

APPENDIX H DIR CONTRACT NO. DIR-CPO-4412 Services Agreement

THIS SERVICES AGREEMENT NO. _____ is between Xerox Corporation (“**Xerox**”), a New York corporation with offices at 201 Merritt 7, Norwalk, CT 06856 and << Enter Customer's Legal Name >>> (“**Customer**”), a << Enter State >> corporation with offices at << Enter Customer's Full Address >>.

AGREEMENT STRUCTURE

DIR Contract No. DIR-CPO-4412 and this Services Agreement serve as an agreement to enable Xerox and Customer to contract with each other for a range of products and services to be provided to Customer. In the event of any conflict between the documents, DIR Contract No. DIR-CPO-4412 will prevail. This Services Agreement is grouped into Modules. The “GEN” Module applies to all products and services provided hereunder, while the other Modules apply as appropriate to what Xerox is providing to Customer under the applicable Order.

DEFINITIONS MODULE

DEF 1. – DEFINITIONS

The following definitions (and those found elsewhere in this Services Agreement) apply unless otherwise specified in an Order.

- a. **Affiliate** means a legal entity that directly or indirectly controls, is controlled by, or is under common control with either party. An entity is considered to control another entity if it owns, directly or indirectly, more than 50% of the total voting securities or other such similar voting rights.
- b. **Services Agreement** means this Services Agreement. This Services Agreement may also be referred to in ordering and contracting documents as a “Services and Solutions Agreement” or “SSA.”
- c. **Amortized Services** means certain services such as technical services and training, the Charges for which are amortized over the term of an Order.
- d. **Application Software** means Xerox-brand software that allows Equipment or Third Party Hardware to perform functions beyond those enabled by its Base Software.
- e. **Base Software** means software embedded, installed, or resident in Equipment that is necessary for operation of the Equipment in accordance with published specifications.
- f. **Cartridges** means copy/print cartridges and xerographic modules or fuser modules designated by Xerox as customer-replaceable units for the Equipment.
- g. **Charges** mean the fees payable by Customer for Services, Maintenance Services and/or Products as specified in this Services Agreement.
- h. **Confidential Information** means information identified as confidential and provided by the disclosing party to the receiving party.
- i. **Consumable Supplies** means black toner (excluding highlight color toner), black developer, copy Cartridges, and, if applicable, fuser agent required to make impressions. For full color Equipment, Consumable Supplies also includes color toner and developer. For Equipment identified as “Phaser,” Consumable Supplies also may include, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth in an Order, Consumable Supplies excludes paper and highlight color toner.
- j. **Customer Assets** means all hardware, equipment, fixtures, software, assets, networks, work space, facilities, services and other assets owned, leased, rented, licensed or controlled by Customer (including Existing Equipment and Existing Software) that Customer makes available to Xerox to enable Xerox to fulfill its obligations under an Order.
- k. **Customer Confidential Information** means Confidential Information belonging to Customer and includes, without limitation, Customer Content and Private Information.

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- l. Customer Content** means documents, materials or information that Customer provides in hard copy or electronic format to Xerox, containing information about Customer or its clients, in order for Xerox to provide Services, Maintenance Services, or Products.
- m. Customer Facilities** means those facilities controlled by Customer where Xerox performs Services or provides Products.
- n. Customer Intellectual Property** means all intellectual property and associated intellectual property rights including patent, trademark, service mark, copyright, trade dress, logo and trade secret rights which exist and belong to Customer as of the Effective Date or that may be created by Customer after the Effective Date, excluding Xerox Confidential Information.
- o. Data** means data that the Xerox Tools and Xerox Client Tools automatically collect from all Equipment and Third Party Hardware that appears on Customer's network, or that are locally connected to another device on Customer's network, when such Tools are installed on Customer's network. Examples of Data include product registration, meter read, supply level, device configuration and settings, software version, and problem/fault code data.
- p. Date of Installation** means: (a) for Equipment (or Third Party Hardware) installed by Xerox, the date Xerox determines the Equipment (or Third Party Hardware) to be operating satisfactorily as demonstrated by successful completion of diagnostic routines and is available for Customer's use; and (b) for Equipment (or Third Party Hardware) designated as "Customer Installable," the Equipment (or Third Party Hardware) delivery date. For purposes of this provision, Customer will provide Xerox written notice of non-acceptance within ten business days of Equipment delivery, otherwise the Equipment will be deemed accepted on the delivery date.
- q. Description of Services or DOS** means a document attached to an Order which references the applicable Services Contract number and specifies the Products and/or Services provided under such Order.
- r. Diagnostic Software** means Xerox-proprietary software embedded in or loaded onto Equipment and used by Xerox to evaluate or maintain the Equipment.
- s. DIR Contract** means the master contract, DIR Contract No. DIR-TSO-TMP-419, entered into between Xerox and the Texas Department of Information Resources ("DIR"), including appendices, into which this Services Agreement is incorporated.
- t. Documentation** means all manuals, brochures, specifications, information and software descriptions, and related materials customarily provided by Xerox to customers for use with certain Products or Services.
- u. Effective Date** means the date this Services Agreement is signed by Xerox.
- v. Equipment** means Xerox-brand equipment.
- w. Excluded Taxes** means (i) taxes on Xerox's income, capital, and employment, (ii) taxes for the privilege of doing business, and (iii) personal property tax on Equipment rented or leased to Customer under this Services Agreement.
- x. Existing Equipment** means devices which are leased, rented or owned by the Customer outside of this Services Agreement, which are used to provide Services, and which remain subject to the terms and conditions of the agreements under which they were originally acquired.
- y. Existing Software** means software licensed by the Customer outside of this Services Agreement and which is used to provide the Services and which remains subject to the terms and conditions of the agreements under which it was originally acquired.
- z. Feature Releases** means new releases of Software that include new content or functionality.
- aa. Force Majeure Event** as defined in accordance to Appendix A, Section 11C of DIR Contract No. DIR-TSO-TMP-419.
- bb. Funds** means collectively Amortized Services and Third Party Funds.
- cc. Maintenance Releases or Updates** means new releases of Software that primarily incorporate coding compliance updates and error fixes and are designated as "Maintenance Releases" or "Updates."
- dd. Maintenance Services** means required maintenance of Equipment to keep the Equipment in good working order.

