

**AGENCY REQUEST FOR APPROVAL OF
ALTERNATE CONTRACT SOURCE (ACS)
(PUR 7102)**

Instructions: The Agency Purchasing Director, or designee, shall initiate a request to use an alternate contract source (ACS contract) by emailing this completed form, along with the following documentation, to alternatecontractsource@dms.myflorida.com:

- The ACS contract, including amendments, renewals, extensions, and award letter.
- The competitive solicitation that resulted in the ACS contract.
- The awarded vendor's bid, proposal or reply and documentation supporting the award.

State Purchasing Use Only

Date received: 04 / 20 / 22

Number: FDOT-47-AgencyACS-22

1. Agency Information

Agency Name: Florida Department of Transportation
Address: 719 S. Woodland Blvd. DeLand, Florida 32720
Purchasing Director name and telephone number: Paul Baker (850) 414-4412
Purchasing Director's email: Paul.Baker@dot.state.fl.us
Agency contact name and telephone number: Jennifer Allcock (386) 943-5523
Agency contact email: jennifer.allcock@dot.state.fl.us

2. ACS Information

Contract title and number: Copiers and Printers, MSA ITN 17-16-MH
Contract Amount: Open Ended Master Agreement
Contract term (beginning/ending dates): 5/4/2018-5/3/2023
Contracting entity (government entity): University of South Florida Board of Trustees
Contracting entity contact name and telephone number: George Cotter (813) 974-3340
Contractor's name: Xerox Corporation

3. Agency's Proposed Contract Information

Commodities or contractual services to be purchased: Leased Copiers, Printers and Managed Print Services

Estimated total dollar amount of purchase: \$15,687.09 per month for 11 months = \$175,107.24

Term of proposed contract (beginning and ending dates): 7/1/2022- 5/3/2023

Signature: 
Agency Purchasing Director or Designee

Date: 5/12/22

FOR DMS USE ONLY

REVIEWED BY: Christia Nunnery

DATE: 05/16/2022

ACS contract is a term contract:

Yes No

Proposed purchase is within the scope of the ACS contract, considering commodities or scope of services to be provided, volume, location, term, etc.:

Yes No

Proposed purchase is available from a state term contract:

Yes No

Agency ACS contract was competitively procured: N/A

Yes No

ACS contract was let by the federal government, another state or a political subdivision:

Yes No

Use of ACS contract is cost effective and in best interest of the State:

Yes No

Comments: The Department's approval of this ACS request does not represent a determination regarding the legality of the ACS contract's terms and conditions. Please consult your legal counsel to make this determination for your agency. Your agency is responsible for complying with the ACS contract terms and conditions.

Agency ACS contract was competitively procured: N/A

ACS contract was let by the federal government, another state or a political subdivision: Yes. State university is a government entity.

RECOMMENDATION:

Disapprove

Approve for issuance of purchase orders or contracts through 05/03/2023 (date).

If ACS contract was let by the federal government, another state or political subdivision, Department approval is contingent upon the Agency's execution of an Alternate Contract Source Agreement.

APPROVED:

Division of State Purchasing, Department of Management Services

Signature: N/A_____

Printed Name: N/A_____

Date: N/A_____

**ALTERNATE CONTRACT SOURCE AGREEMENT
(Federal, other state or political subdivision contract)**

This Agreement between the Department of Management Services (Department) and [FDOT] (Agency) is to authorize the Agency's use of a federal, other state or political subdivision ACS contract. The parties agree as follows:

1. The Department has approved the Agency's use of the ACS contract for purchase of [leased copiers (commodities or contractual services to be provided) as cost effective and in the best interest of the state.
2. The Agency will comply with Chapter 287, Florida Statutes, and Rule Chapter 60A-1, Florida Administrative Code, including addressing vendor's obligation to register and pay Transaction Fees, in contracting to purchase under the ACS contract.
3. The term of the Agency's contract will not extend beyond the term of the ACS contract.
4. The Agency will submit a new Form PUR 7102 to the Department to renew or extend its contract if the ACS contract is renewed or extended.

**Department of Management Services
Division of State Purchasing**

By N/A

Title N/A

Date N/A

Agency

By Paul Baker

Title State Purchasing Administrator

Date 5/12/22

Approval of Alternate Contract Source

Agency ACS Number: FDOT-47-AgencyACS-22

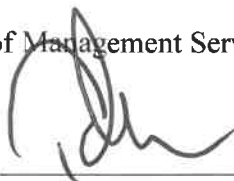
Statutory Reference: 287.042 F.S. Powers, duties, and functions. — The department shall have the following powers, duties, and functions:

(16) To evaluate contracts let by the Federal Government, another state, or a political subdivision for the provision of commodities and contract services, and, if it is determined by the Secretary of Management Services in writing to be cost-effective and the best value to the state, to enter into a written agreement authorizing an agency to make purchases under such contract.

Pursuant to the above authority, the use of the contract let by the Federal Government, another state, or a political subdivision is cost-effective and the best value to the state and is therefore **APPROVED**.

Secretary of Management Services

Signature: _____



Printed Name: J. Todd Inman

Date: _____

05/24/2022

GENERAL AMENDMENT



THIS AMENDMENT Number 2 (“Amendment”) amends Agreement Number **Xerox MSA ITN 17-16-MH** (the “Agreement”) between the **University of South Florida Board of Trustees, a Public Body Corporate** (“you” or “Customer”) and Xerox.

THIS AMENDMENT REVISES AMENDMENT NUMBER 1 SIGNED MAY 17, 2019

- 1. **DEF.1 Definitions-** The definition for Non-Affiliated Eligible Entity(ies) shall be deleted in its and entirety and replaced with; “means an entity who is not a Customer Direct Affiliate which would include, State Agencies, County Government, Local Municipalities, Public School Districts, Community Colleges, Non-Profit Colleges and Universities, Quasi-Government Entities and to the extent provide by law, any other entity, that expends public funds for the procurement of services and supplies and Not-for-Profit 501(c)(3) Organizations.”
- 2. **GEN 1.5 Notices-** “If to Xerox:” address has been changed to the following location:
Xerox Corporation
 12468 LaGrange Road
 Suite 318
 Louisville, KY 40245
 Attention: Lisa Perkins
 Telephone: (502) 410-8679

Except as specified in this Amendment, the Agreement shall remain as stated. In the event of a conflict between the terms and conditions of the Agreement and this Amendment, the Amendment will control.

XEROX CORPORATION

Lisa Perkins

Name (Please Print)

Lisa Perkins

Signature

Account General Manager

Title

6/29/2020

Date

University of South Florida Board of Trustees

Jeffrey Elliott

Name (Please Print)

Jeffrey Elliott

Signature

Associate Director

Title

6/29/2020

Date



THIS AMENDMENT Number 1 (“Amendment”) amends Agreement Number Xerox MSA ITN 17-16-MH (the “Agreement”) between the **University of South Florida Board of Trustees, a Public Body Corporate** (“you” or “Customer”) and Xerox.

- 1. **DEF.1 Definitions-** The definition for Non-Affiliated Eligible Entity(ies) shall be deleted in its and entirety and replaced with; “means an entity who is not a Customer Direct Affiliate which would include, State Agencies, County Government, Local Municipalities, Public School Districts, Community Colleges, Non-Profit Colleges and Universities, Quasi-Government Entities and to the extent provide by law, any other entity, that expends public funds for the procurement of services and supplies”.
- 2. **GEN 1.5 Notices-** “If to Xerox:” address has been changed to the following location:
Xerox Corporation
 8710 W. Hillsborough Avenue #332
 Tampa, FL 33615
 Attention: Chris McPherson
 Telephone: 813.636.4509

Except as specified in this Amendment, the Agreement shall remain as stated. In the event of a conflict between the terms and conditions of the Agreement and this Amendment, the Amendment will control.

XEROX CORPORATION

Christopher McPherson

Name (Please Print)

Signature

General Manager

Title

05.17.2019

Date

University of South Florida Board of Trustees

**Timothy
C. Mays,
Jr.**

Signature

Digitally signed by
Timothy C. Mays, Jr.
DN: cn=Timothy C. Mays,
Jr., o=University of South
Florida,
ou=Procurement
Services,
email=timothy45@usf.edu,
c=US
Date: 2019.05.17
10:02:02 -04'00'

Date

MASTER AGREEMENT
BETWEEN
XEROX CORPORATION
AND
THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES,
A PUBLIC BODY CORPORATE

THIS MASTER AGREEMENT, including any Schedules attached hereto which are incorporated by reference, is effective as of 4th day of May, 2018 (“**Effective Date**”), by and between Xerox Corporation (“**Xerox**”), a corporation with its corporate offices at 201 Merritt 7, Norwalk, CT 06851, and the University of South Florida Board of Trustees, a public body corporate, 4202 Fowler East Ave – SVC 4010, Tampa, FL 33620 (“**University**”).

