



COMMERCIAL EQUIPMENT LEASE AGREEMENT

Marlin Leasing Corporation dba PEAC Solutions ("PEAC", "We" or "Us"): 300 Fellowship Road, Mt. Laurel, NJ 08054 | P: 888-479-9111 | F: 888-479-1100 | www.peacsolutions.com

DESCRIPTION OF LEASED EQUIPMENT ("PRODUCTS") (Include quantity, make, model, serial number, and accessories. Attach schedule if necessary.) **MUST BE COMPLETED**

App# _____

CUSTOMER ("YOU")

Company Name (Exact business name): _____ Tax Exempt:

Address: _____

Street City County State Zip
Phone: _____ Email: _____ Federal Tax ID#: _____ Corp. Limited Liability Corp. Partnership Prop.

Products Location (if different from above): _____ State of Incorporation/Organization: _____

Vendor: _____ Address: _____

Lease Term (Mos.)	Total No. of Payments	Amount of Each Payment (Plus applicable taxes)	Advance Rentals First ___ and Last ___ month(s)	Payment Frequency <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Other:	Purchase Option <input type="checkbox"/> FMV <input type="checkbox"/> \$1.00 <input type="checkbox"/> Other:
-------------------	-----------------------	---	--	---	--

TERMS OF AGREEMENT

1. REQUEST FOR US TO ACQUIRE PRODUCTS FOR YOU. You (the Customer) wish to acquire certain Products from the vendor identified above. Rather than purchasing it yourself, you have come to PEAC and asked us to purchase it and then lease it back to you. In exchange for our agreement to do this, you have agreed to the terms in this equipment lease agreement (the "Agreement"). We have given you an opportunity to discuss and negotiate these terms with us, and the following is the final version of our contract. If there is any information deleted from above, you give us permission to fill it in. This Agreement is not binding on us until we sign it. You agree all terms are accurately filled in and you have reviewed all pages of the Agreement.

2. THE PRODUCTS. We agree to lease to you, and you agree to lease from us, the Products identified above and on any schedules attached to this Agreement. This Agreement also covers any and all replacement Products, add-ons, substitutions or accessories (collectively referred to as the "Products"). The other details of the Agreement such as the Payment amount, the initial Agreement term and other matters are set forth in the boxes above.

3. YOUR SELECTION OF THE VENDOR AND THE PRODUCTS. You hereby acknowledge and agree that: (a) YOU SELECTED THE VENDOR AND THE PRODUCTS BASED ON YOUR OWN SKILL AND KNOWLEDGE. (b) WE DID NOT SELECT OR INSPECT THE PRODUCTS, HAVE NEVER SEEN THE PRODUCTS AND HAVE NO EXPERT KNOWLEDGE REGARDING THEM. (c) YOU AGREE THAT THIS AGREEMENT IS A FINANCE LEASE AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE. IT IS ALSO A "TRUE LEASE," MEANING THAT IT IS NOT A "LEASE INTENDED AS SECURITY," A CONDITIONAL SALE, A LOAN OR A SIMILAR ARRANGEMENT. (d) Prior to executing the Agreement, you received and approved the supply contract (if any) from the vendor, and you are now advised hereby that you may have rights against the vendor under the supply contract (if any) and that you may contact the vendor for information about what your rights against the vendor are (if any).

4. NO RIGHT TO CANCEL; OTHER IMPORTANT TERMS OF THE AGREEMENT. YOU AGREE AS FOLLOWS: (a) AGREEMENT CANNOT BE REVOKED; NO "TEST PERIOD." Because we are purchasing the Products for you at your request and cannot get a refund, this Agreement cannot be cancelled or revoked by you for any reason at any time, including but not limited to Products failure or defects, damage or loss. The Agreement cannot be prepaid except with our prior written permission on terms acceptable to us. There is no "test period" for the Products. (b) **PEAC IS NOT RELATED TO MANUFACTURER OR VENDOR; NO CLAIMS TO BE MADE AGAINST PEAC.** We are not related in any way to the Products manufacturer or vendor. Neither the vendor nor anyone else is an agent of ours, and no statement, representation, guarantee or warranty made by the vendor or other person is binding on us or will affect your obligations to us. Only an executive officer of PEAC is authorized to waive or alter any of the terms of this Agreement, and then only in writing. If the Products fail to operate properly, or the vendor or any other person fails to provide any installation, maintenance, or other service, you will make any complaint only against the vendor or other person and not against us (either by way of a claim, counterclaim, defense or excuse to payment). (c) **PEAC MAKES NO WARRANTIES.** The Products are leased by us to you "as is," "where is" and with any and all faults. We have made no statement, representation, or warranty regarding the Products. We disclaim all express and implied warranties, including without limitation any implied warranty of merchantability or fitness for a particular purpose. We shall transfer to you all express warranties, if any, made by the vendor to

us, but this does not imply that there are any such warranties. You may contact the vendor to get a statement of all warranties, if any. (d) **BARGAINED FOR WAIVER OF RIGHTS.** You waive any and all rights and remedies you have under article 2a of the Uniform Commercial Code, including sections 508 through 522 thereof. (e) **DISCLAIMER OF LIABILITY.** We are not liable for any loss, damage (including lost profits, special damages or incidental or consequential damages) or injury to you, your employees or any other person or property caused by the Products. (f) Time is of the essence with respect to the obligations of Customer under this Agreement. (g) Any provision of this Agreement that is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions of this Agreement, and any such unenforceability in any jurisdiction shall not render unenforceable such provision in any other jurisdiction.