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- ee. Module means a specific set of terms and conditions contained in this Services Agreement that is identified as a "Module." The Modules under this Services Agreement are the DEF, GEN, SVC, EQP, EP, MS and SW Modules.
- ff. Monthly Minimum Charge or MMC means the regular recurring Charge that is identified in an Order and which, along with any additional print/impression charges, covers the cost for the Services, Maintenance Services and/or Products. The MMC may also include lease buyout funds, Funds, monthly equipment component amounts, remaining Customer obligations from previous contracts, and amounts being financed or refinanced. One-time items are billed separately from the MMC.
- gg. Order means a document that Xerox requires for processing of orders for Services, Maintenance Services and/or Products hereunder, which may specify the contracting parties and location(s) where the foregoing will be provided; Customer's requested shipment date; the Products that Customer will purchase, lease, rent or license; the Services and/or Maintenance Services that Xerox will provide; the applicable Charges and expenses; the term during which the Services, Maintenance Services and/or Products described therein shall be provided; the Xerox-provided contract number; and any applicable SLAs. An Order must reference the applicable Services Contract number, and may also be in the form of a Services and Solutions Order ("SSO"), a Xerox Order Services Agreement ("XOA") (which is used solely for an outright purchase by Customer under the EP module of this Services Agreement) or a Customer-issued PO. A Statement of Work may be part of an Order but cannot function as a stand-alone ordering document.
- hh. Output of Services means electronic images created by scanning tangible documents containing Customer Content, all full or partial copies (tangible and intangible) of Customer Content, and all reports and other documentation, photographs, images, impressions, and other materials (tangible and intangible) created by Xerox and delivered to Customer under an Order, but shall not include Third Party Software, or Xerox Intellectual Property.
- ii. **Privacy Laws** means laws relating to data privacy and data protection as applicable to Xerox's performance of the Services.
- jj. **Private Information** means Protected Health Information ("PHI") as defined by the Health Insurance Portability and Accountability Act ("HIPAA"), Non-Public Personal Information ("NPI") as defined by the Gramm-Leach Bliley Act ("GLBA") and equivalent categories of protected health and financial information under applicable state Privacy Laws.
- kk. **Products** means Software, Equipment, Third Party Products and/or Consumable Supplies supplied by Xerox and provided to Customer pursuant to an Order.
- ll. **Purchase Order or PO** shall have the meaning set forth within the DIR Contract No. DIR-TSO-TMP-419.
- mm. **Purchased Equipment** means Equipment or Third Party Hardware that Xerox sells outright to Customer under the EP Module
- nn. **Remote Data** means data that is automatically collected by Xerox or transmitted to or from Xerox by Equipment or Third Party Products connected to Customer's network. Examples of Remote Data include product registration, meter read, supply level, equipment configuration and settings, software version, and problem/fault code data.
- oo. **Remote Data Access** means electronic transmission of Remote Data to or from a secure offsite location.
- pp. **Residuals** means general ideas, concepts, know-how, methods, processes, technologies, algorithms or techniques related to the Services, which are in non-tangible form and retained in the unaided memory of persons who have had access to Confidential Information.
- qq. **Service Level Agreements or SLAs** means the levels of performance for the Services, if applicable, as set out in the applicable Order.
- rr. **Services** means managed services (e.g. copy center and mailroom services), technical services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Xerox's standard back-office administrative and contract support functions performed by Xerox and/or its Affiliates, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.

