

Initial

initial

TERMS AND CONDITIONS

Renter: We have written this Agreement in plain language because we want you to fully understand its terms. Please read your copy of this Agreement carefully and feel free to ask us any questions you may have about it. We use the words "you" and "your" to mean the Renter named on the reverse side. The words "we", "us" and "our" refer to Dakota Business Center.

"Network + option included with the PMA, covers service related to print, scan, or fax issues that are outside of hardware failure. That would include email issues or scan issues because of changes by the ISP, phone line trouble, or training issues outside of the initial install. This does not include network support outside of the MFP. If no Network+ option is included, all services outside of MFP hardware failure will be billed at current rates."

1. **AGREEMENT.** You agree to rent from us and we agree to rent to you the Equipment listed on the reverse side. You promise to pay not less than the Minimum Monthly Copy Charge every month. The monthly payment and excess annual copy charge, if any, includes equipment rental, equipment service, parts and supplies except paper. You agree that we can increase the minimum monthly charge and the additional copy charge on an annual basis, in an amount not to exceed twenty percent (20%) of the minimum monthly charge and the additional copy charge in effect at the end of the prior annual period. You agree to pay for service outside of normal business hours or service required by your negligence or misuse of the Equipment at our customary rates.

2. **COPY CHARGES.** The first monthly payment is due upon receipt of invoice. Thereafter, monthly payments will be due on the same date each month during the initial Term, which will start on the date you accept the Equipment as shown on the reverse side and will continue until the end of the initial Term. We will send you monthly invoices and all payments will be made to us at our address on the reverse side, or at another address which we designate in writing. If we accepted a security deposit from you, it will be held by us to secure your faithful performance of this Agreement, and it will be returned or applied as stated in Paragraph 11.

3. **WARRANTIES.** The Equipment is being supplied to you from us. ~~You agree that, regardless of cause, you will not make any claim whatsoever against us or anyone to whom we may assign this agreement for loss of expected profits or any other direct, special or indirect damages. You acknowledge that anyone to whom we assign this Agreement will not be responsible for any service, repairs, or maintenance of the Equipment; that such assignee is not a party to any service or maintenance agreement, and even if you have a dispute regarding the Equipment, you will continue to pay such assignee all rental and maintenance payments due under this Agreement and all schedules to this Agreement without deducting or withholding any amounts. We agree to be responsible to you for service maintenance and equipment supplies (excluding paper).~~

4. **METER.** (A) In return for Minimum Monthly Copy Charge (quantity listed under covered meters and minimum total is listed under total min. Monthly payment), you are entitled to the Copy Allowance (number of copies) as shown on the reverse side. If you use more than the Copy Allowance, you will pay an additional charge equal to the number of copies exceeding the Copy Allowance times the Excess Copy Charge. (B) The Copy Allowance Frequency is the period of time (monthly, quarterly, semi-annually, or annually) for which the number of copies used will be reconciled. The Copy Allowance Frequency and corresponding excess charge, if any, may be different than the Minimum Charge frequency. (C) You agree to provide adequate space without charge at the Equipment Location for the Equipment, adequate electricity (including if necessary a dedicated 220 volt line), a telephone line and hookup for any automatic meter reading device and reasonable storage for supplies to be used with the Equipment. Some Equipment may be connected to an automatic meter reading device, which will report the number of copies made on the Equipment each month and upon which monthly invoices will be based. If an automatic reading device is not installed and otherwise upon request, you shall provide us by telephone or fax with the actual meter reading on the first business day following the meter reading frequency dates, provided that we may estimate the number of copies used if such meter reading is not received by us within seven (7) days. We will adjust the estimated charge for excess copies upon receipt of the actual meter reading. Notwithstanding any adjustment, you will never pay less than the Minimum Monthly Copy Charge.

5. **ASSIGNMENT. YOU MAY NOT SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT.** We may, without notifying you sell, assign or transfer this Agreement and ownership of the Equipment. You agree that if we do so, the new owner will have the same rights and benefits that we now have, and the assignee will not have to perform any of our obligations. You agree that the rights of the assignee will not be subject to any claims, defenses or set-offs that you may have against us. However, any such assignment, sale, or transfer of this Agreement of the Equipment will not relieve us of our obligations to you under this Agreement.

