



Equipment Maintenance Agreement

PO #

CONTRACT #

Sales Representative: Tausha Manseau

Meter Reading Contact Person: 0

Equipment Maintenance Agreement Phone: 800.892.8548 | Fax: 800.847.3087

The words you and your refer to the customer. The words Owner, we, us and our refer to Marco Technologies LLC. Every attempt has been made to eliminate confusing language and create a simple, easy-to-read document.

CUSTOMER INFORMATION

Form with fields for FULL LEGAL NAME, STREET ADDRESS, CITY, STATE, ZIP, PHONE, FAX, EQUIPMENT LOCATION, and ACCOUNT #.

EQUIPMENT WITH CONSOLIDATED MINIMUMS

Table with columns: MAKE/MODEL/ACCESSORIES, SERIAL #, Starting Meter Color, Starting Meter B&W. Lists 8 items: KONICA BIZHUB C558 55-PPM COLOR MFP and KONICA BIZHUB C308 COLOR MFP W/2GB MEMORY.

Minimum Payment\* \$ 321.00 Color Print Allowance 5,000 Excess Color Print Charge\* \$ 0.045000 B&W Print Allowance 20,000 Excess B&W Print Charge\* \$ 0.004800 \*plus applicable taxes

MARCO SUPPORT DESK (By selecting "YES" you agree that the Marco Support Desk Monthly Fee will be added to this Agreement's monthly invoice.)



Form for Marco Support Desk enrollment with fields for Number of Devices, Marco Support Desk Device Monthly Fees, and Yes/No options.

FREQUENCY OF MINIMUM PAYMENT METER READING FREQUENCY

Form with checkboxes for Monthly, Quarterly, Semi-Annually, and Annually for both payment frequency and meter reading frequency.

TERM AND PAYMENT SCHEDULE SUPPLIES COVERAGE LEVELS

Form with fields for Term in Months, Start Date, and checkboxes for All Inclusive, HP OEM, and No Supplies Included.

THIS IS A NONCANCELABLE / IRREVOCABLE AGREEMENT; THIS AGREEMENT CANNOT BE CANCELED OR TERMINATED.

MARCO ACCEPTANCE

Form for Marco Technologies LLC acceptance with fields for OWNER, SIGNATURE, TITLE, and DATED.

PRIVACY AND INFORMATION SECURITY

You acknowledge that the Equipment you have received may be equipped with a hard drive that may store personal and confidential information ("PCI") and you understand the privacy and information security risks associated with PCI that may be stored on your Equipment.

Form for customer acceptance with fields for City Of Warrensburg, CUSTOMER, SIGNATURE, TITLE, and DATED.

CUSTOMER ACCEPTANCE

By signing below, you certify to Owner that you have received, read, and agree to all terms and conditions on this page and on the second page of this two-page Agreement.

Form for customer acceptance with fields for City Of Warrensburg, CUSTOMER, SIGNATURE, TITLE, and DATED.

FEDERAL TAX I.D. # PRINT NAME

**1. AGREEMENT:** You agree to all of the terms and conditions contained in this maintenance agreement and any schedule incorporating the terms of this agreement by reference which together are a complete statement of our agreement regarding the listed Equipment ("Agreement"). Marco agrees to provide maintenance on the equipment specified in this Agreement at the address specified. This Agreement may be modified only by written agreement and not by course of performance. This Agreement will begin on the start date and will continue from that day for the number of consecutive years shown. The term will be extended automatically for successive 12 month periods unless you send us written notice, no less than 30 days before the end of any term of your intent to cancel. Marco may also cancel this agreement at any time subject to a 30 day notice. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others.

**2. PAYMENTS:** Payments are required to be made based on the frequency indicated on the front of this Agreement and based on the rates currently in effect plus any applicable sales tax, use tax, or property tax. We will have the right to apply all sums, received from you, to any amounts due and owed to us under the terms of this Agreement. Marco reserves the right to delay or hold service if your account with us is delinquent. If for any reason, your check is returned for nonpayment, a NSF charge will be assessed.