BACKGROUND

- A. This Agreement is done in accordance with the Invitation To Negotiate ITN-17-16-MH (the “ITN”) that has been awarded to Xerox, and serves as a master agreement to enable Xerox and Customer and their respective Affiliates in different jurisdictions to contract with each other under this Master Agreement’s terms and conditions.
- B. Xerox and Xerox Affiliates wish to provide Services and Products and Customer and Eligible Entities wish to procure Services and Products and may contract for such by incorporating the terms set forth herein and setting forth any additional terms as appropriate and required.
- C. Individual standalone transactions between Xerox and Xerox Affiliates and Customer and Eligible Entities (as applicable) for the acquisition of Products will utilize an Order. Orders may also include the provision of Maintenance Services and Consumables.
- D. The acquisition of Services will be done under the auspices of an Order, (i) for the Customer and its Direct Support Organizations, placed under a Services Contract that is established under the Services Module; or (ii) for Non-Affiliated Eligible Entities, placed under a Services Contract under a Services Agreement that is established using a Services Master Agreement signed by both parties and of the type included as the SMA Module herein.

DEFINITIONS

DEF 1. DEFINITIONS

The following definitions apply unless otherwise specified in an Order. Any defined terms not specifically identified below shall have the meaning set forth in the Agreement.

Affiliate(s) means a Xerox Affiliate(s) and/or an Eligible Entity(ies).

Agreement means this agreement and any Schedules attached hereto.

Application Software means software and accompanying Documentation specifically identified in an Order that allows Equipment or Third Party Hardware to perform functions beyond those enabled by its Base Software.

Assessment means a written report including Xerox's recommendations and any applicable assessment of Customer's existing network and infrastructure and requirements, but excluding any Customer Confidential Information, as more fully described in an Order.

Base Software means software and accompanying Documentation embedded, installed, or resident in Equipment that is necessary for operation of the Equipment in accordance with published specifications (i.e., operating system software).

Cartridges means Equipment components designated by Xerox as customer-replaceable units, including copy or print cartridges and xerographic modules or fuser modules.

Charges mean the fees payable by Customer for Services or Products as specified in the applicable Order.

Confidential Information means information identified as confidential by the disclosing party which is provided by the disclosing party to the receiving party including, without limitation, trade secrets as defined by § 688.002(4), Florida Statutes. “**Customer Confidential Information**” means Confidential Information belonging to Customer and includes, without limitation, Customer Content. “**Xerox Confidential Information**” means Confidential Information belonging to Xerox and includes, without limitation, whether marked as such or not, any procedures manuals, Xerox Tools, Xerox Customer Tools and Xerox Intellectual Property.

Consumables or Consumable Supplies vary depending upon the Equipment model, and include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as “Phaser”, only, 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 staples.

Customer means University and Customer Direct Affiliate(s).

Customer Assets means all hardware, software, assets, and facilities owned, leased, rented, licensed or controlled by Customer (including Existing Equipment and other equipment, fixtures, software, network and work space) and any services utilized by Customer that Customer makes available to Xerox to enable Xerox to provide Services or Products under an Order.

Customer Confidential Information has the meaning set forth in Section **DEF 1** (Confidential Information).

Customer Content means documents, materials or data 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 or Products under an Order.

Customer Direct Affiliate means each of the Customer-identified “Direct Support Organizations” as defined by § 1004.28, Florida Statutes, that are authorized to order hereunder.

Customer Facilities means those facilities controlled by Customer where Xerox performs Services or provides Products.

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.

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.

Diagnostic Software means software embedded in or loaded onto Equipment and used by Xerox to evaluate or maintain the Equipment.

Documentation means all manuals, brochures, specifications, information and software descriptions, in electronic, printed or camera-ready form, and related materials customarily provided by Xerox to customers for use with certain Products or Services.

Effective Date means the date this Agreement goes into effect as set forth in the opening paragraph above.

Eligible Entities mean both Customer Direct Affiliates and Non-Affiliated Eligible Entities.

Equipment means Xerox-brand equipment.

Excluded Taxes means (i) Taxes on Xerox's income, capital, employment, (ii) Taxes for the privilege of doing business, and (iii) personal property tax on Equipment rented or leased to Customer under this Agreement.

Leased Equipment means Equipment that Xerox leases to a Customer under this Agreement and an Order.

Maintenance Releases or Updates means new releases of the Base Software or Application Software that primarily incorporate coding error fixes and are designated as "Maintenance Releases."

Maintenance Services means regularly scheduled or required maintenance of Equipment to keep the Equipment in good working order.

Module means a specific set of terms and conditions. This Agreement is grouped into Modules. The GEN Module is applicable to all Services and Products provided hereunder, while the other Modules are applicable specifically to Services or to certain Product order types, as specified in this Agreement.

Non-Affiliated Eligible Entity(ies) means an entity who is not a Customer Direct Affiliate and is authorized to order under this Master Agreement.

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 may be in the form of a Xerox Order Agreement ("XOA"), a Services and Solutions Order ("SSO"), or a Customer-issued PO. A Statement of Work may be part of an Order for Services, but cannot function as a stand-alone ordering document.

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 Data, reports (other than Assessments) and other documentation, photographs, images, impressions, data and other materials (tangible and intangible) created by Xerox and delivered to Customer under an Order, but does not include Software, or Third Party Software, or Xerox Intellectual Property.

Periodic Minimum Charge (sometimes referred to as "**Monthly Minimum Charge**", "**MMC**" or "**Lease Minimum Payment**") means a fixed, regularly-recurring charge that (along with any additional print charges) covers the cost for the Equipment's or Third Party Hardware's use and, for Equipment, Maintenance Services. The Periodic Minimum Charge may include, if applicable, a periodic minimum number of prints ("**Minimum Prints**"), meaning a fixed number of prints that are included as part of the Periodic Minimum Charge, and other amounts as agreed to including, but not limited to, Consumables, Software, Third Party Software, Services, lease buyout funds, monthly equipment component amounts from previous contracts, amounts being financed or refinanced, analyst services, and/or customer training.

Privacy Laws means all applicable state, federal, and international laws relating to data privacy, trans-border data flows and data protection.

Product means Software, Equipment, Third Party Products or Consumables supplied by Xerox.

Purchased Equipment means Equipment or Third Party Hardware that Xerox sells to Customer under this Agreement and an Order.

Residuals means general ideas, concepts, know-how, methods, processes, technologies, techniques or information in non-tangible form, which may be retained in the unaided memory of persons who have had access to Confidential Information.

Services means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Standard back-office administrative and contract support functions, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.

Services Contract means one or more Orders having the same Services Contract number. Orders within a Service Contract are governed by the applicable terms and conditions of this Agreement and in each such Order.

Service Level Agreements (or **SLAs**) means the levels of performance for the Services, if applicable, as set out in the applicable Order.

Software means **Base Software** or **Application Software**.

Supplier Equipment means Equipment or Third Party Hardware which is supplied by Xerox to the Customer during the term of an Order and which is subject to the Services described in the Order. Supplier Equipment may also be Leased Equipment or Purchased Equipment.

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.

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.

Third Party Hardware means non-Xerox brand equipment.

Third Party Products means, collectively, Third Party Hardware and Third Party Software.

Third Party Software means non-Xerox brand software.

Transaction Taxes means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transaction-based gross receipts, and privilege Taxes.

Withholding Taxes means any and all Taxes or amounts that a Customer or Eligible Entity is required by applicable law to withhold or deduct from any Charge payable pursuant to this Agreement.

Xerox Affiliate(s) means Xerox or the Xerox Affiliate(s) that contracts to provide Services or Products under this Agreement.

Xerox Confidential Information has the meaning set forth in Section **DEF 1** (Confidential Information).

Xerox Customer 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 for their installation, use and access in accordance with the terms set forth in Section **GEN 1.9(e)**.

Xerox Intellectual Property means all of 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, excluding Customer Confidential Information.

Xerox Products means Equipment, Xerox-brand Software, and Consumables leased, rented, licensed, or purchased pursuant to this Agreement.

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

The terms and conditions in this General (GEN) Module apply to acquisition of Services, Maintenance Services, and/or Products by Customer and Eligible Entities.

GEN 1.1 Agreement Structure

- a. **General Contract Structure.** Xerox will provide, and Customer will procure, Services or Products in accordance with: (i) the terms and conditions stated in this Agreement; (ii) the terms set forth in a Services Contract or an individual Order.
- b. **Affiliates.** Xerox and its Affiliates may sell Services and Products under this Agreement; however, of Xerox's Affiliates, only Zeno Office Solutions may sell Services and Products to the University and its Direct Support Organizations. The University and its Direct Support Organizations, who have been identified at the website listed in GEN 1.1.b.i below, as well as Non-Affiliated Eligible Entities, may acquire Services and Products under this Agreement. If a Xerox Affiliate and an Eligible Entity enter into an Order, they shall be considered "Xerox" and "Customer", respectively, for the purposes of that Order, and receive the rights and benefits and undertake the responsibilities as Xerox and the Customer, respectively, under this Agreement.
 - i. <http://www.usf.edu/business-finance/purchasing/resources/dso.aspx>
- c. **Orders.** Orders shall specify:
 - i. the contracting Xerox Affiliate and Customer, and location(s) where the Services or Products will be provided;
 - ii. the Products and Services that Xerox will provide;
 - iii. the applicable Charges;
 - iv. any terms and conditions in addition to (and permitted as deviations from or supplements to) those specified in this Agreement;
 - v. the term during which the Services or Products described therein shall be provided; and
 - vi. a description of the responsibilities of each party with regard to the Services or Products to be provided.