5. PAYMENT AMOUNT; INTERIM RENT; LATE FEE; DOCUMENTATION FEE. The monthly or other periodic Payment you have agreed to pay is stated above. You agree that we may adjust the Payment amount above if the final Products cost varies by up to 15% from the amount the Payment was based upon. You also agree to pay a partial payment (interim rent) covering the period between the delivery date and the date the first regular Payment is due. If we do not receive your Payment of any amount due under this Agreement by its due date, there will be a late fee equal 15% of the late amount (or, if less, the maximum amount allowable under applicable law), which you agree is a reasonable estimate of the costs we incur with respect to late Payments and is not a penalty. Upon your request, we will waive the first assessed late charge. We may charge you a one-time documentation fee up to \$125. You agree to pay (i) a convenience fee for any Payment you elect to make by telephone and (ii) a charge of \$30 if any Payment made by ACH or check is dishonored or returned. You agree to reimburse us and pay us for all costs we incur to send you documentation associated with and/or regarding this Agreement via an overnight carrier service.

6. AGREEMENT COMMENCEMENT AND TERM. This Agreement will commence when the Products are delivered to you and will continue for the entire Agreement term plus any interim rent period and any renewal term. The monthly (or other periodic) due date will be established by us. The due date for the first regular rental Payment will also be established by us; however, it will not be greater than 30 days from the date on which the Products were delivered to you.

7. ADVANCE PAYMENT(S). If the Agreement does not commence for reasons other than our own negligence, we may retain such monies to compensate us for our credit and other administrative costs.

8. PRODUCTS DELIVERY AND USE. You understand and agree that we are not responsible for packaging, delivery, installation or testing of the Products. You (and/or the Vendor, if you have made such arrangements with the Vendor) are responsible for all such matters. You agree that you will not have any complaint against us if the Vendor or any other person improperly packages the Products or delays in delivering or installing them. **YOU REPRESENT TO US THAT THE PRODUCTS WILL BE USED ONLY FOR COMMERCIAL, BUSINESS OR AGRICULTURAL PURPOSES, AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.** In addition, you agree not to attach the Products to any realty or otherwise permit to become a "fixture" to real estate or a structure thereon, nor will you trade it in, make alterations to it, sell or dispose of it without our prior written permission. **(Agreement continues on Page 2)**

ACCEPTANCE OF EQUIPMENT LEASE AGREEMENT THIS IS A BINDING CONTRACT. IT CANNOT BE CANCELED. READ IT CAREFULLY BEFORE SIGNING AND CALL US IF YOU HAVE ANY QUESTIONS.

X
Signature of Customer _____ Print Name of Signer _____ Title _____ Date _____

Accepted and Signed by PEAC Solutions _____ Print Name of Signer _____ Title _____ Date _____

DISCLOSURE - www.peacsolutions.com/customerdisclosure PEAC PRIVACY POLICY DISCLOSURE - www.peacsolutions.com/privacy-policy/

To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. What this means to you: when you open an account, we will ask you for your name, address, date of birth, and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents. Privacy Policy - Please visit www.peacsolutions.com/privacy-policy/ to learn how your information is being protected.

ACCEPTANCE OF DELIVERY - ONLY THOSE AUTHORIZED TO SIGN ON BEHALF OF THE CUSTOMER SHOULD SIGN THIS ACCEPTANCE OF DELIVERY

I AM AUTHORIZED TO SIGN THIS CERTIFICATE ON BEHALF OF THE CUSTOMER. I CERTIFY TO PEAC THAT THE PRODUCTS HAVE BEEN DELIVERED AND ARE INSTALLED AND WORKING PROPERLY. I HEREBY AUTHORIZE PEAC TO PAY THE VENDOR AND COMMENCE THE AGREEMENT.

X
Authorized Signature _____ Name and Title (Please Print) _____ Date _____

TERMS OF AGREEMENT (continued)

You shall not allow any liens or encumbrances (for example, a mechanic's lien) to be placed on the Products. You will keep and use the Products only at the address listed above, will not move or return them prior to the end of the Agreement term and will not allow the Products to be used outside of the United States.

9. MAINTENANCE AND SERVICE. You agree that we are not responsible for installation, maintenance, repairs or service to the Products. You agree to use the Products strictly in the manner for which they are intended by the manufacturer, and you shall maintain the Products in good operating order. At the end of the term of the Agreement, unless you have been given a written option to purchase the Products and you make the purchase, you will be liable for all damage or distress to the Products. Your Payments may include amounts you owe to the vendor under a separate maintenance, service and/or supply arrangement. We may invoice such amounts on the vendor's behalf for your convenience. You agree that any claims related to maintenance, service or supplies will not impact your obligation to pay us the full amount due under the Agreement.

10. AGREEMENT ASSIGNMENT; SUBLEASE OF PRODUCTS. You agree that you may not assign, transfer or sell any of your rights or interests under the Agreement to any other person or entity, nor may you sublease or rent any of the Products to any other person or entity. However, you agree that we may assign, transfer, sell, pledge or otherwise encumber any or all of our rights and interests under this Agreement (including our rights and interests in the Products) to any other person or entity (including a bank or other secured party or a buyer) (collectively, a "third party") without prior notice to you. Such third party may also assign, transfer, sell, pledge or otherwise encumber its rights and interests. In this event, you agree that such third party, or its assignee or transferee, will receive all the rights and interests we had under the Agreement but none of our obligations or liabilities, if any. We will continue to be responsible for all such liabilities and will retain and honor all such obligations, if any. You promise and agree that you will not assert any claims, counterclaims, defenses or setoffs against such third party. You hereby acknowledge that any transfer of our rights and/or interests to a third party would not materially change your obligations under the Agreement or increase your risks.

