy or electronic format by Customer to Xerox containing information about Customer and/or Customer's clients and is considered Customer's Confidential Information.
- B. Developments and Pre-Existing Work (collectively "Xerox Work"), Xerox Tools as defined herein, Orders and SOWs shall be considered Xerox's Confidential Information. "Developments" are items created by Xerox employees, agents, and/or licensors, including, but not limited to, computer programs, code, reports, operations and procedures manuals, forms, design or other works of authorship, and "Pre-existing Work" are items used or incorporated into a Deliverable or developed or acquired by Xerox independent of performing the Services. "Output of Services" constitutes electronic images created by scanning tangible documents containing Customer Content, or the content of any reports and other materials, created by Xerox specific to and for Customer per the applicable SOW, but shall not include software. "Assessments" are assessment and recommendation reports created as a result of assessment services. "Documentation" means all manuals, brochures, specifications, information, and software descriptions in electronic, printed, and/or camera-ready form, and related materials customarily provided by Xerox for use as part of the Services.
- C. Each party will make reasonable efforts not to disclose the other party's Confidential Information to any third party, except as may be required by law, unless such Confidential Information: (i) was in the public domain prior to, at the time of, or subsequent to the date of disclosure through no fault of the non-disclosing party; (ii) was rightfully in the non-disclosing party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the non-disclosing party's employees or agents independently of and without reference to any of the other party's Confidential Information. Confidentiality obligations set forth above shall terminate one (1) year after expiration or termination of this MSA or the last effective Services Contract hereunder, whichever is later; provided however, for Xerox Work and Xerox Tools, confidentiality obligations with respect thereto shall not terminate unless (i), (ii) or (iii) in the preceding sentence of this Section becomes applicable thereto. The parties do not intend for Customer to disclose confidential technical information hereunder, which includes, but is not limited to, computer programs, source code, and algorithms, and Customer will only disclose the same under the auspices of a separate agreement. Upon expiration or termination of this MSA, each party shall return to the other or, if so requested, destroy, all Confidential Information of the other in its possession or control, except such Confidential Information as may be reasonably necessary to exercise rights that survive termination of this MSA.
13. **Intellectual Property.** Customer represents and warrant Customer owns the Customer Content and Customer Assets or otherwise have the right to authorize Xerox to perform Services hereunder and the Customer Content does not, and shall not, contain content that (i) is libelous, defamatory or obscene and/or (ii) infringes on or violate any applicable laws, regulations or rights of a third party of any kind. Xerox, its employees, agents and/or licensors shall at all times retain all rights to Xerox Work and Xerox Tools (with "Xerox Tools" being proprietary tools used by Xerox to provide the Services, and any modifications, enhancements, improvements and derivative works thereof), and except as expressly set forth herein, no rights to Xerox Work and Xerox Tools are granted to Customer. Customer shall have no rights to use, access or operate the Xerox Tools, which will be installed and operated only by Xerox. Customer will have access to data and reports generated by the Xerox Tools and stored in a provided database as set forth in the applicable

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SOW. All Xerox Tools may be removed at Xerox's sole discretion. Customer acknowledges that Xerox does not license the Xerox Tools separate and apart from the provision of Services associated with their use. Customer agrees not to decompile or reverse engineer any Xerox Work or Xerox Tools. Xerox grants Customer a non-exclusive, perpetual fully paid-up, worldwide right to use, display, and reproduce Xerox Work and Documentation only as required for use of the Services and Deliverables for Customer's customary business purposes, and not for resale, license, and/or distribution outside of Customer's organization. Customer may not sublicense any rights granted to Customer hereunder, but may authorize a third party ("Designee") to use such rights, solely for Customer's benefit and Customer's internal business purposes. Any Designee operating or maintaining the delivered solution shall be subject to written confidentiality obligations with respect to Confidential Information that shall be no less restrictive than those set forth in this MSA. Output of Services is Customer's sole and exclusive property and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services hereunder. Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services hereunder. Customer may duplicate and distribute Assessments only for Customer's internal business purposes. Recommendations, assessments, and processes described in Assessments may only be implemented for Customer by Xerox and only for Customer's internal business purposes. Except as set forth expressly in this Section, no other rights or licenses are granted to Customer. Any rights or licenses that are granted to Customer shall immediately terminate if Customer (i) defaults hereunder with respect to any of Customer's obligations related to such rights or licenses, (ii) fail to pay amounts due, or (iii) otherwise default under this MSA.