6. **OWNERSHIP AND QUIET ENJOYMENT.** We are the owner of the Equipment and have title to the Equipment. If any other person attempts to claim ownership of the Equipment against or through you, you agree, to protect and defend our title to the Equipment. You agree that you will at all times keep the Equipment free from any legal process or lien whatsoever, and you will give us immediate notice if any legal process or lien is asserted or made against the Equipment. So long as you are not in default under any of the terms in this Agreement, we agree that you shall quietly use and enjoy the Equipment.

7. **CARE, USE AND LOCATION; LOSS.** (A) You will not move the Equipment from the Equipment location without our written consent in advance. You will give us reasonable access to the Equipment Location to confirm the Equipment's existence, condition and proper maintenance. You are responsible for notifying us of any equipment malfunctions so that the equipment is maintained in good working order and repair and for using it in compliance with all applicable laws. You will not make any alterations to the Equipment without our prior written consent nor will you permanently attach the Equipment to your real estate. At the end of the initial Term of the Agreement you will return the Equipment to us. (B) You are responsible for protecting the Equipment from damage, except for ordinary wear and tear and from any other kind of loss while you have the Equipment. Even if the Equipment is damaged or lost, by anyone or anything other than a Dakota Business Center employee, you agree to pay all Minimum Monthly Copy Charges for the entire initial Term.

8. **TAXES.** You agree to pay when due either directly or to reimburse us all taxes, ~~finer and penalties~~ relating to this agreement or the equipment if applicable under South Dakota State Law.

9. **INDEMNITY.** ~~We are not responsible for any injuries, damages, penalties, claims or losses including legal expenses incurred by you or any other person caused by the installation, selection, ownership, possession, maintenance, condition or use of the Equipment. You agree to reimburse us for and to defend us against any claims for such losses, damages, penalties, claims, injuries or expenses. This Indemnity shall continue even after this Agreement has expired.~~ This clause is waived for this contract if the customer agrees that DBC is not responsible (financially or in any other form) for any injuries or damages that may arise due to customer/patron use/misuse.

10. **INSURANCE.** You agree to keep the Equipment fully insured against loss until you have met all your obligations under this Agreement. You agree to obtain a general public liability insurance policy covering both personal injury and property damage from anyone who is acceptable to us and to include us as an insured on the policy. You agree to provide us with certificates or other evidence of insurance acceptable to us. If any insurance proceeds are paid as a result of any loss or damage to the Equipment, you agree that such insurance proceeds shall be paid first to us to satisfy your obligation under this Agreement. If the Equipment is either lost or totally destroyed and you are not in default under the terms of this Agreement instead of continuing to pay us the Minimum Monthly Copy Charge, you have the option of paying us the than present value of both the unpaid balance of all remaining Minimum Monthly Copy Charges under this Agreement and the value of our residual interest in the Equipment, each computed with a discount rate of six percent (6%) per year, or the lowest legal rate. If you do not provide evidence of proper insurance within 10 days of our request, we will have the right but not the duty to obtain such insurance at your expense on our own interest in the Equipment. You shall pay all premiums and related charges, including interest at up to 1.5% per month, or the highest legal rate, if less.