11. DAMAGE TO PRODUCTS; RISK OF LOSS OF PRODUCTS; INSURANCE. You agree that we are not liable or responsible for any damage to the Products, or any loss of or casualty to the Products from any cause whatsoever. NO SUCH DAMAGE, CASUALTY OR LOSS WILL AFFECT YOUR RESPONSIBILITIES AND OBLIGATIONS UNDER THE AGREEMENT. You will notify us in writing within 5 days of any item becoming lost, stolen or damaged. If any item is lost, stolen, destroyed, damaged beyond repair or rendered permanently unfit for use for any reason, or in the event of condemnation or seizure of any item, you will promptly pay us, within 10 days of our demand, an amount equal to PEAC's Loss as defined in Section 16 with respect to such item at the time of payment based on the proportion that the original cost of such item bears to the total cost of all items of the Products. Upon payment of such amount to us, such item shall become your property, we will transfer to you, without recourse or warranty, all of our right, title and interest therein, the rent with respect to such item will terminate, and the rental payments on the remaining items will be reduced accordingly. You shall pay any sales and use taxes due on such transfer. Any insurance or condemnation proceeds received will be credited to your obligation under this section and you will be entitled to any surplus. Whenever the Products are damaged and such damage can be repaired, you shall, at your expense, promptly effect such repairs as we deem necessary for compliance with section 9 above. You must maintain acceptable liability insurance with a minimum limit of \$1 million per occurrence naming us as "additional insured". You must keep the Products insured against all risks of loss in an amount equal to the replacement cost and have us listed on the policy as "loss payee" with a Lender's Loss Payable endorsement for the entire term of the Agreement. If you do not give us proof of the required insurance within 30 days after the Agreement commences (or within 30 days of any subsequent renewal date), then depending on the original cost of the Products we may, but are not obligated to, obtain insurance to cover our interests and charge you a fee for such coverage (including a monthly administration fee and a profit to us). You can cancel the insurance coverage fee at any time by delivering the required proof of insurance.

12. TAXES AND CERTAIN FEES RELATING TO THE AGREEMENT OR THE PRODUCTS. You agree and understand that the amounts we are charging you to rent the Products do NOT cover taxes, governmental fees and similar types of costs. Accordingly, you agree to pay us upon demand for all taxes (including but not limited to sales, property, use and other taxes), administrative costs and other charges and fees relating to this Agreement or to the use or ownership of the Products. We may adjust this Agreement and the monthly (or other periodic) Payment amount to finance for you any taxes due at Agreement inception. We may bill you based on our estimate of the taxes or based on actual assessments we receive. We may charge you an annual property tax administration fee up to \$25. If we gave you a \$1.00 purchase option, we may require you to file all personal property tax returns. You agree the estimation may result in a profit to us.

13. TITLE TO THE PRODUCTS. You agree that the Products are and will remain throughout the term of the Agreement solely our property. We will have title to the Products throughout the term, and this is a "true lease." You hereby grant us a first priority security interest in the Products and you authorize us and our agents to file Uniform Commercial Code Financing Statements recording such security interest (in case this is later determined not to be a "true lease").

14. YOUR REPRESENTATIONS TO US. The person signing this Agreement on behalf of the Customer hereby represents and warrants to PEAC that: This Agreement has been authorized by any and all action required of the corporation, partnership, limited liability company or other form of business (whichever applies in your case), and no consent of any other person or entity is necessary; the Customer has complete power to enter into this Agreement, and the person signing on behalf of the Customer has been authorized to do so; the Agreement is a legal, valid and binding obligation of the Customer, and enforceable against the Customer in accordance with its terms; all factual statements made in this Agreement and all other information supplied to us by the Customer or your representatives, is accurate and complete in all material respects. All prior conversations, agreements and representations relating to this Agreement or the Products are integrated herein. You will promptly execute and deliver to us such further documents and take such further action as we may request in order to carry out more effectively the intent and purpose of this Agreement.

15. DEFAULT DEFINED. You will be in default under this Agreement if any of the following events occur: (a) you fail to make any rental Payment or pay any other amount due under this Agreement by its due date; (b) you fail to comply with any other term or condition of this Agreement or any other agreement between us, or fail to perform any obligation imposed upon you relating to this Agreement or any such other agreement; or (c) you become deceased (if the Customer under this Agreement is one or more natural persons), go out of business, admit your inability to pay your debts as they fall due, become insolvent, make an assignment for the benefit of your creditors, file (or have filed against you) a petition in bankruptcy, a trustee or receiver of your business assets is appointed, or you sell all or substantially all of such assets; (d) you allow a controlling interest in the Customer (you) to be sold, transferred, or assigned to any person(s) or entity(ies) other than those who hold a controlling interest as of the date hereof whether by merger, sale or otherwise; (e) you enter into any merger or reorganization in which the Customer is not the surviving entity; or (f) you allow a Blocked Person to have ownership interest in or control of Customer. "Blocked Person" means any person or entity that is now or at any time (A) on a list of Specially Designated Nationals issued by the Office of Foreign Assets Control ("OFAC") of the United States Department of the Treasury or any sectoral sanctions identification list, or (B) whose property or interests in property are blocked by OFAC or who is subject to sanctions imposed by law, including any executive order of any branch or department of the United States government or (C) otherwise designated by the United States or any regulator having jurisdiction or regulatory oversight over PEAC, to be a person with whom PEAC is not permitted to extend credit to or with regard to whom, a Customer relationship may result in penalties against PEAC or limitations on a lessor's ability to enforce a transaction. A default of this Agreement will constitute a default of all other Agreements you have with us, and a default in any other agreement you have with us will constitute a default of this Agreement.