Orders must reference this Agreement by name or assigned contract number in order to be incorporated herein.

Xerox may accept an Order by either by its signature or by commencing performance. Orders may be submitted by hard copy or electronic means (where acceptable to the Xerox Affiliate agreeing to and receiving the Order) and those submitted electronically will be considered: (i) a "writing" or "in writing"; (ii) "signed" by the Customer; (iii) an "original" when printed from electronic records established and maintained in the ordinary course of business; and (iv) valid and enforceable. Xerox reserves the right to review and approve the applicable Customer's credit prior to acceptance of an Order, and the applicable Customer authorizes the applicable Xerox Affiliate or its agent to obtain credit reports from commercial credit reporting agencies.

- d. **Purchase Orders.** Customer may issue purchase orders to Xerox for order entry purposes only, specifying the requested shipment date, installation site, quantities, bill-to address, description of Products to be delivered and term, and, if applicable,

Trade-In Equipment. Such purchase orders shall reference the Agreement by name or number, incorporate and be subject solely to this Agreement's terms and conditions, and any applicable Order hereunder, notwithstanding anything contained in such purchase order at variance with or in addition to this Agreement and any applicable Order. Any purchase order that meets the foregoing requirements shall be considered an Order hereunder.

- e. **Modules Incorporated by Reference.** Orders shall incorporate the terms and conditions of respective Modules hereunder as set forth in the chart below:

			MASTER AGREEMENT MODULE APPLICABILITY BASED ON NATURE OF SOLUTION BEING OFFERED							
			GEN	SVC	EQP	EL	EP	SW	MS	SMA
			Applies	Applies	Applies	Applies	Applies	Applies	Applies	Applies
Product Only										
	Lease		X		X	X		X	X	
	Purchase, with Maintenance Services		X		X		X	X	X	
	Purchase, without Maintenance Services		X		X		X	X		
	Maintenance Services Only		X					X	X	
Services (Customer/Customer Direct Affiliate)										
	Includes Product		X	X	X			X	X	
	Does Not Include Product		X	X						
Services (Customer Indirect Affiliate)										X

GEN 1.2 Charges and Payment

- a. **Charges.** Charges for the particular Services and Products will be as agreed to by the parties and set forth in an Order, and are exclusive of any and all Transaction Taxes. Xerox's then current overtime rates will apply to services requested and performed outside Customer's standard working hours.
- b. **Invoices.**
- i. **Payment.** If the invoice displays a due date, payment must be received by Xerox on or before the due date. If the invoice does not display a due date, payment must be received by Xerox within thirty (30) days after invoice receipt, which is deemed to occur three (3) days from the invoice date. Customer agrees to pay Xerox all undisputed amounts due under each invoice via P-card, check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account. Restrictive covenants on instruments or documents submitted for or with payments will not reduce Customer's obligations.
 - ii. **Disputes.** If Customer disputes any amount included in an invoice, then (a) Customer must notify Xerox of the dispute in writing, (b) such notice shall include a description of the item(s) Customer is disputing and the reason such item is being disputed; and (c) Customer shall promptly exercise its best efforts to work with Xerox to resolve such dispute and pay undisputed amounts in accordance with **subsection (i)** above. Regular recurring monthly Charges (such as Lease Minimum Payments for stand-alone lease transactions and Monthly Minimum Charges for Services transactions), shall not be subject to dispute at any time.

- c. **Late Payment.**
 - i. For any payment not received by Xerox within ten (10) days after the due date, Xerox may charge, and Customer agrees to pay, interest at a rate established pursuant to § 55.03(1), Florida Statutes, and Non-Affiliated Eligible Entities agree to pay the highest rate allowed by applicable law, or, absent such law, the rate of 1.5% per month, as reasonable collection costs.
 - ii. Neither party shall withhold or set-off any payment due to the other party under this Agreement or any Order, or any other agreement against any actual or alleged claim such party may have against the other under this Agreement or any Order, or any other agreement between the parties.

GEN 1.3 Taxes

- a. Charges are exclusive of any and all Transaction Taxes. Unless Xerox has received proof of Customer’s tax exempt status, Customer will be responsible for all Transaction Taxes. Transaction Taxes will be included in Xerox’s invoice. Customer shall not be responsible for Excluded Taxes. If a taxing authority determines that Xerox did not collect all Transaction Taxes, Customer shall remain liable to Xerox for such additional Transaction Taxes until six (6) months after the expiration of the statute of limitations (as extended) for such Transaction Tax.
- b. The State of Florida, and Customer as a state agency, is a tax immune sovereign and exempt from the payment of all sales, use or excise taxes. Xerox shall pay all personal property taxes on leased equipment, if applicable, and all taxes based upon net income.
- c. Xerox and Customer each agree to take commercially reasonable steps to cooperate with each other in order to minimize Taxes (including Transaction Taxes and Withholding Taxes) imposed with respect to the transactions contemplated by this Agreement to the extent permissible under applicable law.

GEN 1.4 Mainframe Equipment Rebate

Within sixty (60) days following the end of each calendar quarter, Xerox will pay an incentive rebate to the Customer for all mainframe units of Equipment installed hereunder in that quarter. The rebate will be equal to six percent (6%) of the “load price” (with such “load price” being the USF Purchase Price, as shown in the related Major Account Lease Pricing Exhibit) for all such Equipment.

GEN 1.5 Notices

Any notice, report, approval or consent required or permitted hereunder shall be in writing and will be deemed to have been given upon receipt or refusal if: (i) delivered personally, by courier or by express service; (ii) mailed by registered or certified mail postage prepaid; or (iii) sent by facsimile followed by a hard-copy confirmation, to the respective addresses of the parties set forth below or as may be otherwise designated by like notice from time to time.

If to Xerox: **Xerox Corporation**
 1511 N Westshore Blvd Suite
 225 Tampa, FL 33607
 Attention: Christopher McPherson
 Telephone: 813-636-4509

With a copy to: Xerox Corporation
 45 Glover Avenue
 Norwalk, CT 06856
 Attention: Office of General Counsel

If to Customer: **University of South Florida**
4202 East Fowler Ave – SVC
4010 Tampa, FL 33620

Attention: Carl Smith
Telephone: (813) 974-1047
Email: techcontracts@usf.edu

With a copy to: Lori Stevens
(813) 974-6627
itpurchasing@usf.edu

Invoices are not considered notices under this Agreement and are governed by provisions relating specifically thereto.

GEN 1.6 Mutual Responsibilities

Each party agrees:

- a. that neither party grants the other party the right to use its trademarks, trade dress, service marks, trade names, or other designations in any promotion or publication;
- b. each party grants the other only the licenses and rights explicitly set forth herein or in an Order and no other licenses or rights (including licenses or rights under patents, copyrights or other intellectual property) are granted; and
- c. unless otherwise set forth in an Order, in the event of a disassociation of a Direct Support Organization, Customer shall notify Xerox in writing and such disassociated Direct Support Organization will not be allowed to enter into subsequent or new Orders; however, Products installed or Services being provided to such disassociated entity under an existing Order shall retain the pricing and terms and conditions thereof until the Order's initial term expires.

GEN 1.7 Customer Responsibilities

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

- a. that Products acquired hereunder are ordered for Customer's own business use (rather than resale) and will not be used for personal, household or family purposes;
- b. to provide Xerox with timely and sufficient access to Customer Facilities, including network access where reasonably required, for Xerox to fulfill its obligations and provide Services or Products under an Order and to ensure that Customer Facilities are safe for Xerox personnel to work in and fully comply with all applicable laws and regulations;
- c. to permit Xerox to use or access Customer Assets, in each case as needed by Xerox to perform Services or provide Products under an Order, and will grant Xerox sufficient rights to use, access and, if agreed, modify the same;
- d. to bear the costs of providing access to and use of the Customer's Facilities and Customer Assets, without charge to Xerox;

- e. 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;
- 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 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 or provide Products;
- h. to contract for the minimum types and quantities of Equipment and Consumables required by Xerox to perform the Services (as set out in the applicable Order);
- 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 Xerox is not responsible for determining whether Customer Content that may be provided to Xerox for duplication, scanning or imaging may be duplicated, scanned, or imaged without violating a third party's intellectual property rights.

