



LASSEN COUNTY

Health and Social Services Department

- **HSS Administration**
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8128
- **Grants & Loans Division**
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-2683
- **Behavioral Health**
555 Hospital Lane
Susanville, CA 96130
(530) 251-8108 / 8112
Chestnut Annex
1400-A & B Chestnut Street
Susanville, CA 96130
(530) 251-8112
- **Patients' Rights Advocate**
1616 Chestnut Street
Susanville, CA 96130
(530) 251-8322
- **Public Health**
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8183
- **Environmental Health**
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8183
- **Public Guardian**
720-A Richmond Road
Susanville, CA 96130
(530) 251-8337
- **Community Social Services**
Lassen WORKS
P. O. Box 1359
720 Richmond Road
Susanville, CA 96130
(530) 251-8152
Business & Career Network
1616 Chestnut Street
Susanville, CA 96130
(530) 257-5057
Child & Family Services
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8277
Adult Services
720 Richmond Road
Susanville, CA 96130
(530) 251-8158
- **HSS Fiscal**
P. O. Box 1180
Susanville, CA 96130

Date: September 7, 2017

To: Aaron Albaugh, Chairman
Lassen County Board of Supervisors

From: Barbara Longo, Director *BL*
Health & Social Services

Subject: Agreements with Ray Morgan Company to Lease and Maintain Two High Speed and Volume Copiers from September 2017 through September 2022 for a Five-Year Total of \$61,178.40 from Public/Environmental Health Fund #110 and Child and Family Services Fund #120.

Background:

Because of limitations on the purchasing of equipment with state and federal funds, Public/Environmental Health & Child & Family Services began leasing copiers some years ago. The lease agreements include regular maintenance, repairs, and virtually unlimited copies. In addition, with the copiers added to the network, there is redundancy in the event of a breakdown and the number of printers has been significantly reduced.

At this time, Public/Environmental Health & Child & Family Services proposes to replace two copiers that have aged out at the Paul Bunyan Road location. The five year cost of the equipment lease is \$24,894.00 and the five year cost of the maintenance agreement is \$36,284.40 for a total of \$61,178.40. The monthly cost per copier is \$509.82.

Fiscal Impact:

There is no impact to County General Fund. All costs were budgeted and will be paid from Public/Environmental Health Fund #110 and Child and Family Services Fund #120.

Action Requested:

1) Approve the Agreement with Ray Morgan Company to lease two copiers for five years for a total cost of \$61,178.40 and 2) authorize the County Administrative Officer to sign the Lease and Maintenance Agreements on behalf of the Board.



Ray Morgan Company

State & Local Government Equipment Lease Agreement

APPLICATION NO.

AGREEMENT NO.

3131 Esplanade • Chico, CA 95973 • Phone: 530.343.6065 • Fax: 530.343.9470

The words User, Lessee, you and your refer to Customer. The words Owner, Lessor, we, us and our refer to Ray A. Morgan Company.

CUSTOMER INFORMATION

Customer information form including fields for Full Legal Name, City, State, ZIP, Street Address, Phone, and Billing Information.

EQUIPMENT DESCRIPTION

Equipment description form listing Canon IR Advance C5550i/HCCFU-A2/Fin-Y2/Pun-A1/Fax-AS1/Surge.

See the attached Schedule A

TERM AND PAYMENT SCHEDULE

Term and payment schedule form showing 60 payments of \$414.90.

OWNER ACCEPTANCE

Owner acceptance form with signature line for Ray A. Morgan Company.

CUSTOMER ACCEPTANCE

Customer acceptance form with signature line for the customer.

Federal Tax I.D. # and Print Name fields.

ACCEPTANCE OF DELIVERY

You certify that all the Equipment listed above has been furnished, that delivery and installation has been fully completed and is satisfactory.

Acceptance of delivery form with signature line for the customer.

TERMS AND CONDITIONS (THIS AGREEMENT CONTAINS PROVISIONS SET FORTH BELOW, ALL OF WHICH ARE MADE A PART OF THIS AGREEMENT)

1. AGREEMENT: You agree to rent from us for essential governmental purposes only... 2. REPRESENTATIONS AND WARRANTIES: CUSTOMER: You hereby represent and warrant that... 3. RENT, TAXES AND FEES: Subject to paragraph 4, you will pay the monthly Payment (as adjusted) when due...