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- ss. Services Contract** means the applicable terms and conditions of this Services Agreement, the first Order having a particular assigned Services Contract number, and each additional Order, if any, with the same Services Contract number.
- tt. Software** means Base Software and Application Software.
- uu. Statement of Work or SOW** shall have the meaning set forth in the DIR Contract No. DIR-TSO-TMP-419.
- vv. Supplier Equipment** means devices which are supplied by Xerox to the Customer during the term of an Order. Supplier Equipment may be Equipment or Third Party Hardware.
- ww. Taxes** means any and all taxes of any kind or nature, however denominated, imposed or collected by any governmental entity, including but not limited to federal, state, provincial, or local net income, gross income, sales, use, transfer, registration, business and occupation, value added, excise, severance, stamp, premium, windfall profit, customs, duties, real property, personal property, capital stock, social security, unemployment, disability, payroll, license, employee or other withholding, or other tax, of any kind whatsoever, including any interest, penalties or additions to tax or additional amounts in respect of the foregoing. DIR customers are exempt from taxes in accordance to Appendix A, Section 8E of DIR Contract No. DIR-TSO-TMP-419.
- xx. Third Party Funds** means funds Xerox provides to Customer to acquire Third Party Hardware or to license Third Party Software and/or to retire debt on existing Third Party Hardware.
- yy. Third Party Hardware** means non-Xerox brand equipment.
- zz. Third Party Products** means, collectively, Third Party Hardware and Third Party Software.
- aaa. Third Party Software** means non-Xerox brand software.
- bbb. Transaction Taxes** means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Services Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transactionally-based gross receipts, and privilege Taxes. DIR customers are exempt from taxes in accordance to Appendix A, Section 8E of DIR Contract No. DIR-TSO-TMP-419.
- ccc. XDM Customer Views** means a limited set of features such as printer error messages, basic printer status, troubleshoot (e.g., access printer web page, submit test page, reboot printer, retrieve audit logs) and upgrade printer (e.g., add upgrade file, delete upgrade file, run upgrade, delete upgrade task, restart upgrade task) that are available through the Xerox Tool known as Xerox Device Manager.
- ddd. Xerox Confidential Information** means Confidential Information belonging to Xerox and includes, without limitation, whether marked as such or not, any, Xerox Tools, Xerox Client Tools and Xerox Intellectual Property.
- eee. Xerox Client Tools** means certain proprietary software used to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof that are licensed to Customer in accordance with GEN 1.8(d).
- fff. Xerox Intellectual Property** means all intellectual property and associated intellectual property rights including patent, trademark, service mark, copyright, trade dress, logo and trade secret rights which exist and belong to Xerox as of the Effective Date or that may be created by Xerox after the Effective Date, including without limitation, Software, Data, Remote Data, Xerox Tools and Xerox Client Tools, and excluding Customer Confidential Information and Output of Services.
- ggg. Xerox Products** means Equipment, Software and Consumable Supplies acquired pursuant to this Services Agreement.
- hhh. Xerox Tools** means certain proprietary tools used by Xerox to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof.

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GENERAL MODULE

GEN 1. – GENERAL

DIR Contract No. DIR-CPO-4412 and the terms and conditions in this General (GEN) Module apply to all Services, Maintenance Services, and Products acquired by Customer under this Services Agreement.

GEN 1.1 – Services Agreement Structure

- a. **General Contract Structure.** The parties intend for this Services Agreement to serve as an agreement stating the terms and conditions governing services transactions entered into between Xerox and Customer under the DIR Contract No. DIR-TSO-TMP-419. Xerox will provide, and Customer will procure, Services, Maintenance Services and/or Products in accordance with the terms and conditions stated in DIR Contract No. DIR-CPO-4412 (including its appendices), this Services Agreement, any Services Contract(s), and any applicable Orders.
- b. **Orders and Services Contracts.**
 - i. Orders for Services, Maintenance Services, and/or Products are grouped into Services Contracts. Each separate Services Contract will be established when the first Order is placed that bears a new Services Contract number assigned by Xerox and Xerox accepts that Order. Each Services Contract will be assigned its own Services Contract number that will consist of this Services Agreement's number followed by a three digit extension. Each Services Contract constitutes a separate contract under this Services Agreement. Customer may add Services, Maintenance Services or Products to an existing Services Contract by submitting additional Orders referencing the applicable Services Contract number. Each Services Contract will consist of the terms and conditions of the DIR Contract No. DIR-TSO-TMP-419, this Services Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number.
 - ii. Orders may be submitted by hard copy or electronic means and those submitted electronically will be considered: (a) a "writing" or "in writing;" (b) "signed" by the Customer; (c) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (d) valid and enforceable.

GEN 1.2 – RESERVED

GEN 1.3 – RESERVED

GEN 1.4 – RESERVED.

GEN 1.5 – RESERVED.

GEN 1.6 – Customer Responsibilities

Customer agrees to perform its responsibilities under this Services Agreement in support of the Services, Maintenance Services, or Products in a timely manner. Customer agrees:

- a. that Products acquired hereunder are ordered for Customer's own internal business use (rather than resale, license and/or distribution outside of Customer's organization) and will not be used for personal, household or family purposes;
- b. to (1) provide Xerox and its agents with timely and sufficient access, without charge, to Customer Facilities required by Xerox to perform Services and Maintenance Services and/or provide Products, and (2) ensure that Customer Facilities are suitable for the Services, Maintenance Services and/or Products, safe for Xerox personnel, and fully comply with all applicable laws and regulations, including without limitation any federal, state and local building, fire and safety codes;
- c. to provide Xerox and its agents with timely and sufficient use of and access, without charge, to Customer Assets required by Xerox to perform Services and Maintenance Services and/or provide Products, and to grant Xerox and its agents sufficient rights to use, access and, if agreed, modify the same;