GEN 1.8 Warranties

- a. **Mutual Warranties.** Each party represents and warrants to the other, as an essential part of this Agreement, that:
 - i. it is duly organized and validly existing and in good standing under the laws of the state of its incorporation or formation;
 - ii. this Agreement has been duly authorized by all appropriate action for execution;
 - iii. the individuals signing this Agreement are duly authorized to do so;
 - iv. to its knowledge, it is under no obligation or restriction and will not assume any such obligation or restriction, that does or would in any way interfere or conflict with or would present a conflict of interest concerning the obligations set forth under this Agreement; and
 - v. it will comply with all laws applicable to the performance of its obligations under this Agreement.
- b. **Xerox Warranties.**
 - i. Services Warranty. Xerox warrants to the Customer that the Services and Maintenance 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 or Maintenance Services do not meet specifications, 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. As Customer's exclusive remedy for Xerox's non-compliance:
 - (a) if a specific remedy is set out in a particular Order, that remedy shall apply;
 - (b) if no specific remedy applies, Xerox will correct the failure within sixty (60) days of finalizing the plan, or in such other time period

agreed to in writing by the parties. If Xerox fails to correct the failure within the stated timeframe, Customer may terminate the affected portions of the Services, Maintenance Services, and/or related Products.

- 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. Customer's sole remedy for breach of this warranty is 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 meeting specifications or achieving any associated SLAs and other activities in the applicable Orders, to the extent that such delay or failure is caused by:
 - (a) the Customer's failure or delay in performing its responsibilities under this Agreement or the respective Order;
 - (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, Existing Equipment or the Output of Services.
- v. Disclaimer.
 - (a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT AND ANY ORDER HEREUNDER ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND XEROX DISCLAIMS AND CUSTOMER WAIVES ALL OTHER WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.
 - (b) The warranties set forth in this Agreement and any Order hereunder are expressly conditioned upon the use of the Services, Products and Output of Services for their intended purposes in the systems environment for which they were designed and shall not apply to any Services, Products or Output of Services which have been subject to misuse, accident, alteration or modification by the Customer or any third party.

GEN 1.9 Intellectual Property Ownership

- a. **Customer Intellectual Property.** Ownership of and title to all Customer Intellectual Property will remain with Customer. Customer grants to Xerox a non-exclusive, royalty-free, fully-paid up, worldwide license to use Customer

Intellectual Property only for purposes of providing Services or Products under this Agreement or an Order. Xerox shall not use Customer Intellectual Property for any other purpose. Xerox agrees not to decompile or reverse engineer any Customer Intellectual Property. Except as expressly set forth in this Agreement, no rights to any Customer Intellectual Property are granted to Xerox.

- b. Xerox Intellectual Property.** Ownership of and title in and to all Xerox Intellectual Property will remain with Xerox or its licensors. Customer shall not use Xerox Intellectual Property for any purpose except as expressly set forth in this Agreement or in an Order. Customer agrees not to decompile or reverse engineer any Xerox Intellectual Property. Except as expressly set forth in this Agreement, no rights to any Xerox Intellectual Property are granted to Customer.
- c. Ownership of Output of Services and License to Xerox Intellectual Property.** Except to the extent that the Output of Services may incorporate any Xerox Intellectual Property, the Output of Services shall be the sole and exclusive property of Customer, and Xerox shall gain no rights therein, except as may be required for Xerox to perform Services. Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services (excluding any incorporated Xerox Intellectual Property). To the extent that the Output of Services may incorporate any Xerox Intellectual Property, Xerox grants Customer a non-exclusive, perpetual (subject to revocation for default under this Agreement or the applicable Order), fully paid-up, worldwide right to use, display and reproduce the Xerox Intellectual Property only as required for use of the Output of Services for Customer's customary business purposes and for the purpose set forth in the applicable Order and not for resale, license or distribution outside of Customer's organization.
- d. 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 the Xerox Tools and, except as expressly set forth herein, no rights to 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. 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 Order, but Customer will have no rights to use, access or operate the Xerox Tools. Xerox may remove the Xerox Tools at any time in its 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.
- e. Xerox Customer 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 Customer Tools only for the purpose of receiving the Services for which they were provided. Customer has no other rights to the Xerox Customer Tools and, in particular, may not: (i) distribute, copy, modify, create derivatives of, decompile, or reverse engineer the Xerox Customer Tools, except as permitted by applicable law; or, (ii) allow others to engage in same. Title to the Xerox Customer Tools and all copyrights and other intellectual property rights in it shall, at all times, reside solely with Xerox and its licensors. Certain Xerox Customer Tools may be subject to mandatory third party flow-down terms and conditions, which will be provided separately with the applicable Xerox Customer Tool(s).
- f. Data Collection and Use.** When the Xerox Tools or Xerox Customer Tools are installed on Customer's network, the Xerox Tools or Xerox Customer Tools automatically collect data ("**Data**") from all of the Equipment and Third Party

Hardware that appear on Customer's network or are locally connected to another device on Customer's network. The Data is transmitted to a remotely hosted server that hosts those Xerox Tools that perform analysis and reporting functions. Data may include, but is not limited to, product registration, meter read, supply level, device configuration and settings, software version, and problem/fault code data. The automatic data transmission capability will not allow Xerox to read, view or download the content of any of Customer's documents residing on or passing through the Equipment or Third Party Hardware or Customer's information management systems. Data may be used by Xerox for billing, report generation, supplies replenishment, ongoing and future site optimization and product improvement purposes.

GEN 1.10 Indemnification

- a. **General Indemnification.** Xerox (and its Affiliates) and, to the extent allowed by applicable law, Customer shall indemnify, defend and hold harmless the other party and respective officers, directors, employees, agents, successors and assigns, from and against all claims by a third party for losses, damages, costs or liability of any kind (including expenses and reasonable legal fees) that a court finally awards such party ("**Claims**") for bodily injury (including death) and damage to real or tangible property to the extent proximately caused by the indemnifying party (or its Affiliates') negligent acts or omissions or willful misconduct, in connection with this Agreement or any Order hereunder. Nothing in this Agreement shall be construed as an indemnification of Xerox by Customer. Customer warrants and represents that as a sovereign entity, it is self-insured. Customer assumes any and all risk of personal injury and property damage attributable to the negligent acts or omissions of Customer and the officers, employees, and servants thereof while acting within the scope of their employment by Customer. Xerox and Customer agree that nothing contained herein shall be construed or interpreted as (a) the consent of Customer and State of Florida, their agents and agencies to be sued except as provided for herein; or (b) a waiver of sovereign immunity by Customer and the State of Florida beyond that provided in § 768.28, Florida Statutes.
- b. **Intellectual Property Infringement Indemnification.**
 - i. Xerox Indemnification. Xerox shall indemnify, defend and hold harmless Customer, and their respective officers, directors, employees, agents, successors and assigns, for all Claims that Xerox Products, Output of Services (excluding Customer Content), or Services ("**Indemnified Items**") infringe a third party's patent or copyright or other intellectual property rights or otherwise misappropriates a third party's intellectual property. However, Xerox shall have no obligation under this subsection to the extent any Claim is based on or arises out of any: (1) modification or alteration to such Xerox Products, Output of Services or Services not approved in writing by Xerox; (2) any combination or use of the Xerox Products, Output of Services, or Services with any product, service, data, or apparatus that Xerox did not provide, or was not approved in writing by Xerox, if such combination forms the basis of such Claim; (3) use of the Xerox Products, Output of Services, or Services not in accordance with the applicable Documentation; (4) Customer's failure to use corrections or enhancements to the Xerox Products, Output of Services, or Services provided by Xerox, if such failure forms the basis of such Claim; (5) Services performed using Customer Assets, Customer Content or other materials provided to Xerox by Customer for which Customer failed to

provide sufficient rights to Xerox; or (6) Products or Services infringement resulting from Customer's direction, specification, or design.

If a Claim is made or appears likely to be made, Customer agrees to permit Xerox, at Xerox's sole option and expense, to obtain the right to enable Customer to continue to use such Indemnified Items, to make them non-infringing or to replace them with items that are at least functionally equivalent. If Xerox determines that none of these alternatives is reasonably available, Customer agrees to return such Indemnified Items to Xerox upon Xerox's written request. Xerox will then give Customer a credit equal to the amount Customer paid Xerox for such Indemnified Items, less a reasonable usage fee.

- c. Indemnification Procedures.** The indemnification obligations set forth above in subsections **GEN 1.10(a) and (b)** are subject to the following:
- i. Customer shall give Xerox prompt written notice of any Claim for which it seeks indemnification and provide copies of such Claim and any documents relating to the action that is the basis of the Claim;
 - ii. Xerox shall have sole control over the defense and settlement of such Claim, provided that the Customer shall be entitled to participate in the defense of such Claim and to employ counsel at its own expense to assist in the handling of such Claim;
 - iii. Customer shall provide all reasonable cooperation requested by Xerox in order to properly defend such Claim at Xerox's own expense;
 - iv. Xerox shall obtain the prior written approval of the Customer before entering into any settlement of such Claim, if such settlement would adversely affect any rights of or impose any obligation or liability on the Customer; and
 - v. any failure or delay to notify Xerox under Section **GEN 1.10(c)(i)** above shall not relieve Xerox of its obligations under this Agreement or the respective Order except to the extent the failure or delay is materially prejudicial to Xerox's defense of the claim.