APPROVED AS TO FORM AUG 7 2017 Lassen County Counsel

4. NON-APPROPRIATION OR RENEWAL: If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after your failure to appropriate funds sufficient for the payment of the Payments or (to the extent required by applicable law) this Agreement is not renewed, but failure to provide such notice shall not operate to extend the Agreement term or result in any liability to you.

5. MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST: At your expense, you agree to keep the Equipment in good repair, condition and working order, in compliance with applicable manufacturers' and regulatory standards; free and clear of all liens and claims; and only at your address shown on page 1, and you agree not to move it unless we agree. As long as you have given us the written notice as required in paragraph 1 prior to the expiration or termination of this Agreement's term, you will return all but not less than all of the Equipment and all related manuals and use and maintenance records to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. You are solely responsible for removing any data that may reside in the Equipment you return (and all expenses associated with its removal), including but not limited to hard drives, disk drives or any other form of memory. We own the Equipment, excluding any Financed Items. We do not own the Financed Items and cannot transfer any interest in it to you. If this Agreement is deemed to be a secured transaction, to the extent permitted by law, you grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us, and you authorize us to file a UCC financing statement.

6. COLLATERAL PROTECTION; INSURANCE; INDEMNITY; LOSS OR DAMAGE: You agree (a) to keep the Equipment fully insured through a carrier acceptable to us against loss in an amount not less than the original cost of the Equipment, with us named as lender's loss payee; (b) to maintain comprehensive public liability insurance acceptable to us and to include us as additional insured on the policy; (c) to provide proof of insurance satisfactory to us no later than thirty (30) days following the start of this Agreement and thereafter upon our written request and to provide us with 10 days advance written notice of any modification or cancellation of your insurance policy(s); (d) if you fail to obtain and maintain property loss insurance satisfactory to us and/or you fail to provide proof of such insurance to us within thirty (30) days of the start of this Agreement, we have the option, but not the obligation, to do as provided in either (A) or (B) as follows, of the following paragraphs as determined in our discretion: (A) We may secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we place insurance on the Equipment, we will not name you as an insured and your interests may not be fully protected. If we secure insurance on the Equipment, you will pay us an amount for the premium which may be higher than the premium that you would pay if you placed the insurance independently and an insurance fee which may result in a profit to us through an investment in reinsurance; or (B) We may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. **NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** We are not responsible for, and you agree to hold us harmless and reimburse us for and to defend on our behalf against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, use, condition, inspection, removal, return or storage of the Equipment. You are responsible for the risk of loss or for any destruction of or damage to the Equipment. You agree to promptly notify us in writing of any loss or damage. If the Equipment is destroyed and we have not otherwise agreed in writing, you will pay to us the unpaid balance of this Agreement, including any future rent to the end of the term plus the anticipated residual value of the Equipment (both discounted at 2%). Any proceeds of insurance will be paid to us and credited, at our option, against any loss or damage. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment.

7. ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent. Without our prior written consent, you shall not reorganize or merge with any other entity or transfer all or a substantial part of your ownership interests or assets. We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent. You agree that if we sell, assign or transfer this Agreement, our assignee will have the same rights and benefits that we have now and will not have to perform any of our obligations. You agree that the new owner will not be subject to any claims, defenses, or offsets that you may have against us. You shall cooperate with us in executing any documentation reasonably required by us or our assignee to effectuate any such assignment. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.

8. DEFAULT AND REMEDIES: You will be in default if: (a) you do not pay any Payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement, (b) you make or have made any false statement or misrepresentation to us, (c) you file bankruptcy, or (d) there has been a material adverse change in your financial, business or operating condition. If any part of a Payment is more than 5 days late, you agree to pay a late charge of 10% of the Payment which is late, or if less, the maximum charge allowed by law. If you are ever in default, at our option, we can terminate this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of the term plus the anticipated residual value of the Equipment (both discounted at 2%). We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any or all of the remedies available to us under Articles 2A and 9 of the UCC and any other law, including requiring that you: (1) return the Equipment to us to a location we specify; and (2) immediately stop using any Financed Items. In addition, we will have the right, immediately and without notice or other action, to set-off against any of your liabilities to us any money, including depository account balances, owed by us to you, whether or not due. In the event of any enforcement of our rights under this Agreement or any related agreement, you agree to pay our reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. If we have to take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement. **YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE.** Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will not be subject to any penalties. In the event that legal proceedings relating to this Agreement (other than our enforcement of this Agreement after a default by you) are commenced in any court or before any other tribunal of competent jurisdiction, the legal fees and other reasonable costs and expenses of the prevailing party shall be paid by the non-prevailing party on demand of the prevailing party.