16. OUR REMEDIES UPON DEFAULT. In the event you default under this Agreement, as defined above, we will have the right to take ANY OR ALL of the following actions, in addition to any and all other remedies that may be available to us under law: (a) terminate the Agreement without prior notice or warning to you; (b) directly debit, via the Automated Clearing House (ACH) system, any Payment(s) due or amounts owed to us from any bank account(s) we have on file for you or that you may provide us with from time to time and, in doing so, you agree to be bound by NACHA Operating Rules; (c) file a lawsuit against you to collect PEAC's Loss. "PEAC's Loss" means the sum of (1) all past due rent Payments then due plus (2) all rent Payments that will become due in the

future during the unexpired term discounted from the dates the respective rent Payments would be due at a discounted rate of 3% per annum, plus (3) the "residual value" of the Products as determined by us in our sole but reasonable judgment, plus (4) all other fees, charges or amounts that are then due. You agree to pay all of our reasonable legal costs, including but not limited to reasonable attorney's fees, and/or reasonable overhead for employee time spent on preparing for suit or attempting to collect Payments; and/or (d) repossess or disable the Products or apply to a court for an order allowing repossession. In this event, you agree that, after the Products are repossessed or disabled, you will have no further rights in the Products, and you agree we may resell, re-lease or otherwise remarket the Products without notice to you. You agree (and you waive any rights that may provide to the contrary) that we will NOT be required to disable, repossess, resell, re-lease or otherwise remarket the Products at any time, and that our failure to do so will not affect our other rights of collection and other rights under this Agreement or under law. No delay or omission on our part in exercising any rights hereunder shall operate as a waiver of any of our rights and a waiver on any one occasion shall not be construed as a bar to or waiver of any right or remedy on any future occasion. No waiver or consent shall be binding upon us unless it is in writing and signed by us.

17. PERSONAL JURISDICTION OVER YOU IN PENNSYLVANIA, PLACE FOR ANY LAWSUIT. You hereby acknowledge that this Agreement was accepted by us in Pennsylvania, where we maintain an office, and it did not take effect until we received the executed legal documents in our Pennsylvania office. Accordingly, YOU AGREE THAT THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA. YOU AGREE THAT ANY SUIT RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN A STATE OR FEDERAL COURT IN PENNSYLVANIA, AND YOU IRREVOCABLY CONSENT AND SUBMIT TO THE JURISDICTION OF SUCH COURTS, AND WAIVE ANY CLAIM THAT ANY SUCH COURT IS AN INCONVENIENT OR IMPROPER FORUM. EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL. Any action by you against us must be commenced within one year after the cause of action arises or be forever barred. We and you have agreed that a scanned, facsimile or electronic version of this Agreement and of the signatures of both parties shall be as valid, authentic and legally binding as an original version for all purposes and shall be admissible in court as final and conclusive evidence of this transaction and the execution of the Agreement. Our copy of this Agreement will be deemed chattel paper and evidence your monetary obligation to us. Any written notice hereunder to Customer or PEAC shall be deemed to have been given when delivered personally or deposited with a recognized overnight courier service or in the United States mail, postage prepaid, addressed to recipient at its address set forth on the first page of this Agreement or at such other address as may be last known to the sender.

18. TAX BENEFITS BELONG TO PEAC. The following applies to this Agreement UNLESS, at the commencement of this Agreement, we execute and deliver to you a document signed by an executive officer of PEAC giving you the option at the end of the Agreement term to purchase the Products for one dollar (\$1.00): For all state, federal and local tax purposes, we (or our successors and assigns) are the sole owner of the Products and we are entitled to all tax benefits relating to the Products, including but not limited to tax credits, depreciation and deductions. You agree not to do anything that is inconsistent with our ownership of the Products. You agree not to claim to be the owner of the Products on any tax returns or in any other document or for any other purpose. If you do anything or file anything that causes us to lose any such tax benefit contemplated above, or if we suffer any harm, damage, cost, loss, liability (for example, if interest or tax penalties are imposed against us), or if any suit or proceeding is brought against us, arising out of your breach of any of the agreements you have made in this section, you agree to hold us harmless, defend us and indemnify (reimburse or pay) us with respect to the amount of such lost benefits or other damage, loss, cost (including reasonable attorneys fees) or liability. This duty to indemnify us shall survive the termination of this Agreement.

19. OTHER INDEMNIFICATION. You understand that we have no control over your use of the Products and for the amount of rent we are charging we cannot agree to accept any financial, liability or other risks relating to the use or ownership of the Products. Accordingly, you agree to hold us harmless, indemnify (pay or reimburse) and defend us against all claims, liabilities, losses, suits, proceedings, damages, costs (including reasonable legal fees) relating to this Agreement or to the use or ownership of the Products, including but not limited to claims for death or injury to persons and claims for property damage. This duty to indemnify shall survive the termination of this Agreement.