GEN 1.11 Limitation of Liability

Except as prohibited by law, the following limitations apply:

- a. **NO CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION **GEN 1.11.c.**, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND INDEMNITY) OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. **LIMITATION ON RECOVERY.** SUBJECT TO SECTION **GEN 1.11.c.**, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY (AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS) FOR DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND INDEMNITY), OR OTHERWISE, WILL BE

LIMITED TO AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF ALL CHARGES PAID BY CUSTOMER TO XEROX UNDER THE ORDER UNDER WHICH THE CLAIM AROSE (LESS PASS THROUGH EXPENSES SUCH AS, WITHOUT LIMITATION, POSTAGE) IN THE TWELVE (12) MONTHS PRIOR TO THE DATE UPON WHICH THE CLAIM AROSE OR \$200,000. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT AND ANY ORDERS HEREUNDER WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING SET FORTH IN THIS SECTION **GEN 1.11.b.** SHALL LIMIT CUSTOMER'S OBLIGATION TO PAY XEROX ALL CHARGES AND EXPENSES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.

- c. **EXCEPTIONS.** THE LIMITATIONS SET FORTH IN SECTION **GEN 1.11** SHALL NOT APPLY WITH RESPECT TO:
- i. EITHER PARTY'S WILLFUL MISCONDUCT OR FRAUD;
 - ii. A PARTY EXCEEDING ITS RIGHTS, IF ANY, TO THE OTHER PARTY'S INTELLECTUAL PROPERTY OR MISAPPROPRIATING OR INFRINGING THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS GRANTED UNDER THIS AGREEMENT. IN SUCH CASE, CUSTOMER'S LIABILITY SHALL NOT EXCEED \$200,000 PER CLAIMANT OR \$300,000 IN AGGREGATE.

GEN 1.12 Term and Termination

- a. **Term.** This Agreement shall commence on the Effective Date and continue for a term of five (5) years. The Customer may renew this Agreement for two additional one (1) year periods upon written notice at least sixty (60) days prior to the upcoming expiration. Each Order hereunder shall have its own term. In the event the Agreement expires or is terminated, each Order in effect at such time shall remain in full force and effect until the end of its term (including any extensions or renewals thereof) and shall at all times be governed by, and be subject to, the terms and conditions of this Agreement as if the Agreement were still in effect. Termination of any Order shall not affect this Agreement or any other Orders then in effect.

b. **Termination for Cause**

This Agreement may be terminated by either party immediately, or on expiration of the notice period specified in the notice, by written notice to the other party:

- i. if the other party commits a material breach of this Agreement (other than as set forth in **subsections ii.** and **iii.** below) that is capable of being remedied and such breach is not remedied within thirty (30) days following the service of written notice related thereto;
 - ii. if Xerox is the party in material breach and the material breach relates to the Services, Xerox shall have 60 days to cure the material breach;
 - iii. if Xerox does not receive any payment within fifteen (15) days after the date it is due, in which case Customer will be considered to be in default; or
 - iv. if the other party commits a material breach of this Agreement that is not capable of being remedied;
- c. **Survival.** In the event of any termination or expiration of this Agreement, any terms and conditions of this Agreement which by their nature extend beyond termination or expiration of the Agreement will remain in effect until fulfilled, and apply to the parties' and their respective successors and assigns.

GEN 1.13 Confidentiality

a. **Obligation.** Customer and Xerox acknowledge that, during the term of this Agreement and any Order hereunder, each party may be provided with or have access to, certain Confidential Information belonging to the other party. The parties will ensure that their employees comply with their respective corporate policies and procedures regarding the disclosure of Confidential Information. The parties agree to use the Confidential Information provided under this Agreement only for purposes directly related to the performance of obligations under this Agreement. The receiving party may not disclose Confidential Information to any third party unless such third party has a need to know such Confidential Information in order to perform under this Agreement and has agreed in writing to be bound by terms no less restrictive than those set forth herein. Each party shall be responsible for any breaches of the obligations in this Section by such third parties or employees. The receiving party shall protect the disclosing party's Confidential Information with the same degree of care that it uses to protect its own confidential information of like importance, but not less than reasonable care. Xerox may disclose the identity and address of Customer to Xerox's third party licensors if required for royalty reporting purposes.

b. **Unilateral Cancellation/Public Records Law.** Notwithstanding any confidentiality provisions in this Agreement, as an agency or subdivision of the State of Florida, Customer is subject to Chapter 119, Florida Statutes ("Florida Public Records Act"). As such, this Agreement and all associated materials and information may be considered a "public record." While Customer will endeavor not to voluntarily disclose this Agreement or other associated information, it reserves the absolute right to interpret its legal obligations under the Florida Public Records Act. Any necessary disclosure of this Agreement or any other information pursuant to a public records request shall not be considered a breach of any confidentiality provisions.

Further, Xerox may be considered a contractor of a public agency as defined in § 119.0701(1)(b), and may be required by law to keep and maintain public records related to its services; provide copies of, or allow inspection of, such public records to Customer upon request; and ensure that exempt or confidential and exempt records are not disclosed except as authorized by law. Upon completion of this Agreement or performance of the services, Xerox may transfer all public records related to the services to Customer, at no cost to Customer, or may keep such public records in accordance with the applicable state record retention requirements. If Xerox chooses to transfer such records to Customer, Xerox shall destroy any duplicate records in its possession that are exempt or confidential and exempt from disclosure.

CUSTOMER CANNOT PROVIDE LEGAL ADVICE TO XEROX REGARDING ITS LEGAL DUTIES. HOWEVER, XEROX MAY CONTACT CUSTOMER'S CUSTODIAN OF PUBLIC RECORDS AT USFPURCHASING@USF.EDU OR 813-974-2481 IF XEROX HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO XEROX'S DUTY TO PROVIDE AND MAINTAIN PUBLIC RECORDS RELATING TO THIS AGREEMENT.

Customer may unilaterally cancel the Agreement for refusal by Xerox to comply with the provisions of Chapter 119, Florida Statutes.

- c. **Exclusions.** The obligations of confidentiality will not apply to any Confidential Information that: (i) was publicly available prior to, at the time of, or subsequent to the date of disclosure through no fault of the receiving party; (ii) was rightfully in the receiving party's possession or the possession of any third party free of any obligation of confidentiality; or (iii) was developed by the receiving party's employees or agents independently of and without reference to any of the disclosing party's Confidential Information.
- d. **Return of Information.** Upon termination or expiration of an Order or Services Contract, except as otherwise set forth in this Agreement, the receiving party will deliver or return to the disclosing party, or destroy (at the disclosing party's request) all Confidential Information of the disclosing party that is related to such terminated or expired Order or Services Contract and is in the possession of the receiving party; provided, however, that terms regarding removal of Customer Confidential Information stored on hard drives on Equipment owned by Xerox, and any costs associated with such removal, will be set forth in the applicable Order.
- e. **Duration of Confidentiality Obligation.** The obligations set forth in this Section shall continue for 1 year after termination or expiration of this Agreement or the Order under which such Confidential Information was disclosed, whichever occurs later. Notwithstanding the foregoing, unless one or more of the exclusions in Section **GEN 1.13(b)** applies, the Customer's confidentiality obligations with respect to Xerox Intellectual Property, Xerox Tools and Xerox Customer Tools shall continue so long as they continue to be trade secrets as defined by § 688.002(4), Florida Statutes, as applicable.
- f. **Customer Technical Confidential Information.** The parties do not intend for Customer to disclose confidential technical information, which includes, but is not limited to, computer programs, source code and algorithms, and Customer will only disclose such information under a separate negotiated non-disclosure agreement.
- g. **Residual Rights.** Each party understands that the other party shall be free to use, for any purpose, the Residuals resulting from access to Confidential Information as a result of the performance of its obligations under an Order, provided that such party shall maintain the confidentiality of such Confidential Information as provided herein. Neither party shall pay royalties for any work resulting from the use of Residuals. However, the foregoing shall not be deemed to grant either party a license under the other's copyrights or patents.

GEN 1.14 Data Protection/Privacy

- a. **Customer as Controller.** The parties acknowledge and agree that Customer will be the controller of the Customer Content for purposes of all Privacy Laws, with rights to determine the purposes for which the Customer Content is processed and, so long as not inconsistent with, or an expansion of, Xerox's Services obligations hereunder, the means of processing, and nothing in this Agreement will restrict or limit in any way Customer's rights or obligations as owner or controller of the Customer Content. As such controller of the Customer Content, Customer directs Xerox to process the Customer Content exclusively in accordance with the terms of this Agreement, applicable Order and subsequent instructions from Customer, so long as such instructions are not inconsistent with or an expansion of Xerox's Services obligations hereunder. Customer agrees to comply with all applicable Privacy Laws.