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- d. to acquire or continue maintenance, repair and software support services, without charge to Xerox, for all Customer Assets that Customer permits Xerox to use or access;
- e. to maintain the manufacturer's maintenance agreement for any Third Party Products;
- f. to provide Xerox with access to appropriate members of Customer personnel, as reasonably requested by Xerox, in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- g. to respond to and provide such documentation, data and other information as Xerox reasonably requests in order for Xerox to perform the Services and Maintenance Services and/or provide Products;
- h. to contract for the minimum types and quantities of Equipment and Consumable Supplies required by Xerox to perform the Services and Maintenance Services;
- i. that, as between Xerox and Customer, Customer alone is responsible for backing up its Customer Content and Xerox shall not be responsible for Customer's failure to do so;
- j. that as between Xerox and Customer, Customer alone is responsible for determining whether Customer Content provided to Xerox (i) is libelous, defamatory or obscene, or (ii) may be duplicated, scanned or imaged without violating a third party's intellectual property rights; and
- k. to provide contact information for Equipment such as name and address of Customer contact.

GEN 1.7 – Warranties

a. Xerox Warranties.

- i. Services Warranty. Xerox warrants to the Customer that the Services will be performed in a professional and workmanlike manner by Xerox personnel with appropriate training, experience and skills in accordance with the applicable Order. If the Services do not comply with the SLAs or other requirements set forth in the applicable Order, Customer will notify Xerox in writing detailing its concerns and, within 10 days following Xerox's receipt of such notice, Xerox and Customer will meet, clarify the Customer's concern(s) and begin to develop a corrective action plan. In the event of Xerox's non-compliance with this warranty, Xerox will either modify the Services to comply with the applicable SLAs or other requirements or re-do the work at no additional charge within 60 days of finalizing the plan or another time period agreed to in writing by the parties.
- ii. Equipment Warranty. Any Equipment warranty to which Customer is entitled shall commence upon the Date of Installation. Use by Customer of consumables not approved by Xerox that affect the performance of the Equipment may invalidate any applicable warranty.
- iii. Third Party Product Warranty. Where Xerox in its sole discretion selects and supplies Third Party Products, Xerox warrants they will operate substantially in conformance with applicable SLAs or other requirements in the Order. Breach of this warranty entitles customer to return the Third Party Product to Xerox and then receive a refund of any fees paid for such non-conforming Third Party Product, less a reasonable usage fee. If Customer requests a specific Third Party Product, Xerox will pass-through as permitted any third party warranties.
- iv. Exclusions. Xerox shall not be responsible for any delay or failure to perform the Services or provide Products, including achieving any associated SLAs or other requirements in the applicable SOWs, DOSs or Orders, to the extent that such delay or failure is caused by:
 - (a) Customer's failure or delay in performing its responsibilities under this Services Agreement;
 - (b) reasons outside Xerox's reasonable control, including Customer Assets, Customer Content, or delays or failures by Customer's agents, suppliers or providers of maintenance and repair services for Customer Assets; or
 - (c) unauthorized modifications to Equipment, Third Party Hardware or the Output of Services.

The warranties set forth in this Services Agreement are expressly conditioned upon the use of the Services, Products and Output of Services for their intended purposes in the systems environment for

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which they were designed and shall not apply to any Services, Products or Output of Services which have been subject to misuse, accident or alteration or modification by Customer or any third party.

GEN 1.8 – Intellectual Property Ownership

- a. Customer Intellectual Property.** Customer grants to Xerox a non-exclusive, royalty-free, fully-paid up, worldwide license to use Customer Intellectual Property, Customer Content and Output of Services only for purposes of, and only to the extent required for, providing Services, Maintenance Services or Products under this Services Agreement. Xerox agrees not to decompile or reverse engineer any Customer Intellectual Property. Except as expressly set forth in this Services Agreement, no rights to any Customer Intellectual Property are granted to Xerox.
- b. Ownership of Output of Services and License to Xerox Intellectual Property.** If XDM Customer Views are to be provided under an SOW, Xerox grants Customer a limited license to access and use the XDM Customer Views only for the purpose of receiving Services under the SOW. Customer agrees not to decompile or reverse engineer any Xerox Intellectual Property. Except as expressly set forth in this Services Agreement, no rights to any Xerox Intellectual Property are granted to Customer.
- c. Xerox Tools.** Xerox Tools may be used by Xerox to provide certain Services. Xerox and its licensors will at all times retain all right, title and interest in and to Xerox Tools including without limitation, all intellectual property rights therein, and, except as expressly set forth herein, no rights to use, access or operate the Xerox Tools are granted to Customer. Xerox Tools will be installed and operated only by Xerox or its authorized agents. Customer will not decompile or reverse engineer any Xerox Tools, or allow others to engage in same. 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. Xerox may remove Xerox Tools at any time in Xerox's sole discretion, provided that the removal of Xerox Tools will not affect Xerox's obligations to perform Services, and Customer shall reasonably facilitate such removal.
- d. Xerox Client Tools.** Xerox grants to Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to install, use and access the Xerox Client Tools only for the purpose of receiving the Services for which they were provided. Customer may not: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer the Xerox Client Tools, except as permitted by applicable law; or, (ii) allow others to engage in same. Title to the Xerox Client Tools and all intellectual property rights therein shall, at all times, reside solely with Xerox and its licensors. Certain Xerox Client Tools may be subject to mandatory third party flow-down terms and conditions, which will be provided separately.
- e. Data Collection and Use.** Data collected by the Xerox Tools is transmitted by a Xerox Tool to a remotely hosted server that hosts other Xerox Tools. The automatic data transmission capability will not allow Xerox to read, view or download any Customer documents or other information residing on or passing through the Equipment or Third Party Hardware or Customer's information management systems.