20. RETURN OF THE PRODUCTS; RENEWAL. You may purchase all of the Products for the Purchase Option amount above. Unless your Purchase Option is \$1.00, you will give us written notice by certified mail between 60 and 150 days before the expiration of the initial Agreement term (or any renewal term) of your intention to return the Products or purchase the Products. After you have (i) paid all amounts owing under the Agreement and (ii) given us the proper and timely notice, then at the end of the Agreement Term, you shall return the Products pursuant to the instructions we provide to you. You are responsible for the cost to return the Products. You agree to reimburse us for our costs to refurbish returned Products for damage beyond normal wear and tear. You are solely responsible for removing all data/images stored on the Products prior to its return. If you fail to notify us as provided herein, this Agreement will extend on a month to month basis, until you have given at least 30 days written notice of your intention to return or purchase the Products.

21. FISCAL FUNDING (FOR MUNICIPALITIES ONLY). You warrant that you have funds available to pay all Payments due under this Agreement until the end of your current appropriation period. If your legislative body or other funding authority does not appropriate funds for the Payments for any subsequent appropriation period and you do not otherwise have funds available to lawfully pay the Payments (A "Non-Appropriation Event") you may, subject to the conditions herein and upon prior written notice to us (the "Non-Appropriation Notice"), effective 60 days after our receipt of such notice, terminate the Agreement and be released of your obligations to make all Payments due to us after the Non-Appropriation Event date. As a condition for exercising your rights under this Section you shall provide to us (a) a certification of a responsible official that a Non-Appropriation Event has occurred, (b) deliver to us an opinion of your counsel addressed to us verifying that the Non-Appropriation Event as set forth in the Non-Appropriation Notice has occurred, (c) return the Products subject to this Agreement on or before the Non-Appropriation Event date to a location designated by us, in the condition required by, and in accordance with the return provisions of this Agreement and at your expense; and (d) pay us all sums due and outstanding to us under the Agreement up to the Non-Appropriation Event date. In the event of any Non-Appropriation Event, we shall retain all sums paid by you, including any advance rentals. This Section is not intended to permit you to terminate this Agreement at will, for convenience or for any other reason except non-appropriation.

22. COMMUNICATION VIA PHONE AND EMAIL. By providing a telephone number (landline and cell) and email address, You authorize PEAC, its affiliates and agents to contact You using any means of communication, including calls placed to your cellular telephone, using an automatic dialer, pre-recorded messages or SMS text messages, and emails regarding any current or future payments owed to PEAC, or marketing and promotional information regarding products from PEAC, its affiliates or partners.

Managed Print Service Agreement



Agreement No:		CUSTOMER #			
Customer CITY OF COVINA CITY HALL, PUBLIC WORKS, PARKS & RECREATION		Customer's Contact Person: Angel Carrillo		Contact Person's E-mail: ACarrillo@covinaca.gov	
Street 925 E College Street	City Covina	State CA	County LA	Zip Code 91723	Customer's Telephone (626) 384-5400

In this Cost Per Print Agreement, the “**Agreement**” may be amended or supplemented from time to time without notice. “**Customer**” represents the Customer named at the top of the agreement. “**Company**” represents **EXCEL OFFICE SERVICES, INC.**, an authorized Xerox Partner Print Services reseller for Xerox Corporation (“**Xerox**”).

1. SERVICES. XEROX WILL PROVIDE THE SERVICES IDENTIFIED IN THE ATTACHED DESCRIPTION OF SERVICES (“SERVICES”) FOR THE DEVICES IDENTIFIED IN EXHIBIT A TO THIS AGREEMENT (“MANAGED DEVICES”). The Tools (as defined below, in Section 8) will be used to monitor the Networked Devices identified in Exhibit A. The Tools provide automatic service and supplies alerts to the Help Desk (e.g. low toner) and are used for automated meter collection, new device discovery, and device data collection for reporting. The Tools periodically scan approved ranges of Customer’s network for devices which may be eligible to be added as Managed Devices. Devices identified through this process may be added as Managed Devices and billed at the rates identified in Exhibit A. Customer promises to pay to Company the “Minimum Monthly Charges” set forth on Exhibit A, any excess print charges, monthly fees and consumable charges for Non-Networked Devices identified in Exhibit A, and all other amounts stated herein.

2. TERM AND TERMINATION. The agreement is effective from the commencement date and shall continue for an initial minimum term agreed upon in Exhibit A (page 4). Thereafter, this Agreement shall automatically be renewed on a one year term unless terminated sooner by either party on no less than ninety (90) days' prior written notice to the other party. The prices, terms and conditions for such successive term(s) shall be those in effect at the time of renewal. All Agreements shall be billed monthly in arrears. An early termination charge of \$100 per unit. In addition, customer shall be billed the average previous 12 months for the remaining term of the agreement. A reinstatement fee of \$100 per unit is required if the customer wishes to reinstate their agreement. If Customer does not ensure that all managed devices are communicating with the Tools for 75 calendar days, and/or respond to correspondence from Company to assist in the communication of devices with the Tools, Company may terminate contract and impose any termination charge(s) and any reinstatement fee(s) stated above.

3. BREAK FIX SERVICES. Except for Other Devices identified as “Supplies Only” in Exhibit A, Xerox will keep the Managed Devices in good working order (“Break Fix Services”).