- b. **Xerox Compliance.** Xerox's processing of the Customer Content is, and will at all times be, conducted in compliance with Xerox's privacy policies and with applicable Privacy Laws.
- c. **Xerox's Safeguards.** Xerox has adopted reasonable physical, technical and organizational safeguards designed to prevent accidental, unauthorized or unlawful loss, disclosure, access, transfer or use of Customer Content. Xerox will promptly notify, but in no event longer than five (5) days, Customer in the event of any known unauthorized access to or use of the Customer Content.
- d. **Customer Compliance.** Customer represents that it has been given or has obtained all consents of subjects of personal data as may be required by applicable Privacy Laws for the performance of the Services. In particular, as required by the applicable Privacy Laws in the states in which the Services are performed, Xerox and Customer acknowledge:
 - i. the scope and reasons for the management of personal data;
 - ii. the legal basis for the sharing of this personal data;
 - iii. the consequences resulting from any refusal to share any personal data;
 - iv. the scope and extent of the exchange of personal data in support of this Agreement and the applicable Order(s); and
 - v. the rights granted to the parties under the applicable Privacy Laws and this Agreement.
- e. **Consent.** Where applicable Privacy Laws require the Customer's express consent to be given to Xerox in order to process personal data, Section **GEN 1.14(a)** shall be sufficient for such purpose. The Customer also expressly consents to the processing of personal data by Xerox's subcontractors or other third parties who need to process such personal data in performing the Services, so long as such subcontractors have agreed to the confidentiality and data protection/privacy provisions of this Agreement.

GEN 1.15 Governing Law and Jurisdiction

- a. This Agreement, each respective Order, and any dispute or claim arising out of or in connection with this Agreement or such Order, shall be governed by and construed in accordance with the laws of Florida, without regard to its conflict of law provisions and submitted to the exclusive jurisdiction of the federal and state courts of Tampa, Florida.
- b. The parties consent to the exclusive jurisdiction of the courts specified in **subsection a** above, and expressly waive any objection to the jurisdiction or convenience of such courts.
- c. **Waiver of Jury Trial.** In any action to enforce this Agreement or any Order hereunder, the parties agree to waive their right, if any, to a jury trial.

GEN 1.16 Intentionally Omitted

GEN 1.17 Force Majeure

- a. **General.** Except for Customer's payment obligations, neither party shall be liable to the other during any period in which a party's performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control, which circumstances include, but are not limited to, the following: act of God (*e.g.*, flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of

sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and/or transportation; or, a restriction imposed by legislation, an order or a rule or regulation of a governmental entity (a “**Force Majeure Event**”). If such a circumstance occurs, the party whose performance is delayed or prevented shall undertake reasonable action to notify the other party thereof.

- b. **Avoidance of Breach.** Customer shall not be in breach of this Agreement in connection with a payment delay due to a Force Majeure Event: (i) if Customer undertakes all reasonable efforts to continue or resume its payment obligations; and (ii) Customer does the earlier of the following: (a) immediately pays all delayed payments and recommences regular payments once the Force Majeure Event no longer delays or prevents Customer’s ability to make payments, or (b) pays all delayed payments and recommences regular monthly payments within sixty (60) days after the date the Force Majeure Event first delayed or prevented payment, in either case not later than thirty (30) days following the end of the term of the applicable Order.

GEN 1.18 Intentionally Omitted

GEN 1.19 Insurance Coverage.

Xerox on behalf of itself and its Affiliates shall maintain the following limits of insurance coverage during the term of this Agreement:

- a. Where required by law, Workers Compensation, at statutory limits;
- b. Employers Liability, with \$1,000,000 limit of liability or at statutory limits, whichever is greater;
- c. Commercial General Liability, including Products-Completed Operations coverage and Broad Form Contractual, with \$2,000,000 limit of liability per occurrence for Bodily Injury and Property Damage;
- d. Where applicable, Automobile Liability, with a combined single limit of liability of \$2,000,000 per accident or at statutory limits, whichever is greater;
- e. Umbrella Liability, with \$5,000,000 limit of liability per occurrence; and
- f. Professional Liability, with \$2,000,000 limit of liability per occurrence.

GEN 1.20 Audits

Xerox will keep accurate records in support of the Charges for Services performed and Products provided hereunder and shall, upon reasonable written request, make such relevant records available to Customer for audit. Such records shall be kept for a period of three (3) years following the invoice date for Services performed or Products provided, as the case may be, to which such records apply (or for such longer period as required by applicable law). Notwithstanding the foregoing, Xerox shall not be required to disclose information deemed by Xerox to be confidential or proprietary (e.g., labor costs, benefit loads, parts costs, equipment costs, etc.). In addition, Customer will:

- a. provide at least sixty (60) days written notice to Xerox prior to any audit being conducted;
- b. ensure that any audit, inspection or verification is conducted during the hours of normal operation of the Xerox’s locations (or as otherwise agreed by the parties from time to time);
- c. as far as is commercially practicable, minimize disruption to Xerox’s business; and
- d. limit the frequency of such audits to no more than once per contract year.

Each party shall bear its own expenses in connection with such audit and ensure that any such audit is subject to all auditors executing appropriate confidentiality agreements with Xerox.

GEN 1.21 Compliance with Laws and Policies

- a. **Compliance with Laws.** Xerox and Customer shall comply with all applicable laws and regulations in the performance of their respective obligations under this Agreement. It is the Customer's responsibility to ensure that the Customer's Facilities meet applicable health and safety requirements.
- b. **Internal Policies.** Xerox agrees to comply with Customer's internal policies provided to Xerox by the Customer (University Customer's regulations and policies can be found at <http://regulationspolicies.usf.edu/>) regarding security and safety at the Customer's Facilities that are reasonable and customary under the circumstances and which do not conflict with the terms of this Agreement.

GEN 1.22 Funding (*Applies To State & Local Government Customers Only*)

Customer represents and warrants that all payments due and to become due during Customer's current fiscal year are within the fiscal budget of such year and are included within an unrestricted and unencumbered appropriation currently available for the acquisition of the Products, and it is Customer's intent to use the Products for the entire initial term and to make all payments required under the Agreement or an Order. If (i) through no action initiated by Customer, Customer's governing body does not appropriate funds for the continuation of the Agreement or an Order for any fiscal year after the first fiscal year and has no funds to do so from other sources, and (ii) Customer has made a reasonable but unsuccessful effort to find an assignee within Customer's general organization who can continue the Agreement or an Order, the Agreement or the Order may be terminated. To effect this termination, Customer must, 30 days prior to the beginning of the fiscal year for which Customer's governing body does not appropriate funds for the upcoming fiscal year, notify Xerox that Customer's governing body failed to appropriate funds and that Customer has made the required effort to find an assignee. Customer's notice must certify that canceled Equipment is not being replaced by equipment performing similar functions during the ensuing fiscal year. Customer agrees to release the Equipment to Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. Customer will then be released from any further payments obligations beyond those payments due for the current fiscal year.

GEN 1.23 Miscellaneous

- a. **Construction and Interpretation.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The section and paragraph headings contained herein are for convenience of reference only and shall not be considered as substantive parts of this Agreement. The use of the singular or plural form shall include the other form and the use of the masculine, feminine or neuter gender shall include the other genders. In construing or interpreting this Agreement, the word "including" shall not be limiting and the word "hereunder" shall mean under this Agreement. The parties agree that this Agreement shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against either party and that ambiguities shall not be interpreted against the drafting party.
- b. **Copies of Agreement.** Except as required by local 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

- c. **Amendment.** All changes to this Agreement must be made in a writing signed by Customer and Xerox. Any amendment of this Agreement shall not affect the obligations of either party under any then existing Orders, which shall continue in effect unless the amendment expressly states that it applies to such existing Orders.
- d. **No Waiver and Severability.** The failure by Customer or Xerox to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies will not be construed as a waiver of the right to assert those rights or to rely on that term or condition at any time thereafter. If any provision is held invalid by any arbitrator or any court under applicable law, such provision shall be deemed to be restated as nearly as possible to reflect the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect.
- e. **Independent Contractors.** Xerox shall perform all Services hereunder in the capacity of independent contractor and not as Customer's employee, agent or representative.
- f. **Assignment.** Neither party may assign this Agreement and any Order(s) hereunder without the prior written consent of the other party. In the event of an approved assignment by Xerox for the purposes of securitizing a pool of assets or as part of a third party financial transaction, Xerox, without notice to the Customer, may release information it has about the Customer and this Agreement. In the event of a permitted assignment by Xerox for the purposes of securitizing a pool of assets or as part of a third party financial transaction, Xerox, without further notice to the Customer, may release financial information it has about the Customer and this Agreement. Each successive assignee of Xerox will have all of the rights, but none of the obligations, of Xerox pursuant to this Agreement. Customer will continue to look to Xerox for performance of Xerox's obligations hereunder, and Customer hereby waives and releases any assignees of Xerox from any such claim. Customer will not assert any defense, counterclaim or setoff that Customer may have or claim against Xerox against any assignee of Xerox.
- g. **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.
- h. **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 subsection **GEN 1.23.h.**, 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.
- i. **Order of Precedence.** This Agreement, including all Schedules hereto, constitutes the entire agreement between the parties as to the subject matter and supersedes all prior and contemporaneous oral and written agreements regarding the subject matter hereof and neither party has relied on or is relying on any other information, representation, discussion or understanding in entering into and completing the transactions contemplated in this Agreement. The parties agree

that in the event of any conflict between the terms and conditions in this Agreement, and those contained in any of the documents referenced herein, the order of precedence shall be as follows:

- i. All modules of the Agreement other than the General Module;
- ii. General Module of this Agreement;
- iii. Services Contracts and related Orders (excluding any Customer purchase order terms).