GEN 1.9 – RESERVED

GEN 1.10 – RESERVED

GEN 1.11 – Term and Termination

Orders executed pursuant to this Services Agreement shall commence on the Effective Date and shall continue for the term and renewal options specified in the Order. Any termination will be handled in accordance to Appendix A, Section 11B of DIR Contract No. DIR-TSO-TMP-419. Upon termination, Customer shall permit Xerox to enter Customer Facilities for purposes of removing the Products, Xerox Tools and/or Xerox Client Tools. Each Order hereunder shall have its own term, which shall be stated in the Order. In the event the Services Agreement expires or is terminated, each Services Contract in effect at such time shall remain in full force and effect until the expiration or termination of all Orders constituting such Services Contract (including any extensions or renewals thereof) and shall at all times be governed by, and be subject to, DIR Contract No. DIR-CPO-4412 and the terms and conditions of this Services Agreement. Termination of any Order shall not affect this Services Agreement or any other Orders then in effect. Notwithstanding any other provision in the Services Agreement to the contrary, should an Order be terminated prior to expiration for any reason other than Customer's unavailability of funds, or due to default by Xerox, or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have

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been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts then due in the normal course under said Order, an amount equal to the remaining principal balance of the Funds.

GEN 1.12 - RESERVED

GEN 1.13 – Data Protection/Privacy

- a. To the extent that Privacy Laws are applicable to Customer and Xerox in connection with the performance of Services, each party agrees to comply with the applicable provisions of such Privacy Laws.
- b. Xerox has adopted reasonable physical, technical and organizational safeguards designed to prevent accidental, unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information. Xerox will promptly notify Customer in the event of any known unauthorized or unlawful loss, disclosure, access, transfer or use of Private Information.

GEN 1.14 – RESERVED

GEN 1.15 – RESERVED.

GEN 1.16 - RESERVED

GEN 1.17 – RESERVED.

GEN 1.18 – RESERVED.

GEN 1.19 – Compliance with Laws and Policies

Xerox and Customer shall comply with all applicable laws and regulations in the performance of their respective obligations under this Services Agreement. Xerox agrees to comply with Customer's internal policies regarding security and safety at Customer Facilities. Customer agrees to provide Xerox with reasonable prior written notice of such policies and any changes to such policies; further, Xerox will comply with oral directions of Customer staff who have responsibility for the site. If a change in Customer policy results in incremental costs to Xerox, Xerox may, upon providing notice to Customer, pass such costs on to Customer with Customer approval.

GEN 1.20 – Miscellaneous

- a. **Copies of Agreement.** Except as required by law, both parties agree that any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) shall be considered an original. Xerox may retain a hardcopy, electronic image, photocopy or facsimile of this Agreement and each Order hereunder, which shall be considered an original and shall be admissible in any action to enforce said Agreement or Order.
- b. **No Hiring.** During the term of an Order under which Xerox is providing Services and for a period of one (1) year thereafter, Customer and Xerox each agree not to hire, solicit, or employ any of the other's personnel who have been engaged in the provision of services or the performance of this Agreement, unless prior written consent is obtained from the other party. Such prohibition shall not apply to hiring as a result of general public solicitations of employment.
- c. **Communication Authorization.** 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 that Customer provides to Xerox.
- d. **Limitation on Charges.** In no event will Xerox charge or collect any amounts in excess of those allowed by applicable law. Any part of an Order that would, but for this Section, be construed to allow for a charge higher than that allowed under any applicable law, is limited and modified by this Section to limit the amounts chargeable under such Order to the maximum amount allowed by law. If, in any circumstances, an amount in excess of that allowed by law is charged or received, such charge will be deemed limited to the amount legally allowed and the amount received by Xerox in excess of that legally allowed will be applied to the payment of amounts owed or will be refunded to Customer.

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SERVICES MODULE

SVC 1 – TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions of DIR Contract No. DIR-CPO-4412 and in the General (GEN) Module, the following terms and conditions apply to Xerox's performance of Services.

SVC 1.1 – Scope of Services

Subject to the terms and conditions of the DIR Contract No. DIR-CPO-4412 and this Agreement, Services will be performed by Xerox and/or its Affiliates in accordance with the requirements set forth in an Order. If Customer fails to perform or is delayed in performing any of its responsibilities under this Agreement, such failure or delay may prevent Xerox from being able to perform any part of the Services or Xerox-related activities. Xerox shall be entitled to an extension or revision of the applicable term of the Order (which may include setting a new expected date for commencement of Services) or to an equitable adjustment in performance metrics associated with such failure or delay.