- a) Break Fix Services may be initiated by the Tools for Networked Devices or by Customer calling the Help Desk.
- b) If a device fault cannot be resolved remotely, Xerox will dispatch a service technician to perform on-site Break Fix Services, which will usually be within 24 to 48 hours from the service call being placed. On-site Break Fix Services are provided Monday through Friday (excluding New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day) from 8:00AM to 5:00PM local time (“Service Hours”). Break-Fix Services exclude repairs due to: (i) misuse, neglect, abuse or operation of a Managed Device outside the original equipment manufacturers (“OEM”) specifications; (ii) failure of the Customer’s PC to comply with the OEM’s published specifications; (iii) act of God or other force majeure event; (iv) relocation, alterations, or use of options, accessories, service or supplies not provided by Xerox; (v) failure to perform any Customer Responsibilities identified in the section titled “Customer Responsibilities”; or (vi) acts or omissions of Customer or any party not affiliated with Company or Xerox.
- c) If Xerox determines that a Managed Device is beyond repair, or is classified by the OEM as service discontinued, or parts or Supplies (defined below) are no longer commercially available, Customer may (i): replace the device at its own expense with a device that is then supported by Xerox, or (ii): notify Company to delete the device from the Agreement, which will be subject to an early termination fee.
- d) Replacement parts may be new or used and all removed, replaced parts become Xerox’s property.
- e) If a maintenance kit or drum is required for a Managed Device, Xerox will provide Customer with the drum or maintenance kit component(s). Drums and maintenance kits are included in pricing. Technicians are not dispatched for preventative maintenance or cleaning or for installation of maintenance kits or drums if such items are designated as CRUs.
- f) Company cannot be held not responsible for any loss of data while performing any service or general maintenance on device(s).

4. SUPPLIES. Xerox will furnish toner or ink (“Supplies”), as applicable, for Managed Devices as identified in Exhibit A.

- a) Supplies requests may be placed by the Tools or by Customer calling the Help Desk.
- b) Supplies are Xerox’s property until used by Customer, and Customer will use them only with the Managed Devices. Selling, transferring, bartering or otherwise conveying Supplies to anyone is strictly prohibited and is subject to civil and criminal penalties.
- c) Upon request, Customer will provide an inventory of Supplies in its possession. No “safety stock” of Supplies is permitted under this Agreement. “Safety Stock” means more than one consumable item (e.g. toner cartridge) that is not installed in a Managed Device. Upon expiration or termination of the Agreement Customer will, at Xerox’s option and expense, return any unused Supplies to Xerox, permit access to its facilities to permit collection, or dispose of them as directed in writing by Xerox.
- d) To prevent excessive shipment of Supplies, when Supplies are ordered for Networked Devices, Xerox will: (i) check the current consumables level, if available, to validate a low consumables condition; and (ii) check the metered impression volume since the last Supplies shipment to determine if impression volume exceeds the expected yield. If these conditions are not satisfied, Supplies will be billed to Customer.
- e) Xerox may not provide Supplies if a current meter read is not received for a Networked Device. If Customer requests expedited shipping, the cost of second day, overnight, or other non-standard shipping will be billed to Customer accordingly.
- f) Customer must separately purchase all supplies other than those specifically listed on Exhibit A, including, without limitation, paper and staples, at Customer’s own cost.
- g) A Supplies shipping/processing charge will be assessed monthly based on overage. Company has the right to adjust this fee at any time.

5. HELP DESK. The Help Desk is available during the Service Hours to receive, track, escalate, process and close service issues, remotely resolve certain issues, and process Customer requests for Break Fix Services and Supplies.

6. CUSTOMER RESPONSIBILITIES. Customer will:

- a) Notify Company if Customer wishes to relocate a Managed Device, and Company will advise Customer if Services are available at the new location.
- b) Assure that Networked Devices are Simple Network Management Protocol ("SNMP") enabled and can route SNMP over the network.
- c) Provide a dedicated PC (or server) that is connected to Customer's network at all times ("Customer PC"); and allow Company and Xerox to install, use, access, update and maintain the Tools on the Customer PC. The Tools cannot be installed on a PC where other SNMP-based applications or other Xerox Tools are installed, because they may interfere with the Tools.
- d) Ensure that proper virus protection is installed, maintained, and enabled on any servers, desktop workstations, laptop computers and other hardware attached to the Customer's network and output environment, as well as on any server or computer hosting the Tools or any data on the Customer's network. Neither Company nor Xerox is responsible for the disruption of Services or loss of functionality of the Tools caused by any of the foregoing. If the Tools become inoperable due to Customer implemented changes to its network, Company will work with Customer to remotely re-install Tools.
- e) Assist in implementation of the Tools by providing relevant network information such as the IP address ranges or subnets on which Managed Devices reside.
- f) Distribute Supplies within Customer's site and install them in Managed Devices, clear paper jams, and resolve any network or Customer PC issues, or any Managed Device software issues.
- g) Replace Managed Device cartridges and CRUs. **Customer Replaceable Units ("CRUs") are those items that an operator can install without service assistance, including toner, fusers, drums and maintenance kits.**
- h) Provide reasonable access to Customer's facilities and personnel as required for the performance of the Services.
- i) Ensure that Managed Devices are installed and operating within the OEM's specifications and are readily accessible to the Xerox authorized service representative.
- j) Submit meter data for Non-Networked Devices when such cannot be provided by the Tools.
- k) Request Break Fix Services and Supplies from the Help Desk for Managed Devices that are not compatible with the Tools.
- l) Grant or transfer to Xerox sufficient rights to use software owned, licensed or otherwise controlled by Customer, as required, solely for the purpose of providing the Services.
- m) Legally dispose of all hazardous wastes generated from use of Managed Devices and associated Supplies and CRUs
- n) Responsible for firmware updates (company will provide instruction on how to obtain latest firmware version if needed)

Neither Company nor Xerox will be liable for delays or services failures, including but not limited to implementation delays if Customer does not perform or facilitate completion of its designated responsibilities.