However if a term in the main body of this Agreement or Schedule expressly provides for a term in a Schedule or Order to take precedence, such provision in the Schedule or Order shall prevail to the extent of any conflict.

Notwithstanding the foregoing, except as may be modified in **Schedule C**, provisions in the General Module of this Agreement related to: (i) Section **GEN 1.10** (Indemnification); (ii) Section **GEN 1.11** (Limitation of Liability); and (iii) Section **GEN 1.13** (Confidentiality) will prevail over conflicting provisions in any other contractual document.

GEN 1.24 - Entire Agreement

The following are attached hereto and made part hereof:

- . **SERVICES MODULE: TERMS AND CONDITIONS SPECIFIC TO SERVICES**
- . **EQUIPMENT MODULE: TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT & THIRD PARTY HARDWARE**
- . **EQUIPMENT LEASING MODULE: TERMS AND CONDITIONS SPECIFIC TO LEASED EQUIPMENT**
- . **EQUIPMENT PURCHASE MODULE: TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE**
- . **MAINTENANCE SERVICES MODULE: TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES**
- . **SOFTWARE LICENSE MODULE: TERMS AND CONDITIONS SPECIFIC TO SOFTWARE**
- . **SERVICES MASTER AGREEMENT (“SMA”) MODULE: STANDALONE SERVICES AGREEMENT FOR NON-AFFILIATED ELIGIBLE ENTITIES**

This Master Agreement constitutes the entire agreement between the parties relating to the acquisition by Customer of Services, Products, Maintenance Services, and Consumable Supplies under transactions that reference this Master Agreement, and supersedes all prior oral and written agreements relating to such subject matter. If there is a conflict between the terms and conditions in this Master Agreement and any of the documents referenced herein, this Master Agreement will control.

[SIGNATURES ON NEXT PAGE]

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 agree to the terms of this Master Agreement on behalf of themselves and their Affiliates.

**UNIVERSITY OF SOUTH FLORIDA
BOARD OF TRUSTEES, A PUBLIC
BODY CORPORATE**

Timothy C. Mays, Jr.

Digitally signed by Timothy C. Mays, Jr.
DN: cn=Timothy C. Mays, Jr., o=University of Florida,
ou=Purchasing Services, email=timothy45@usf.edu,
c=US
Date: 2018.06.12 11:25:33 -0400

Signature

Timothy C. Mays, Jr.

Name (Please Print)

Associate Director, Procurement Services

Title

4202 East Fowler Ave, Tampa, FL 33620

Address

June 12, 2018

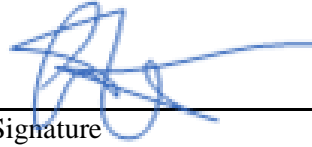
Date

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY



Joel Londrigan
ATTORNEY - USF

XEROX CORPORATION



Signature

Christopher McPherson

Name (Please Print)

General Manager, Southeastern US

Title

**1511 N Westshore Blvd, Suite 225
Tampa, FL 33607**

Address

June 15, 2018

Date

SERVICES MODULE

SVC 1 TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions in the General (GEN) Module, the following terms and conditions apply to Xerox's performance of Services. Xerox has assigned Services Master Agreement Number _____ to this Services Module.

SVC 1.1 Scope of Services

Subject to the terms and conditions of this Agreement, Services will be performed in accordance with the requirements set forth in an Order. In support of the delivery of the Services, Xerox and Customer will undertake the activities described in the Order. If Customer fails to perform or is delayed in performing any of its responsibilities under this Agreement or the Order, 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 Orders and Services Contracts

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 Service Module's Service Master Agreement Number followed by a three digit extension. Each Services Contract constitutes a separate contract under this 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 this Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number. Unless Customer provides notice in writing at least thirty (30) days before the end of the term of an Order of its intention not to renew, the Order will continue automatically on a month-to-month basis on the same terms and at the same price.

SVC 1.3 Charges for Services

Charges are based upon 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: (1) such information should prove to be incomplete or inaccurate in any material respect; or (2) 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. Variations to the Charges shall also occur pursuant to specific price variation terms appearing in an Order or, as agreed in writing by the parties, on the occasion of any variation to the Services. If not specified, Charges due under this Agreement or an Order shall be calculated at Xerox's then current time and materials rates. If Customer agrees to reimburse Xerox for travel expenses in this Agreement, such travel expenses will only be reimbursed by Customer if incurred in compliance with § 112.061, Florida Statutes. If Xerox provides paper under a Services Contract, upon 30 days' notice, Xerox may adjust paper pricing, or either party may terminate the provision of paper. If Xerox agrees to begin providing 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 1.4 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 1.5 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 to an Order. If Xerox determines such changes are feasible, Xerox will prepare and propose to Customer an amendment to the Order(s) regarding the requested changes and any related impact to the Charges or terms. All change orders to an Order and acceptance or rejection of such change orders shall be in writing. Once both parties execute a change order, Xerox will promptly proceed with the new revised Services set forth in the change order in accordance with the terms of the change order.

SVC 1.6 Early Termination of Services and Labor

Except as otherwise set forth in a Services Contract, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges, unless such Services or labor are terminated (a) by Xerox due to Customer's default or (b) by Customer, for reasons other than nonappropriations or Xerox uncured default, and Customer acquires similar services from another supplier within six (6) months of the termination of such Services or labor, Customer shall pay all amounts due as of the termination date, together with the early termination charges, for loss of bargain and not as a penalty, stated in the Order or, if not specifically stated therein, an amount equal to the then current MMC for said terminated or reduced Services or labor multiplied by the number of months remaining in the term of the related Order, not to exceed six (6) months.

SVC 1.7 Early Termination – Third Party and Amortized Services

Certain Services, such as consulting and training may be amortized over the term of the SSO or MSO (“**Amortized Services**”) or Xerox may provide funds to Customer to acquire Third Party Hardware or to license Third Party Software and/or to retire debt on existing Third Party Hardware (“**Third Party Funds**”). Collectively, Third Party Funds and Amortized Services are “**Funds**”. The Funds amount will be included in the Monthly Minimum Charge. Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

SVC 1.8 Xerox Remedies for Customer Default

If Customer defaults, Xerox, in addition to its other remedies (including the cessation of Services), may require immediate payment of (a) all amounts then due, plus interest on all amounts due from the due date until paid at the rate established pursuant to § 55.03(1), Florida Statutes, and (b) any applicable early termination charges.

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EQUIPMENT MODULE

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

In addition to the terms and conditions in the General (GEN) Module, the following terms and conditions apply to Equipment or Third Party Hardware provided to Customer under an Order.

EQP 1.1 Commencement Date and Date of Installation

The commencement date for each unit of Equipment provided under an Order shall be 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 or Third Party Hardware. Customer will be responsible for any non-standard delivery charges and, for Equipment for which Xerox retains ownership, all removal charges for Equipment or Third Party Hardware. Customer agrees to take responsibility for legally disposing of all hazardous wastes generated from the use of Third Party Hardware or supplies. 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 Equipment Status

Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third Party Hardware that Xerox may provide under any Order.

EQP 1.4 Product Availability

Xerox may withdraw Products that become generally commercially unavailable from future order taking under an Order. Xerox may add Products to this Agreement for order taking under an Order.

EQP 1.5 Consumables

If specified in an Order, Xerox will provide Consumables for Equipment. Consumables are Xerox's property until used by Customer and Customer will: (i) use them only with the Equipment for which they were provided under the applicable Order, (ii) return all Cartridges to Xerox as provided in this Agreement, and (iii) at the end of the term of the applicable Order, return any unused Consumables to Xerox at Xerox's expense when using Xerox-supplied shipping labels, or destroy them in a manner permitted by applicable law. Should Customer's use of Consumables exceed Xerox's published yields by more than 10%, Xerox may charge Customer for such excess usage.

EQP 1.6 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. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to Supplier Equipment. 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 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 that 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 1.7 Trade-In Equipment

If Customer is providing trade-in equipment ("**Trade-In Equipment**") to Xerox under an Order:

- a. Customer warrants that Customer has the right to transfer title to the Trade-In Equipment and that the Trade-In Equipment is in good working order and has not been modified from its original configuration (other than by Xerox). Title and risk of loss to the Trade-In Equipment will pass to Xerox when Xerox removes it from Customer's premises.
- b. Customer will maintain the Trade-In Equipment at its present site and in substantially its present condition until removed by Xerox.
- c. Customer will pay all accrued charges for the Trade-In Equipment (up to and including payment of the final principal payment number) and all applicable 1 maintenance, administrative, supply, and finance charges until Xerox removes the Trade-In Equipment from Customer's premises.