11. **DEFAULTS AND REMEDIES.** If you do not pay the Minimum Monthly Copy Charges when due or if you or your guarantor breaks any of your promises under this Agreement, or you or your guarantor became insolvent, assign your assets for the benefit of your creditors, or enter (voluntarily or involuntarily) into a bankruptcy proceeding, or all of a material portion of your assets or stock is sold, or (if an individual) you or the guarantor dies, or you are in default in any other agreement between you and us, you will be in default. If you are in default, we can require that you return the Equipment to us and pay to us the present value of the unpaid balance of all remaining Minimum Monthly Copy Charges under this Agreement computed with a discount rate of six percent (6%) per year, or the lowest legal rate. If you fail to return the Equipment to us, in addition we can also require that you pay to us the current estimated fair market value of similar equipment of like age. You also agree to pay us interest on sums due us from the date of default until paid at the rate of one and one-half percent (1.5%) per month, but only to the extent permitted by law, in addition, we shall be entitled to recover from you all damages caused by any such default to the extent permitted by law. Either party may use any of the remedies available to us under the Uniform Commercial Code ("UCC") or any other law. ~~If we refer this Agreement to an attorney for enforcement or collection, you agree to pay our reasonable attorney's fee which may be twenty percent (20%) of the total discounted unpaid Minimum Monthly Copy Charges for the remaining term of this Agreement.~~ If we have to take possession of the Equipment, you agree to pay the cost of repossession, storing, shipping, repairing and selling the Equipment. Although you agree that we are not obligated to do so, if we decide to sell the Equipment, and we are able to sell the Equipment for a price that exceeds the sum of (a) our cost of repossession and sales of the Equipment and (b) our estimated residual value of the Equipment present valued as calculated above, then we shall give you credit for the amount of such excess. You agree that we do not have to notify you that we are selling the Equipment or of the time, place or advertising of any sales. You also agree that we may telephone you at any reasonable time to enforce our rights.

12. **OTHER RIGHTS.** Both parties agree that any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. The parties intend this document to be a rental agreement. However, you grant us a security interest in your interest in the Equipment in case it is found otherwise. You also give us the right to file immediately, at your expense, any UCC financing statements or related filings, as well as the right to sign your name to any such filing that we make.

13. **REDELIVERY AND RENEWAL.** Upon at least ninety (90) days written notice to us prior to the expiration of the initial term of this Agreement you shall advise us of your intention to return the Equipment to us at the end of the initial term of this Agreement. Provided you have given such timely notice, you shall return the Equipment, to us in good repair, condition and working order, ordinary wear and tear excepted. If you do fail to so notify us, or having notified us, you fail to return the Equipment as provided herein this Agreement shall renew for additional terms of twelve (12) months each with C-P-C Payments and additional Copy Charges equal to 100% of the C-P-C Payments and Additional Copy Charges at the expiration of the initial term of this Agreement.

14. **LATE CHARGES.** ~~If any part of a payment is not made by you when due, you agree to pay us a late charge of the higher of \$25 or ten percent (10%) of each such late payment, but not more than permitted by law. You agree to pay us the late charge not later than 450 days following the date that the original Minimum Monthly Copy Charge was due.~~

15. **MISCELLANEOUS.** This is the entire agreement between us regarding the Equipment. ~~In the event you fail to comply with any part of this Agreement, we can, but we do not have to, take any action necessary to effect your compliance and you will pay the amount it cost us plus all of our expenses in causing your compliance at the time of the next due Minimum Monthly Copy Charge.~~ If any notices are required under this Agreement, they may be given personally or mailed to the addresses in this Agreement by certified or registered mail, postage prepaid or by recognized overnight delivery service. This Agreement is for the benefit of and is binding upon you and your personal representative, successors and assigns. You agree and consent that we may serve you by registered or certified mail, which shall be sufficient to obtain jurisdiction. ~~YOU WAIVE TRIAL BY JURY IN ANY ACTION BETWEEN US.~~ Both parties intend this Agreement to be a valid and legal document, and agree that if any part is determined to be unenforceable, all other parts remain in full force and effect. You agree that we both intend that this Agreement comply with all applicable laws. If it is determined that any payment due under this Agreement results in an interest payment, and that interest is higher than allowed by law, then any excess interest will be applied to principal and interest will be at the highest legal rate. In no event will you pay or will we charge or receive any more interest than allowed by law.

16. **UCC ARTICLE 2A PROVISIONS.** You acknowledge that Article 2A of the UCC may be applicable to this Agreement. Therefore, you agree to the following: (a) you acknowledge that we have given you the name of the supplier of the Equipment you are renting from us in this Agreement or on the attached schedule or in your purchase agreement. We hereby notify you that you may have rights under the supply contracts and that you may contact the supplier for a description of those rights or any warranties; Dakota Business Center is the supplier of the equipment. The manufacturer of the equipment is listed on page 1.