**3. MAINTENANCE AND SUPPLIES:** The charges established by this Agreement include payment for maintenance and travel charges during normal business hours (8:00 a.m. – 5:00 p.m. Monday through Friday); inspection, adjustment, parts replacement (worn or broken through normal use), drums and cleaning material required for the proper operation. All service calls will be responded to by factory authorized technicians within eight working hours of the time a call is placed. Parts or labor for repairs made necessary by accident, negligence, theft, vandalism, lightning, loss of power or current fluctuation, fire, water or other casualty, repairs made necessary by service performed by personnel other than those of Marco, are excluded from this agreement. Service performed at the specific request of the customer which commences outside normal working hours or extends more than one hour past the close of the normal work day will be charged at published rates for labor and expense but without charge for parts covered by this Agreement. Paper, staples and MICR cartridges must be separately purchased by you. Device network support on connected Equipment is not included and will be billable at the current hourly rate, at your expense. Changes to your network including but not limited to different or upgraded network operating systems that require reconfiguring your imager are not included in this agreement. Supplies for units may or may not be included in this Agreement. If necessary, the service and supply portion of this Agreement may be assigned. This agreement is based on the industry standard and the manufacturer estimated yield for black toner and developer is based on an average per page coverage of 6% and for color toner and developer is based on an average per page coverage of 20%. In the event that your black toner and developer exceeds the 6% per page coverage standard and/or your color toner and developer exceeds the 20% per page coverage, Marco Technologies LLC in its sole discretion reserves the right to amend this contract in order to adjust for any increased toner and developer usage in excess of the industry standard. Toner, developer and/or drums for facsimiles are not covered by this agreement. We may charge you a monthly Supply Freight Fee to help offset our costs of delivering supplies to you. Should any of the equipment included in this Agreement be traded in for a new device from Marco during the life of this Agreement, the unused balance of copies on the old equipment will be prorated and allocated toward maintenance of the new machine(s).

**4. WARRANTIES:** WE MAKE NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE. YOU AGREE THAT YOU HAVE SELECTED EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. Notwithstanding any other terms and conditions of the Agreement, you agree that as to software only: a) We have not had, do not have, nor will have any title to such software, b) You have executed or will execute a separate software license agreement and we are not a party to and have no responsibilities whatsoever in regard to such license agreement, c) You have selected such software and WE MAKE NO WARRANTIES OF MERCHANTABILITY, DATA ACCURACY, SYSTEM INTEGRATION OR FITNESS FOR USE AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR THE FUNCTION OR NATURE OF SUCH SOFTWARE.

**5. LOCATION OF EQUIPMENT:** You will keep and use the Equipment the address shown above and you agree to notify us of any movement of equipment covered under this Agreement.

**6. INDEMNITY:** We are not responsible for any loss or injuries caused by the installation or use of the Equipment. You agree to hold us harmless and reimburse us for loss and to defend us against any claim for losses or injury caused by the Equipment.

**7. LIMITATION OF LIABILITY:** In no event shall Marco be liable for any damages caused by the customer's failure to perform customer's responsibilities under this contract. Marco will not be responsible to customers for any lost profits or consequential damages, even if Marco has been advised of the possibility of such damages. Marco will perform repairs consistent with usual and customary practices in the industry. In the event the customers established that Marco failed to make repairs consistent with this standard, customer's sole remedy shall be limited to a refund of amounts paid to Marco for the repairs; in no event shall the amount of any refund exceed the damages actually incurred by the customer. Marco's liability in regards to parts supplied shall be limited to any warranty expressly agreed to in a purchase agreement for such parts or supplies. There shall be no warranty for parts or supplies unless a purchase agreement is executed in writing and the purchase agreement explicitly provides such warranty. Marco will not be held responsible for any damage to software or customer information.

**8. TAXES AND FEES:** You agree to pay when due all taxes (including personal property tax, fines and penalties) and fees relating to this Agreement or the Equipment. If we pay any of the above for you, you agree to reimburse us and to pay us a processing fee for each payment we make on your behalf.

**9. ASSIGNMENT:** YOU HAVE NO RIGHT TO SELL, TRANSFER, OR ASSIGN THIS AGREEMENT. We may sell, assign, or transfer this Agreement without notice.

**10. DEFAULT AND REMEDIES:** If you do not pay any payment or other sum due to us or any other party in connection with this Agreement when due or if you break any of your promises in the Agreement or any other Agreement with us, you will be in default. If any part of a payment is late, you agree to pay a late charge of up to 15% of the payment which is late or if less, the maximum charge allowed by law. If you are ever in default, we can terminate or cancel this Agreement immediately and require that you pay the unpaid balance of this Agreement. We may also use any of the remedies available to us under the Uniform Commercial Code as enacted in the State of Minnesota or its Assignee or any other law. If we refer this Agreement to an attorney for collection, you agree to pay our reasonable attorney's fees and actual court costs. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR ANY DEFAULT BY US UNDER THIS AGREEMENT. You agree that any delay or failure to enforce our rights under this Agreement does not prevent us from enforcing any rights at a later time. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive customer's rights under Article 2A (508-522) of the UCC.