SVC 1.2 – Charges for Services

Charges for Services are set forth in the applicable Order. Charges are based upon the pricing exhibits contained within the DIR Contract, as well as information exchanged between Customer and Xerox, which is assumed to be complete and accurate, and also depend upon other factors such as the timely performance by Customer of its responsibilities. If: (a) such information should prove to be incomplete or inaccurate in any material respect; or (b) there is a failure or delay by the Customer in performing its responsibilities under this Agreement or an Order which results in Xerox incurring a loss or additional cost or expense, then the charges shall be adjusted to reflect proportionately the impact of such materially incomplete or inaccurate information or such failure or delay. Charges that are indicated in an Order as being fixed are not subject to an annual percentage escalation for the initial term of such Order. If Xerox provides Services partially or early (for example, prior to the start of the initial term of an Order), Xerox will bill Customer on a pro rata basis, based on a thirty (30) day month, and the terms and conditions of this Agreement will apply.

SVC 1.3 – Use of Subcontractors

Xerox may, when it reasonably deems it appropriate to do so, subcontract any portion of the Services. Xerox shall remain responsible for any Services performed by subcontractors retained by Xerox to the same extent as if such Services were performed by Xerox.

SVC 1.4 – Services Scope Changes

Except as otherwise set forth in an Order, either party may propose to modify the then-existing Services that are described in an Order, or to add new Services under a Services Contract. If Xerox determines such changes are feasible, Xerox will prepare and propose to Customer an Order incorporating the requested changes and any related impact to the Charges or terms. Once Customer executes and Xerox accepts the Order, Xerox will promptly proceed with the new and/or revised Services in accordance with the terms of DIR Contract No. DIR-TSO-TMP-419, the Order and this Agreement.

SVC 1.5 – Early Termination of Services and Labor

Except as otherwise set forth in a Services Contract, upon thirty (30) days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges.

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Services Agreement EQUIPMENT MODULE

EQP 1 – TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT & THIRD PARTY HARDWARE

In addition to the terms and conditions in DIR Contract No. DIR-CPO-4412 and the General (GEN) Module, the following terms and conditions apply to Equipment and Third Party Hardware provided to Customer.

EQP 1.1 – Term and Date of Installation

The term for each unit of Equipment shall be the term stated on the applicable Order, with the commencement date based upon the actual Date of Installation. If the Date of Installation, for a unit of Equipment is prior to the applicable Order start date, Xerox will bill the Customer for such Equipment on a pro rata basis, based on a thirty (30) day month, and the terms and conditions of this Agreement and the applicable Services Contract will apply as of the Date of Installation.

EQP 1.2 – Delivery and Removal and Suitability of Customer Facilities

Xerox will be responsible for all standard delivery charges for Equipment and Third Party Hardware and, for Equipment or Third Party Hardware for which Xerox holds title, standard removal charges. Non-standard delivery or removal charges (including removal prior to the end of the term for any Equipment) will be at Customer's pre-approved expense. The suitability of Customer Facilities for installation of Equipment or Third Party Hardware, including compliance with state and local building, fire and safety codes and any non-standard state or local installation requirements, is Customer's responsibility.

EQP 1.3 – RESERVED

EQP 1.4 – Consumable Supplies

If specified in an Order, Xerox will provide Consumable Supplies for related Equipment. Consumable Supplies are Xerox's property until used in the Equipment for which they are provided. Upon expiration or termination of the applicable Order, Customer will either return any unused Consumable Supplies to Xerox at Xerox's expense when using Xerox-supplied shipping labels, or destroy them in a manner permitted by applicable law. Xerox reserves the right to charge Customer for any Consumable Supplies usage that exceeds Xerox's published yields by more than ten percent (10%). In such a case, Xerox will notify Customer of the excess usage. If such excess usage does not cease within thirty (30) days after notice, Xerox may charge Customer for the excess usage. If Xerox provides paper under a Services Contract, upon thirty (30) days' notice, Xerox may adjust paper pricing or either party may terminate the provision of paper.

EQP 1.5 – Use and Relocation

For any Equipment or Third Party Hardware provided by Xerox, with the exception of Purchased Equipment for which Customer has paid in full, Customer agrees that: (a) the Equipment or Third Party Hardware shall remain personal property; (b) Customer will not attach any of the Equipment or Third Party Hardware as a fixture to any real estate; (c) Customer will not pledge, sub-lease or part with possession of the Equipment or Third Party Hardware or file or permit to be filed any lien against the Equipment or Third Party Hardware; and (d) Customer will not make any permanent alterations to the Equipment or Third Party Hardware. While Equipment or Third Party Hardware is subject to an Order, Customer must provide Xerox prior written notice of all Equipment or Third Party Hardware relocations and Xerox may arrange to relocate the Equipment or Third Party Hardware at Customer's pre-approved expense. While Equipment or Third Party Hardware is being relocated, Customer remains responsible for making all payments to Xerox required under the applicable Order. All parts or materials replaced, including as part of an upgrade, will become Xerox's property. Equipment or Third Party Hardware cannot be relocated outside of the U.S. until Customer has paid in full for the Equipment or Third Party Hardware and has received title thereto. Notwithstanding anything to the contrary in the foregoing, to the extent the Equipment contains any Software, any relocation of such Equipment is subject to the terms and conditions set forth in the Software License Module of this Agreement.