14. Indemnification.

- A. Xerox agrees, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Customer or any ultimate judgment for, all claims by third parties for personal injury (including death) or tangible property damage to the extent proximately caused by the willful misconduct or negligent acts or omissions of Xerox, its officers, employees, or agents in connection with this MSA. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any Customer litigation expenses or settlements unless Xerox pre-approves them in writing.
- B. Xerox, at its expense, if promptly notified by Customer and given the right to control the defense, will defend Customer from, and pay any settlement agreed to by Xerox or any ultimate judgment for, any claim not identified in (i)-(vi) below or subject to c. below that any Services or Deliverables (excluding Third Party Products) infringe a third party's U.S. intellectual property rights. Customer may procure its own representation and participate in the defense at its own expense. Xerox is not responsible for any non-Xerox litigation expenses or settlements unless Xerox pre-approves them in writing. Excluded herein are claims arising from or relating to: (i) Services performed using Customer Assets and/or Customer Content for which Customer failed to provide to Xerox sufficient rights; (ii) Services performed, or Deliverables provided, to Customer's specification or design, (iii) infringement resulting from or caused by Customer's misuse or unauthorized modification of systems or product; (iv) use of Services or Deliverables in combination with other products, services or data streams not provided by Xerox if such combination forms the basis of such claim; (v) Customer's failure to use corrections or enhancements to the Services or Deliverables provided by Xerox, and (vi) Customer's provision to Xerox of material for duplication in violation of the copyright of a third party and it is agreed and understood by the parties that, under this MSA, Xerox is not undertaking, and will not undertake, any obligation or duty of any kind or type to determine or ascertain whether material provided to it for duplication may be duplicated without violating a third party's copyright therein. If the use of the Services or Deliverables (excluding Third Party Products) are enjoined as a result of a claim under this Section, or in the reasonable opinion of Xerox are likely to be the subject of such a claim, Xerox will, at its option and sole expense, exercise any or all of following remedies: obtain for Customer the right to continue to use such Services or Deliverables; modify such Services or Deliverables so they are non-infringing; replace such Services or Deliverables with non-infringing ones or terminate such infringing Services, and/or, accept the return of such infringing Deliverables and refund to Customer any amount paid for the infringing item, less net benefits realized.
- C. Xerox will not pay any settlement agreed to by Customer for any third party claims subject to b(i)-(vi) above or for infringement of any intellectual property rights arising out of or related to performance of Services using Customer Assets, Customer Content or other materials pursuant to Customer's request or direction or for Customer's breach of the first sentence of the Section herein titled "INTELLECTUAL PROPERTY".

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Photocopy Equipment**

Customer is not responsible for Xerox litigation expenses or settlements unless Customer pre-approves them in writing.

15. **Limitation of Liability.** Except for personal injury (including death), property damage, or intellectual property damages as defined herein, Xerox shall not be liable to Customer, in the aggregate, for any direct damages in excess of the amounts paid by Customer to Xerox during the twelve (12) months prior to the claim or \$50,000, whichever is greater, and neither party shall be liable to the other for any special, indirect, incidental, consequential or punitive damages arising out of or relating to this MSA or any Order hereunder, whether the claim alleges tortious conduct (including negligence) or any other legal theory. This limitation of liability shall not be applicable to any specific indemnification obligations set forth in this MSA or to Customer's breach of confidentiality obligations regarding the Xerox Tools.
16. **Title and Risk of Loss.** Title to Equipment and Third Party Hardware shall remain with Xerox until Customer purchases same. Risk of loss or damage for the Products shall pass to Customer upon delivery. Customer will be responsible to keep the Products insured against loss.
17. **Reports.** Upon Customer's request, Xerox may issue mutually agreed upon reports reflecting information that is accurate at the time the report is issued, including estimates of information based on pending Orders.
18. **Total Satisfaction Guarantee.** If Customer is not totally satisfied with any Equipment delivered under this Agreement, Xerox will, at Customer's request, replace it without charge with an identical model or, at the option of Xerox, with a machine with comparable features and capabilities. This guarantee will be effective during the initial term (up to a period of sixty (60) months) for the Equipment specified on a Order and applies only to Equipment which has been continuously maintained by Xerox or its authorized representatives under a Xerox express warranty or Xerox Maintenance plan (i.e., contract for Basic Services), and is not applicable to Equipment damaged or destroyed due to an act of God.
19. **Early Termination.**
 - A. **Equipment Replacement.** If Equipment has been replaced by Xerox under the "Equipment Replacement" provision of the Section titled "BASIC SERVICES" herein and Xerox is unable to maintain the replacement Equipment, then Customer may terminate said unit of Equipment and other than payment of the amounts due and owing through the date the terminated Equipment is returned to Xerox, Customer shall have no further financial obligations for said terminated Equipment.
 - B. **Business Closing.** If a significant economic business downturn or a fiscal distressed situation causes the Customer to close / consolidate its operations, Customer may terminate one or more units of Equipment and, other than payment of the amounts due and owing through the date the terminated Equipment is returned to Xerox, Customer shall have no further financial obligations for said terminated Equipment if it is returned to Xerox in the same condition as when delivered, reasonable wear and tear excepted.
20. **Volume Review.** At Customer's request, the parties may meet annually to review the volume of prints for Equipment for the previous twelve (12) months under one or more Orders based on reporting provided by Xerox. Based on the review, the parties may mutually agree to revise the Prints Included in Minimum and the associated Monthly Minimum Charge in the Order(s).
21. **Warranty Waivers & Disclaimer.**
 - A. **Waivers.** Except as expressly provided herein and as permitted by applicable law, Customer waives all rights and remedies conferred upon a lessee by Article 2A of the Uniform Commercial Code That is, Xerox shall not be required to sell the equipment on the used market and be obligated to use proceeds of that sale to offset or mitigate the early termination charges resulting from the County's early termination of the agreement.
 - B. **Disclaimer.** For equipment, software, Xerox-brand supplies and basic services, Xerox disclaims, and Customer waives, implied warranties of non-infringement.

***** End of Managed Services Offering *****