7. PRINT CHARGES; LATE FEES AND TAXES. Each month, Customer agrees to pay Company, by the due date as set forth on the invoice, all Minimum Monthly Charges, excess print charges and all other amounts due under this Agreement (including all applicable taxes). **Customer agrees to pay the Base Monthly Charges each month even if Customer does not make the number of prints included in the Base Monthly Charge. Customer may not carry over a credit from any month during which Customer would make fewer than minimum number of prints.** If meter reads are not provided, Company (i) may estimate the number of prints used and invoice Customer accordingly, then will adjust the estimated charge for excess prints upon receipt of actual meter readings; (ii) will assess a \$100 Missing Meter Read Fee will be charged for each device that has not reported for more than 30 consecutive days. If Company does not receive payment in full on or before its due date, Customer shall pay (i) a fee equal to the greater of 1.5% of the amount that is late or \$25, plus (ii) interest on the part of the payment that is late in the amount of 1.5% per month from the due date to the date paid. Customer is responsible for all taxes (including, without limitation, sales, use and personal property taxes, and excluding only taxes based on Our income), levies, assessments, license and registration fees and other governmental charges relating to this Agreement (collectively, "**Taxes**"). Company may periodically bill Customer for, and Customer agrees to promptly pay any Taxes. Customer authorizes Company to pay any Taxes when and as they may become due, and Customer agrees to reimburse Company promptly upon demand for the full amount (less any estimated amounts previously paid by Customer). If the Customer fails to provide payment for greater than 60 days, their service will be placed on hold. Customer will be responsible for any reinstatement fee(s) that are required to have the Agreement operational again.

8. XEROX CLIENT TOOLS & XEROX TOOLS. Company will use certain Xerox software tools that are installed on Customer's network ("Xerox Client Tools"), and/or certain other proprietary Xerox software ("Xerox Tools"), to perform Company's obligations under this Agreement. Xerox Client Tools and Xerox Tools (collectively, "Tools") are Xerox trade secrets. Xerox Client Tools and any related documentation are licensed under a separate click wrap or shrink-wrap license agreement that Company must accept at the time of installation. Xerox Tools are operated and used only by Company and Xerox, and Customer has no right to use, access or operate the Xerox Tools. Customer shall not decompile or reverse engineer the Tools. The Tools will be removed by Company at the expiration or termination of this Agreement. Xerox Client Tools facilitate performance of the Services through automatic collection and transmission of data 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. The automatic data transmission capability does not allow Company or Xerox to read, view or download the content of any of Customer's documents residing on or passing through the Managed Devices or Customer's information management systems. If a meter reading is not generated by Xerox Client Tools or, upon request, Customer fails to provide a meter reading, Company may estimate the reading and bill Customer accordingly.

9. INTELLECTUAL PROPERTY INDEMNITY. Xerox will defend, and pay any settlement agreed to by Xerox or any final judgment for, any claim that the Tools infringe a third party's U.S. intellectual property rights. Customer must promptly notify Company and Xerox of any alleged infringement and permit Xerox to direct the defense. Neither Company nor Xerox is responsible for any non-litigation expenses or settlements unless Xerox and Company pre-approve them in writing. To avoid infringement, Xerox may modify or substitute an equivalent tool, or obtain any necessary licenses. Xerox is not liable for any infringement based upon a modification of the Tools to Customer's specifications or the Tools being used by Customer in a manner not permitted by this Agreement.

10. NO WARRANTIES; LIMITATION OF LIABILITY. The Services will be performed in a skillful and workmanlike manner. NEITHER XEROX NOR COMPANY MAKE ANY OTHER WARRANTIES AND BOTH XEROX AND COMPANY DISCLAIM ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT AND FITNESS FOR A PURPOSE. With the exception of liabilities arising from obligations related to Section 9 or either party's willful misconduct or gross negligence, any liability for any cause whatsoever shall be limited to amounts paid by Customer under this Agreement. This limitation shall apply regardless of the form of action, whether contract or tort, including without limitation negligence actions, provided, however, that this limitation shall not apply to damages resulting from personal injury caused by Company's negligence or breach of this Agreement. In no event, shall Xerox or Company be liable to Customer for any special, indirect, incidental, consequential, exemplary or punitive damages in any way arising out of or relating to this Agreement.

11. LOSS AND DAMAGE. Customer bears the risk of loss and damage to the Managed Devices and Customer shall continue to perform its obligations even if it becomes damaged or suffers a loss.

12. ASSIGNMENT. CUSTOMER SHALL NOT SELL, ASSIGN, OR OTHERWISE TRANSFER (collectively, "TRANSFER") THIS AGREEMENT, IN WHOLE OR IN PART, WITHOUT THE PRIOR WRITTEN CONSENT OF COMPANY. However, Customer may assign this Agreement without written consent (a) to an affiliate; (b) to an acquirer in connection with any merger, consolidation, or sale of all or substantially all of its assets; or (c) in connection with any transaction or series of transactions resulting in a change of control. Any other attempted assignment or delegation without the prior written consent of Company shall be void. Although Xerox is not a party to this Agreement, Xerox is a third-party beneficiary of this Agreement. Customer acknowledges that Company may, without notice to Customer, Transfer this Agreement to Xerox or a third-party reseller of Xerox products.