EQP 1.6 – Supplier Equipment Provided

In the event Xerox leases Supplier Equipment to Customer, the DIR Master Lease Agreement (or Master Operating Lease Agreement, as applicable) terms shall apply unless otherwise specified in an Order:

- a. **Early Termination.** Equipment is provided for a minimum order term (as specified in the applicable Order per EQP 1.1 above). If Equipment is terminated for any reason before the end

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of its minimum order term, the termination charges set forth in the applicable Order or Services Contract for such Equipment shall apply.

EQP 1.7 – 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.

EQP 1.8 – Remote Services for Equipment

Certain models of Equipment are supported and serviced using Remote Data Access. Remote Data Access also enables Xerox to transmit to Customer maintenance releases or upgrades for software or firmware and to remotely diagnose and modify Equipment to repair or correct malfunctions. Remote Data will be transmitted to and from Customer in a secure manner specified by Xerox. Remote Data Access 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. Customer grants the right to Xerox, without charge, to establish and maintain Remote Data Access for the purposes described above. Upon Xerox's request, Customer will provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment. Customer will enable Remote Data Access via a method prescribed by Xerox and Customer will provide Xerox with reasonable assistance to allow Xerox to have Remote Data Access. Unless Xerox deems Equipment incapable of Remote Data Access, Customer will ensure that Remote Data Access is maintained at all times Maintenance Services are being performed.

EQUIPMENT PURCHASE MODULE

EP 1 – TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in DIR Contract No. DIR-CPO-4412 and the General (GEN) Module, the following terms and conditions apply to the acquisition of Purchased Equipment:

EP 1.1 – Order

Orders for an outright purchase of Equipment shall include the unique Xerox-provided contract number and the number of this Agreement on all applicable ordering documents.

EP 1.2 – Title

Title to Purchased Equipment will pass to Customer upon delivery to the applicable Customer Facilities.

EP 1.3 – Default

If Customer defaults under a XOA for Purchased Equipment, Xerox, in addition to its other remedies (including the cessation of Maintenance Services if applicable), may require immediate payment of all amounts then due.

EP 1.4 – Maintenance Services for Purchased Equipment

If Customer elects to receive Maintenance Services for Purchased Equipment, Customer shall do so under a separate Order under the Agreement for such Maintenance Services.

EP 1.5 – Agreement Provision Exclusions

The following Agreement provisions do not apply to Orders for an outright purchase of Equipment: GEN 1.1 b.ii ; GEN 1.6 b – j; GEN 1.7 a.1; GEN 1.11; EQP 1.4; EQP 1.6.

MAINTENANCE SERVICES MODULE

MS 1 – TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES

In addition to the terms and conditions in DIR Contract No. DIR-TSO-TMP-419, the General (GEN) Module, and except as otherwise set forth in an Order, the following terms and conditions apply to provision of Maintenance Services.

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MS 1.1 – Maintenance Services

As part of an Order for (a) stand-alone Maintenance Services related to Purchased Equipment, or (b) Maintenance Services related to Equipment to which Xerox does not hold title, or as a mandatory part of an Order for Equipment (other than Purchased Equipment) that includes Maintenance Services, Xerox or a designated service provider will provide the following Maintenance Services for Equipment. If Customer is acquiring Equipment for which Xerox does not offer Maintenance Services, such Equipment will be designated as “No Svc.”

The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (i) utilizing Customer-implemented remedies provided by Xerox; (ii) replacing Cartridges; and (iii) providing information to and implementing recommendations provided by Xerox telephone support personnel in those instances where Xerox is not providing on-site Equipment support personnel. If an Equipment issue is not resolved after completion of (i) through (iii) above, Xerox will provide on-site support as provided in the applicable Order.

MS 1.2 – Repairs and Parts

- a. Xerox will make repairs and adjustments necessary to keep the Equipment in good working order and operating in accordance with its written specifications (including such repairs or adjustments required during initial installation). Maintenance Services shall cover repairs and adjustments required as a result of normal wear and tear or defects in materials or workmanship. Parts required for repair may be new, reconditioned, reprocessed or recovered.
- b. If Xerox is providing Maintenance Services for Equipment that uses Cartridges, Customer will use only unmodified Cartridges purchased directly from Xerox or its authorized resellers. Failure to use such Cartridges will void any warranty applicable to such Equipment. Cartridges packed with Equipment or furnished by Xerox as Consumable Supplies will meet Xerox’s new Cartridge performance standards and may be new, remanufactured or reprocessed and contain new and/or reprocessed components. To enhance print quality, Cartridges for many models of Equipment have been designed to cease functioning at a predetermined point. Many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.

MS 1.3 – Hours and Exclusions

Unless otherwise set forth in an Order, Maintenance Services will be provided in areas accessible for repair services during Xerox’s standard working hours. 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 other products not serviced by Xerox; (d) non-Xerox alterations, relocation, service or supplies; and (e) failure to perform operator maintenance procedures identified in operator manuals. Customer agrees to furnish all referenced parts, tools, and supplies needed to perform those procedures that are described in the applicable manuals and instructions.