9. INSPECTIONS AND REPORTS: We will have the right, at any reasonable time, to inspect the Equipment and any documents relating to its use, maintenance and repair. You agree to provide updated annual and/or quarterly financial statements to us upon request.

10. FAXED OR SCANNED DOCUMENTS, MISC.: You agree to submit the original duly-signed documents to us via overnight courier the same day of the facsimile or scanned transmission of the documents. The original of this Agreement shall be that copy which bears your facsimile or original signature, and which bears our original signature. You waive the right to challenge in court the authenticity or binding effect of any faxed or scanned copy or signature thereon. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time.

11. WARRANTY DISCLAIMERS: YOU AGREE THAT YOU HAVE SELECTED THE SUPPLIER AND EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND YOU DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. WE DO NOT TAKE RESPONSIBILITY FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT. THE SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF THE SUPPLIER, AND NOTHING THE SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATION UNDER THIS AGREEMENT. YOU WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS.

12. LAW, JURY WAIVER: Agreements, promises and commitments made by us, concerning loans and other credit extensions must be in writing, express consideration and be signed by us to be enforceable. This Agreement may be modified only by written agreement and not by course of performance. This Agreement will be governed by and construed in accordance with the law of the state in which you are located. You consent to jurisdiction and venue of any state or federal court in such state. For any action arising out of or relating to this Agreement or the Equipment, **YOU AND WE WAIVE ALL RIGHTS TO A TRIAL BY JURY.**

13. CALIFORNIA JUDICIAL REFERENCE AGREEMENT: The parties agree that any and all disputes, claims and controversies arising out of this Agreement (including, but not limited to, actions arising in contract or tort and any claims by a party against us related in any way to the financing) (individually, a "Dispute") that are brought before a forum in which pre-dispute waivers of the right to trial by jury are invalid under applicable law shall be subject to the terms of this Section in lieu of the jury trial waiver(s) otherwise provided in this Agreement.

Any and all Disputes shall be heard by a referee and resolved by judicial reference pursuant to California Code of Civil Procedure Sections 638 et seq. The referee shall be a retired California state court judge or an attorney licensed to practice law in the State of California with at least ten (10) years' experience practicing commercial law. The parties shall not seek to appoint a referee that may be disqualified pursuant to California Code of Civil Procedure Section 641 or 641.2 without the prior written consent of all parties. If the parties are unable to agree upon a referee within ten (10) calendar days after one party serves a written notice of intent for judicial reference upon the other party or parties, then the referee will be selected by the court in accordance with California Code of Civil Procedure Section 640(b). The referee shall render a written statement of decision and shall conduct the proceedings in accordance with the California Code of Civil Procedure, the Rules of Court and California Evidence Code, except as otherwise specifically agreed by the parties and approved by the referee. The referee's statement of decision shall set forth findings of fact and conclusions of law. The decision of the referee shall be entered as a judgment in the court in accordance with the provisions of California Code of Civil Procedure Sections 644 and 645. The decision of the referee shall be appealable to the same extent and in the same manner that such decision would be appealable if rendered by a judge of the superior court.

Nothing in this Section shall be deemed to apply to or limit our rights (a) to exercise self help remedies such as (but not limited to) setoff, (b) to foreclose judicially or nonjudicially against any real or personal property collateral, or to exercise judicial or nonjudicial power of sale rights, (c) to obtain from a court provisional or ancillary remedies (including, but not limited to, injunctive relief, a writ of possession, prejudgment attachment, a protective order or the appointment of a receiver), or (d) to pursue rights against a party in a third-party proceeding in any action brought against us (including actions in bankruptcy court). We may exercise the rights set forth in the foregoing clauses (a) through (d), inclusive, before, during or after the pendency of any judicial reference proceeding. Neither the exercise of self help remedies nor the institution or maintenance of an action for foreclosure or provisional or ancillary remedies or the opposition to any such provisional remedies shall constitute a waiver of the right of any party, including, but not limited to, the claimant in any such action, to require submission to judicial reference the merits of the Dispute occasioning resort to such remedies. No provision in this Agreement regarding submission to jurisdiction and/or venue in any court is intended or shall be construed to be in derogation of the provisions in this Agreement for judicial reference of any Dispute.