13. DEFAULT. Customer will be in default hereunder if Customer fails to pay any amount within 60 days of the due date as set forth in an invoice issued under this Agreement or if Customer fails to perform any other material obligation under this Agreement. If Customer defaults, Company may do any or all of the following, at Company's option: (a) terminate this Agreement, (b) require Customer to pay to Company, on demand, an amount equal to the sum of (i) all amounts then due and past due, (ii) all remaining Minimum Monthly Charges for the Term and (iii) all other amounts that may thereafter become due hereunder to the extent that Company will be obligated to collect and pay such amounts to a third party, and/or (c) exercise any other remedy available to Company under law. Customer also agrees to reimburse Company on demand for all reasonable expenses of enforcement (including, without limitation, reasonable attorneys' fees and other legal costs) for any payment default that continues for a period of ten (10) days or for any default arising from a material breach that continues for a period of thirty (30) days, in either case after Customer receives written notice from Xerox of such default.

14. NOTICES. Notices must be in writing and will be deemed given five (5) days after mailing, or two (2) days after sending by nationally recognized overnight courier, to the other party's business address, or to such other address designated by either party to the other by written notice given pursuant to this sentence.

15. APPLICABLE LAW; VENUE; JURISDICTION. Any action related to this Agreement shall be governed by the laws of California without regard to choice of law principles, and any litigation hereunder shall take place in the state or federal courts located in California, Los Angeles County. Each term hereof shall be interpreted to the maximum extent possible to be enforceable under applicable law.

16. MISCELLANEOUS. This Agreement may be executed in counterparts, all of which together shall constitute the same document. Customer agrees that a facsimile or other copy containing the signatures of both parties shall be as enforceable as the original executed Agreement. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision or the right thereafter to enforce each and every provision hereof. No waiver by either party, either express or implied, or any breach of these terms or conditions shall be construed as a waiver of any other term or condition. The provisions of this Agreement that by their nature continue in effect shall survive the termination or expiration of this Agreement. The Agreement represents the final and only agreement between Customer and Company and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements. The Agreement can be changed only by a written agreement between the parties. **Customer hereby acknowledges to Company that this Agreement is legally binding and enforceable in accordance with its terms.**

Accepted by: Excel Office Services, Inc.	CITY OF COVINA CITY HALL, PUBLIC WORKS, PARKS & RECREATION	
By: _____ / _____ (Date)	Customer: _____	_____
	Print Name: _____	Title: _____



Managed Print Service Agreement

Black and White Prints/Color Prints

Schedule to
Agreement No: _____

CITY OF COVINA CITY HALL, PUBLIC WORKS, PARKS & RECREATION

THIS XPPS SCHEDULE ("Schedule") amends the XPPS Cost Per Print Agreement ("Agreement") between the Customer named above ("you" or "your") and EXCEL OFFICE SERVICES, INC. ("We," "Us" and "Our"). **"Consumables" provided under this Schedule include consumables, maintenance kits, waste trays, and imaging units, as applicable.**

Exhibit A

<u>Equipment Description:</u>			<u>Black and White Prints</u> (Duplex Prints = 2 Prints)		<u>Color Prints*</u> (Duplex Prints** = 2 Prints)	
<u>Brand & Model</u>	<u>Serial Number</u> (Allocated at day of install)	<u>Base Monthly Charge:</u>	<u>Number of Copies/Prints Included in Base Monthly Charge:</u>	<u>Cost for Each Additional Mono Print:</u>	<u>Number of Copies/Prints Included in Base Monthly Charge:</u>	<u>Cost for Each Additional Color Print:</u>
Xerox C8270 125 E College Street, Covina, 91723 Dept. Clerk Office	TBD	\$10.00	0	\$0.0084	0	.0672
Xerox C8255 125 E College Street, Covina, 91723 Dept. Community Development	TBD	\$10.00	0	\$0.0084	0	.0672
Xerox B8245 1250 Hollenbeck Ave., Covina, 91723 Dept. Park and Rec.	TBD	\$10.00	0	\$0.0084	0	.0672
Xerox B8245 534 N Barranca Ave. Covina, 91723 Dept. Public Works	TBD	\$10.00	0	\$0.0084	0	.0672

*Color Prints – If any color print is on a page, it counts as a color page. Note that grey scale images printed with the composite black setting on (the default setting on most devices) count as color pages because color consumables are used.

**Duplex Color Prints – Note that duplex prints with any color print counts as two (2) pages even if color print is only on one side.

Equipment Location (if different than Customer's address shown on page 1 of the Agreement):

Term: One Year or Two Years or Three Years or Four Years or Five Years **Commencement Date (start of Term):**

Cost for Each Additional Print and Monthly Base (Mono and/or Color) May Increase by 15% Annually

Capitalized terms that are not defined in this Schedule shall have the meaning assigned to them in the Agreement. Except as set forth above, the Agreement shall continue in full force and effect. In the event of a conflict between the terms of the Agreement and this Schedule, this Schedule shall control.

Accepted by Excel Office Services, Inc. By: _____ / _____ (Date)	Customer: CITY OF COVINA CITY HALL, PUBLIC WORKS, PARKS & RECREATION By: X _____ / _____ Print Name: _____ Title: _____
---	---



RB Sales Rep Initials