MS 1.4 – Installation Site and Meter Readings

In order to receive Maintenance Services for Equipment requiring connection to a PC or workstation, Customer must utilize a PC or workstation that either (a) has been provided by Xerox or (b) meets Xerox’s published specifications. The Equipment installation site must conform to Xerox’s published requirements. If applicable, unless otherwise set forth in an Order, Customer agrees to provide meter readings in the manner prescribed by Xerox. If Customer does not provide Xerox with meter readings as required, for Equipment not capable of Remote Data Access, or if Remote Data Access is interrupted, Xerox may estimate them and bill Customer accordingly.

MS 1.5 – Remedy

If Xerox is unable to maintain the Equipment as described above, Xerox will replace the Equipment with an identical product or, at Xerox’s option, another model with comparable features and capabilities. If replacement Equipment is provided pursuant to this Section, there shall be no additional charge for its provision by Xerox during the initial term of the Order and it shall be subject to the terms and conditions of this Agreement and the applicable Order(s). Customer’s use of non-Xerox approved consumables that affect the performance of the Equipment may invalidate this remedy.

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MS 1.6 – 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.

SOFTWARE LICENSE MODULE

SW 1 – TERMS AND CONDITIONS SPECIFIC TO SOFTWARE

In addition to the terms and conditions in the DIR Contract No. DIR-CPO-4412 and the General (GEN) Module, the following terms and conditions apply to the license and use of Software and its associated Documentation.

SW 1.1 – Software License

Xerox may provide Software to Customer pursuant to an Order hereunder. The following license applies to Software provided hereunder, unless such Software is accompanied by a click-wrap or shrink-wrap license agreement or otherwise provided subject to a separate license agreement.

- a. Xerox grants Customer a non-exclusive, non-transferable, non-assignable (by operation of law or otherwise) license to use in the U.S.: (i) Base Software only on or with the Equipment with which (or within which) it was delivered; and (ii) Application Software only on any single unit of Equipment, subject to Customer remaining current in the payment of any indicated applicable Software license fees (including any annual renewal fees). Customer has no other rights to the Software. Customer will not and will not allow its employees, agents, contractors or vendors to: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Software except as permitted by applicable law; (ii) activate Software delivered with or within the Equipment in an un-activated state; or, (iii) access or disclose Diagnostic Software for any purpose. Title to Software and all copyrights and other intellectual property rights in Software will reside solely with Xerox and its licensors (who will be considered third party beneficiaries of this Agreement’s software and limitation of liability provisions).
- b. The Base Software license will terminate: (i) if Customer no longer uses or possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has acquired the Equipment with which the Base Software was provided (unless Customer has exercised an option to purchase the Equipment, where available).
- c. Software may contain code to prevent its unlicensed use and/or transfer. If you do not permit Xerox periodic access to such Software, this code may impair the Equipment’s and/or Software’s functionality.
- d. Xerox does not warrant that the Software will be free from errors or that its operation will be uninterrupted.

SW 1.2 – Software Support

Software support will be provided by Xerox or a designated service provider as follows. For Base Software, Software support will be provided during the initial term of the applicable Order and any renewal period, but not longer than five (5) years after Xerox stops taking 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, annual renewal and “support only” 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. Xerox, either directly or with its vendors, will make reasonable efforts to: (i) assure that Software performs in material conformity with its Documentation; (ii) provide available workarounds or patches to resolve Software performance problems; and (iii) resolve coding errors for (1) the current release and (2) the previous release for a period of six (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.

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- b. **Xerox may make available new releases of the Software that are designated as “Maintenance Releases” or “Updates.”** Maintenance Releases or Updates are provided at no charge and must be implemented within six (6) months after being made available to Customer. Each Maintenance Release or Update shall be considered Software governed by these terms. Feature Releases will be subject to **additional license fees at Xerox’s then-current** pricing and shall be considered Software governed by these terms and conditions (unless otherwise noted in an Order). Implementation of a Maintenance Release, Update or Feature Release may require Customer to procure, at its expense, additional hardware and/or software from Xerox or another entity. Upon installation of a Maintenance Release, Update or Feature Release, Customer will return or destroy all prior Maintenance Releases, Updates or Feature Releases.
- c. Xerox may annually increase Software license fees and support fees for Application Software upon DIR approval.

SW 1.3 – Diagnostic Software

Diagnostic Software and method of entry or access to it constitute valuable trade secrets of Xerox. Title to **the Diagnostic Software shall at all times remain solely with Xerox and Xerox’s licensors. Xerox does not grant** Customer a license or right to use the Diagnostic Software. Customer will not use, reproduce, distribute, or disclose the Diagnostic Software for any purpose (or allow third parties to do so). Customer **will allow Xerox reasonable access to the Equipment during Customer’s normal business hours to remove or disable** Diagnostic Software if Customer is no longer receiving Maintenance Services from Xerox.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below intending it to become effective on the Effective Date and thereby agreeing to its terms.

ENTER CUSTOMER NAME

XEROX CORPORATION

Signature

Name (please print)

Title

Address

Date

Signature

Name

Title

Address

Date