If a Dispute includes multiple claims, some of which are found not subject to this Section, the parties shall stay the proceedings of the Disputes or part or parts thereof not subject to this Section until all other Disputes or parts thereof are resolved in accordance with this Section. If there are Disputes by or against multiple parties, some of which are not subject to this Section, the parties shall sever the Disputes subject to this Section and resolve them in accordance with this Section. During the pendency of any Dispute which is submitted to judicial reference in accordance with this Section, each of the parties to such Dispute shall bear equal shares of the fees charged and costs incurred by the referee in performing the services described in this Section. The compensation of the referee shall not exceed the prevailing rate for like services. The prevailing party shall be entitled to reasonable court costs and legal fees, including customary attorneys' fees, expert witness fees, paralegal fees, the fees of the referee and other reasonable costs and disbursements charged to the Party by its counsel, in such amount as is determined by the referee. In the event of any challenge to the legality or enforceability of this Section, the prevailing party shall be entitled to recover the costs and expenses from the non-prevailing party, including reasonable attorneys' fees, incurred by it in connection therewith. **THIS SECTION CONSTITUTES A "REFERENCE AGREEMENT" BETWEEN OR AMONG THE PARTIES WITHIN THE MEANING OF AND FOR PURPOSES OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638.**



Ray Morgan Company

MAINTENANCE AGREEMENT

3131 Esplanade
Chico California 95973
Phone: (530) 343-6065 Fax: (530) 343-9470

Date: 7/6/2017
PO Number:

Ship To
Lassen County Public Health & CFS
1445 Paul Bunyan Rd
Susanville, CA 96130

Bill To
Lassen County Health & SS Dept
Hss Fiscal 700, Brashear Street Po Box 1180
Susanville, CA 96130
USA

Sales Rep: Michael Gregg
Phone: (530) 228-4275
Fax: 530-781-1051
Email: mgregg@raymorgan.com

Sue Bardouski
(530) 251-8365
sbardouski@co.lassen.ca.us

Sue Bardouski
(530) 251-8365
sbardouski@co.lassen.ca.us

AGREEMENT START DATE: Upon Delivery

Meter Contact Information

This maintenance plan is effective for 60 months from the agreement start date (install date if applicable). Base charges are payable in advance with overages billed in arrears.

Contact Name:
Phone Number:
Email Address:

COVERAGE TYPE: Bundled (AI)

(Network support and related technical services are NOT covered by this agreement. Such services are offered with optional ProIT Agreement)

STANDARD(GF):

Includes all parts & labor; Excludes ALL consumables.

BUNDLED:

Includes all parts, labor and consumable toner. Consumables such as, but not limited to, staples, ink stamps, paper or specialty media are excluded

Wide Format "Plus" (AIP): *Includes all parts, labor & supplies, including 20lb standard bond paper*

NON-STANDARD (TO): *Includes consumable toner cartridges only. Excludes all parts, labor, and consumables such as, but not limited to, staples, ink stamps, paper or specialty media.*

Billing Cycle - Bases: Monthly

Billing Cycle - Meters: Quarterly

Special Instructions: No escalation of freight charges for 60 month term.

QUANTITY OF TONER INCLUDED IN AGREEMENT:

Minimum Total Monthly (Plus Applicable Taxes): \$604.74

In the case of supply inclusive agreements, RMC will supply to the Customer toner free of charge according to the **Manufacturer's Published Yield per Container**. At RMC's discretion RMC may perform a Toner Usage Reconciliation audit from time to time. If Customer's toner usage exceeds the manufacturer's published yields, RMC will bill the Customer for excess toner usage at its lowest published price.

For managed print agreements (Printers), you agree that if you retire, replace and/or add new equipment, you grant the Ray Morgan Company the ability to reflect these additions or deletions of said equipment and your payment under this agreement may adjust accordingly.

For agreements without a base billing, the above stated pricing is based upon the guaranteed number of images listed under "Estimated annual volume". All images will be billed per the billing in arrears for actual usage.