**11. CONSENT TO LAW, JURISDICTION, AND VENUE:** This Agreement and any schedule or supplement shall be governed by the internal laws for the State of Minnesota. IF THIS AGREEMENT IS ASSIGNED, YOU AGREE THAT ANY DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT WILL BE ADJUDICATED IN THE FEDERAL OR STATE COURT WHERE THE ASSIGNEE'S CORPORATE HEADQUARTERS ARE LOCATED AND WILL BE GOVERNED BY THE LAWS OF THAT STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN THAT COURT AND WAIVE ANY RIGHT TO TRANSFER VENUE. EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY.

**12. OVERRAGES AND COST ADJUSTMENTS:** You agree to comply with any billing procedures designated by us, including notifying us of the meter reading at the end of overage billing cycle. If we are unable to gather a meter reading from you using your preferred method of collection after 3 attempts, you will be assessed a \$3 fee per device per overage billing cycle to collect your reads. At the end of the first year of the Agreement, and with each successive period, not to exceed 12 months, we may increase the base usage charge per print and the excess print charge per print by a maximum of 15% of the existing charge.

**13. SUPPLIES LEVEL COVERAGE INFORMATION:** All Inclusive is defined as all colors (cyan, magenta, yellow and black) of toners, developers, drums and drum kits are included. B&W Inclusive is defined as only black toners, black developers, black drums and black drum kits are included. Cyan, magenta and yellow toners, developers, drums and drum kits are not included. No Supplies Included is defined as all toners, developers, drums and drum kits being excluded.

FOR MUNICIPALITIES ONLY

**14-A. CUSTOMER COVENANTS:** You covenant and warrant that (1) you have, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the payments scheduled to come due and to meet its other obligations under the Agreement and such funds have not been expended for other purposes; and (2) that there is no action, suit, proceeding or investigation pending, or threatened in any court or other tribunal or competent jurisdiction, state or federal or before any public board or body, which in any way would (a) restrain or enjoin the delivery of the Agreement or the ability of you to make its Payments (as set out above); (b) contest or affect the authority for the execution or delivery of, or the validity of, the Agreement; or (c) contest the existence and powers of you; nor is there any basis for any such action, suit, proceeding or investigation; and (3) That the Equipment will be operated and controlled by you and will be used for essential government purposes and will be essential for the term of the Agreement.

(4) You have not previously terminated an agreement for non-appropriation, except as specifically described in a letter appended hereto.

**14-B. SIGNATURES:** Each signor (two if monthly payment exceeds \$1,200) warrants that he/she is fully conversant with the governing relevant legal and regulatory provisions and has full power and authorization to bind you. Signor(s) for you further warrant(s) its governing body has taken the necessary steps; including any legal bid requirements, under applicable law to arrange for acquisition of the Equipment; the approval and execution has been in accordance with all applicable open meeting laws; and that a resolution of the governing body of you authorizing execution of the Agreement has been duly adopted and remains in full force and effect.

**14-C. NON APPROPRIATION:** In the event you are in default under the Agreement because:

1. Funds are not appropriated for a fiscal period subsequent to the one in which the Agreement was entered into which are sufficient to satisfy all of your obligations under the Agreement during said fiscal period;
2. Such non-appropriation did not result from any act or failure to act of you;
3. You have exhausted all funds legally available for all payment due under the Agreement; and
4. There is no other legal procedure by which payment can be made to Marco.

Then, provided that (a) you have given Marco written notice of the occurrence of paragraph 1 above thirty (30) days prior to such occurrence; (b) Marco has received a written opinion from your counsel verifying the same within ten (10) days thereafter. Marco remedies for such default shall be to terminate the Agreement at the end of the fiscal period during which notice is given.

**15. MARCO SUPPORT DESK:** If indicated on page 1 of this Agreement, access to the Marco Help Desk, Monday-Friday from 8:00 am to 5:00 pm CST, is included on all Equipment. Marco Support Desk is included for all Equipment listed on this Agreement. Support Desk assistance is also available for equipment not listed on this Agreement at Marco's published prevailing rates. All Marco Support Desk is provided as phone or internet support. Any on-site support will be billed at Marco's prevailing published rates.

Marco Support Desk includes the following:

- Changes to your network such as: replaced or upgraded workstations and/or servers, IP address changes etc. that require reconfiguring your imager(s) on your network for printing or scanning. This would also include a commercially reasonable attempt to reconfigure scan to email for changes made by your Internet Service Provider.
- Reinstallation and configuration of Manufacturer Companion Software and drivers on additional or upgraded workstations. Current Marco supported Manufacturer Companion Software includes: Sharpdesk, PC Fax Drivers, EFI Command Workstation, EFI Remote scan and Marco installed meter monitoring software.
- New or upgraded end user software that results in printing issues requiring updating print drivers or configurations.
- Additional training sessions for key operators and/or end users.
- Other printing or scanning software related issues as it applies to the imager(s).