Signature: _____

Date: ____/____/____

Name (Print): _____

Title: _____

Public Health Meter Contact Alice
 Robinson (530) 251-8187 arobinson@co.lassen.ca.us

Description	Minimum Vol/ Month	Net Unit Price	Charge Per Month
BW Service - Segment 4 - Rate Locked at 15000 Volume	17,839.00	\$0.0081	\$144.49
Color Service - Segment 4	415.00	\$0.0590	\$24.49
BW Service Overages	0.00	\$0.0081	\$0.00
CLR Service Overages	0.00	\$0.0590	\$0.00

Children and Family Services Meter Contact Caron
 Beckett (530) 251-8286 cbeckett@co.lassen.ca.us

Description	Minimum Vol/ Month	Net Unit Price	Charge Per Month
Color Service - Segment 4	5,989.00	\$0.0590	\$353.35
BW Service Overages	0.00	\$0.0081	\$0.00
CLR Service Overages	0.00	\$0.0590	\$0.00
BW Service - Segment 4 - Rate Locked at 10000 Volume	10,174.00	\$0.0081	\$82.41

Customer Initials: _____

RMC MAINTENANCE AGREEMENT - TERMS AND CONDITIONS

1. During the term of this agreement, and for each unit of equipment listed on the front of this document or any subsequent amendment or Schedule, the Ray Morgan Company (RMC) will provide, without additional charge, emergency repair service, preventative service, replacement parts (except under the conditions noted in this agreement) and in case of supply inclusive agreements (see front page for this agreement's specific coverage) all supplies (except, as applicable, paper, staples, and clear toner) under the usage limitation conditions listed in the front page of this document. The initial term of this agreement shall be for a period of 60 months and shall be automatically renewed for additional 12 month periods unless written notice is received by either party at least 90 days prior to the expiration of the initial term of the Agreement or any renewal thereof. This agreement shall NOT be assignable by customer without RMC's prior written consent. RMC shall have the right to cancel this agreement if any item is sold to a third party without such consent.

2. Maintenance charges provided herein are based upon the current costs of parts and labor and are subject to periodic increases and the effect of inflation. After the first year anniversary date of this agreement and any subsequent twelve month period, the minimum annual or monthly maintenance charges and charges for any overage copies/prints will increase a minimum of 5% over the charges of the previous year. In addition, the minimum billing charge, on any single billing period shall be \$35.00. In addition, RMC may assess an additional fuel and/or freight surcharge to offset higher than normal service costs as a result of adverse economic conditions.

3. It is understood that should customer wish to add additional, recently acquired but not "new", printers (HP, Kyocera and the like) to this agreement that RMC reserves the right to inspect and approve the addition of each. Such approval is contingent on age and overall condition of the printers in question. RMC might, after inspection, require that certain reconditioning or repairs be made before the equipment in question is covered under this maintenance agreement.

4. All routine preventative maintenance and emergency service necessary to keep the equipment in efficient operating order will be performed by RMC staff during its regular business hours (8:00 AM to 5:00 PM Monday through Friday except holidays) at no cost to Customer provided that such services shall not include the following:

- a) repairs resulting from causes other than normal use; Customer's willful act, use of any paper stock that does not meet machine specifications, negligence or misuse including, without limitation, damage to any part or mechanisms and/or use or supplies or spare parts not manufactured and/or use or supplies or spare parts not manufactured by the original equipment manufacturer and which cause abnormally high service calls or service problems; accident, transportation, failure of electrical power, air conditioning or humidity control related problems, acts of nature (fire, flood etc), theft or
- b) repairs made necessary by service performed by personnel other than an RMC representative, or
- c) work which the customer requests to be performed outside regular business hours, or
- d) reconditioning or modification to the equipment except those specified by RMC's Technical Service Department to assure greater performance of the equipment.

All of the foregoing shall be invoiced in accordance with RMC's established per call rates and part charges then in effect. Additionally, RMC shall have the right, when reasonably in need for reasons of significant equipment failure, to substitute equivalent Equipment (age, model, accessories and meter) at any time during the term thereof. Any removed parts replaced by RMC shall become the property of RMC. RMC shall have full and free access to the Equipment in order to provide service thereon and customer shall from time to time advise RMC of the names of its employees who shall act as "key operators," with responsibility for performing basic operator maintenance as described by RMC personnel.

5. Certain "housekeeping" duties as outlined in the Owners Instruction Manual provided with the equipment (such as cleaning the glass, clearing misfeeds, if possible, etc) are the customer's responsibility. If a representative of RMC is called to do servicing of this nature the customer will be charged at the established rates for this service. Customer responsible for providing manufacturer recommended, adequate power supply.

6. Meter reading(s) must be provided by customer in accordance to the frequency stated on the reverse side of this Agreement. Customer agrees to provide correct meter readings to insure accurate and timely billing to the customer by RMC. If correct meter readings are not provided timely, RMC will calculate an estimated meter reading(s) and bill the Customer in accordance to the frequency contracted for. RMC will request meter readings via email. Upon receipt of email, it is the customer's responsibility to submit the meter reading(s) online at www.raymorgan.com. RMC may assess an additional surcharge to offset administrative costs should calls need to be made to Customer in order to secure meter readings. If the customer is not able to receive emails or submit meter readings online, RMC will fax a request for meter reading(s) in which case the customer must fax back the information requested on the date specified in order to avoid an additional administrative surcharge.

7. Additional service such as cosmetic, modification, or relocation, etc. requested and authorized by Customer and rendered by RMC will be charged at established rates for such service.

8. If customer's service and/or supply account becomes past due, RMC may (a) refuse service or delivery of supplies until account is made current or (b) provide service on a C.O.D. per call basis at the then current rate for time and materials. Additionally, Customer agrees to pay to RMC its cost and expense of collection including reasonable attorney's fees and all charges earned for service provided before the Customer went on a per call C.O.D. basis for non-payment per the terms of the agreement.

9. Liquidated damages: In the event that the customer defaults or chooses to cancel this Agreement before its original term or any extension thereof, Customer promises to pay to the Ray Morgan Company the following amounts as reasonable liquidated damages (and not as a penalty) for breach thereof:

- a) Contracts with 24 or more months remaining: twelve times the monthly base (or as the case may be quarterly base divided by 3) plus six months average overages, if any. Overage average shall be determined as the average sum of overage billing the customer has been invoiced for during the current term or 6 months whichever is longer.

b) Contracts with 13 to 23 months remaining: nine times the monthly base plus six months average overages, if any. Overages average shall be determined as the average sum of overage billing the customer has been invoiced for the previous 6 months.

c) Contracts with 12 or less months remaining or any subsequent 12 month renewal: six times the monthly base plus six months average overages, if any. Overages average shall be determined as the average sum of overage billing the customer has been invoiced for during the previous 6 months.

10. Cancellation for Non-Performance: Customer may cancel the agreement for non-performance as follows: Customer must forward to RMC via registered mail, to the address listed on the front of this document, the specific problems with the system or other area(s) of non-performance and dissatisfaction. RMC shall have 30 days to correct the problem. If RMC has not corrected the problem within 30 days, Customer may notify RMC of their intent to cancel in 30 days, after which time the Customer is no longer bound by the Liquidated Damages portion of this agreement. Cancellation of the maintenance agreement for non-performance does not provide relief to the Customer from being obligated to make all remaining lease payments (if any) to the leasing company providing financing services for the equipment in question. This agreement may be cancelled by RMC for any reason.

11. Retained Title: Title to all supplies furnished hereunder, including consumable parts such as drums, remains with the Ray Morgan Company until said supplies are consumed to the extent they may not be further utilized in the copy/printing process. In the event this agreement is cancelled by either party, Customer agrees to return to the Ray Morgan Company all unused supplies provided under this agreement including toner and photoconductor.

12. RMC's obligation and warranties under this Agreement are in lieu of (a) all other warranties, expressed or implied, including implied warranties of merchantability and fitness for a particular purpose and (b) all other obligation or liabilities for damages including but not limited to personal injury or property damage, loss of profit or other consequential damages arising out of or in connection with this agreement of the maintenance service performed hereunder. Nor shall RMC be responsible for delays or inability to service caused directly or indirectly by strikes, accidents, climatic conditions or any other reason of similar nature beyond its control. This agreement shall be governed and construed according to the laws of the State of California.

13. Payment terms are upon receipt of invoice (URI) unless otherwise specified. Late charges will be assessed on the outstanding balance if payments are not received within 15 days of invoice date. The minimum late charge is \$9.50. Late charges will not exceed the maximum permitted by law. Customer agrees to pay to RMC a charge of \$25 for any returned checks per occurrence if any of seller's checks are returned to RMC unpaid. Upon default of any payment or any other aspect of this Agreement, RMC may at its option, declare the entire outstanding balance due and payable, including the Liquidated Damages stated in Section 9 of this Agreement.

14. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover reasonable attorney's fees and costs from the other.

This agreement constitutes the entire agreement between the parties with respect to the furnishing of maintenance service superseding all previous proposals oral or written. No representation or statement not contained herein shall be binding upon RMC as a warranty or otherwise, nor shall this Agreement be modified or amended unless signed by RMC's General Manager.

3/16/2009