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 the Customer Maintenance Releases or Updates 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, Third Party Hardware 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.

EQP 1.9 Data Security

Certain models of Equipment can be configured to include a variety of 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 and costs associated with such features.

EQP 1.10 Supplier Equipment Provided with Services

In the event that, **other than through outright purchase**, Xerox provides Supplier Equipment to Customer in connection with the provision of Services, the following terms shall apply unless otherwise specified in an Order:

- a. Xerox (or the applicable third party vendor) shall at all times retain title to the Supplier Equipment provided as part of the Services. Customer will be responsible upon delivery for the risk of loss or damage of Supplier Equipment when such loss or damage is due to fire, theft, or disappearance, or willful misconduct, or the negligence of its employees acting within the scope of their employment. The full risk of loss for Supplier Equipment provided to a Non-Affiliated Eligible Entity shall pass to the Non-Affiliated Eligible Entity upon delivery to the Non-Affiliated Eligible Entity's Facility.
- b. Customer agrees to use the Supplier Equipment in accordance with, and to perform, all operator maintenance procedures for the Supplier Equipment described in the applicable manuals and Documentation provided by Xerox. Customer shall not (unless the Supplier Equipment is Purchased Equipment, and then only with Xerox's prior consent):
 - i. sell, charge, let or part with possession of the Supplier Equipment;
 - ii. remove the Supplier Equipment from the Customer's premises in which it is installed; or
 - iii. make any changes or additions to the Supplier Equipment.
- c. Equipment is ordered for a minimum order period (as specified in the applicable Order) and on the basis that the Equipment will be subject to the Services for that minimum order period. If Equipment is terminated for any reason before the end of its minimum order period, the termination charges as set out in the applicable Order for such Equipment (plus applicable Transaction Taxes) shall apply.
- d. At the end of the Order term, unless Customer opts to purchase the Equipment (where such option is available as set forth in the applicable Order), Customer shall work with Xerox to schedule the return of the Equipment, together with any related Software, to Xerox. At the time of removal, the Equipment (and related Software) will be in the same condition as when delivered, reasonable wear and tear excepted.
- e. Unless Customer provides notice in writing at least ninety (90) days before the end of the lease term of its intention not to renew, the Order for such Leased Equipment will continue automatically on a month-to-month basis on the same terms and at the same price.
- f. Except as expressly provided herein and as permitted by applicable law, Customer waives all rights and remedies conferred upon a lessee by Article 2A of the Uniform Commercial Code.

Where the Supplier Equipment to be used in the Services is being purchased outright, the following additional terms apply:

- a. Orders for an outright purchase of Equipment to be used with the Services shall include both the unique Xerox-provided contract number that is associated with the Equipment Purchase Module for purchased Equipment transactions under this Agreement, as well as either (i) the Services Contract Number that is associated with the Services Module of this Agreement, for ordering Customer and Customer Direct Affiliates, or (ii) the corresponding Services Master Agreement that is associated with the ordering Non-Affiliated Eligible Entity.
- b. Title to the Purchased Equipment will pass to Customer upon payment in full of the applicable Charges or, if payment is received in advance of delivery of the Purchased Equipment to the Customer Facility, upon delivery to the Customer Facility.
 - i. Xerox warrants that it has the right to transfer title to the Purchased Equipment;
 - ii. Xerox's standard warranty in effect for the Purchased Equipment at the time of delivery to the Customer shall apply.
- c. If Customer or a Non-Affiliated Eligible Entity fails to pay the applicable Charges for such 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 (plus all applicable Transaction Taxes), plus applicable interest, at a rate established pursuant to § 55.03(1), Florida Statutes, for Customer, or the highest rate allowed by applicable law, or, absent such law, the rate of 1.5% per month for Non-Affiliated Eligible Entities, on all amounts due from the due date until paid.
- d. Software provided with Supplier Equipment shall be governed by the terms set forth in the Software License Module of this Agreement.
- e. If Customer elects to receive Maintenance Services for Purchased Equipment, Customer shall do so under a separate Order under the Services Module of the Agreement for such Maintenance Services. Maintenance Services for Equipment that is provided as part of Services will be provided in accordance with the Maintenance Services Module of this Agreement.

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EQUIPMENT LEASING MODULE

EL 1 TERMS AND CONDITIONS SPECIFIC TO LEASED EQUIPMENT

In addition to the terms set forth in the General (GEN) and Equipment (EQP) Modules, the following terms apply to Leased Equipment Orders.

EL 1.1 Contract Number

On all Order documents for Major Account Lease Orders, Customer will include the contract number that is provided on the attached Major Account Lease Pricing Exhibit.

EL 1.2 Periodic Minimum Charge

As set forth on the applicable Order, the Periodic Minimum Charge for the Leased Equipment, along with any additional print charges, covers Customer's cost for the use of the Leased Equipment and Maintenance Services, for the term specified in the applicable Order.

EL 1.3 Term

The initial Term for any standalone lease Order will be the number of full calendar months stated in such Order. The Lease Minimum Payment for any partial month following the Installation Date will be billed on a pro rata basis, based on a 30 day month.

EL 1.4 Title, Risk of Loss, Insurance

Title to the Leased Equipment shall remain with Xerox until Customer exercises its purchase option, if available. Customer will be responsible upon delivery for the risk of loss or damage of Leased Equipment when such loss or damage is due to fire, theft, or disappearance, or willful misconduct, or the negligence of its employees acting within the scope of their employment.

EL 1.5 NON-CANCELABLE LEASE

LEASED EQUIPMENT SUBJECT TO THIS MODULE CANNOT BE CANCELED OR TERMINATED EXCEPT AS EXPRESSLY PROVIDED ELSEWHERE IN THIS AGREEMENT, AND CUSTOMER'S OBLIGATION TO MAKE ALL PAYMENTS DUE OR TO BECOME DUE UNDER ANY ORDER FOR LEASED EQUIPMENT SHALL BE ABSOLUTE AND UNCONDITIONAL, AND SHALL NOT BE SUBJECT TO ANY DELAY, REDUCTION, SET-OFF, DEFENSE, COUNTERCLAIM, OR RECOUPMENT FOR ANY REASON WHATSOEVER, IRRESPECTIVE OF XEROX'S PERFORMANCE OF ITS OBLIGATIONS HEREUNDER. ANY CUSTOMER CLAIM AGAINST XEROX MAY BE ASSERTED SOLELY AGAINST XEROX IN A SEPARATE ACTION.

EL 1.6 Early Termination

If any unit of Leased Equipment subject to this EL Module is terminated for any reason, including, without limitation, default by Customer, Xerox, in addition to its other remedies (including the cessation of Maintenance Services), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (i) all amounts then due, plus applicable interest on all amounts due from the due date until paid; (ii) the Lease Minimum Payment (less the Maintenance Services and Consumables components thereof, as reflected on Xerox's books and records) remaining in the initial term of the Order for the unit of Leased Equipment, discounted at the applicable rate; (iii) where applicable, any purchase option as set forth in the Order; and (iv) all applicable Transaction Taxes. In

addition to paying the amounts required in the preceding sentence, Customer shall either (i) make the Leased Equipment available for removal by Xerox (or by Customer where applicable) when requested to do so by Xerox and, at the time of removal, the Leased Equipment will be in the same condition as when delivered, reasonable wear and tear excepted, together with any related Software or (ii) if available as an option, purchase the Leased Equipment "AS IS, WHERE IS" and WITHOUT ANY WARRANTY AS TO CONDITION OR VALUE by paying Xerox the purchase option, if available, as set forth in the applicable Order, plus all applicable Transaction Taxes. If any unit of Leased Equipment subject to this EL Module is terminated for any reason, other than nonappropriations in accordance with Section **GEN 1.22** or uncured Xerox default in accordance with subsection **GEN 1.12.b.**, including, without limitation, defaults under the Agreement or a Standard Lease IA, Xerox may, in addition to its other remedies (including cessation of Maintenance Services), remove the Equipment at Customer's expense and require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due, plus interest from the due date until paid at the rate established pursuant to § 55.03(1), Florida Statutes for Customer, and the highest rate allowed by applicable law, or, absent such law, the rate of 1.5% per month for Non-Affiliated Eligible Entities; (b) the Lease Minimum Payments (less the Maintenance Services and Consumable Supplies components thereof, as reflected on Xerox's books and records) remaining in the initial Term of the Standard Lease IA, discounted at 4% per annum; (c) the applicable Purchase Option; and (d) all applicable Taxes. If Customer notifies Xerox and makes the Equipment available for removal by Xerox in the same condition as when delivered (reasonable wear and tear excepted) within 30 days after notice of default, upon recovery of the Equipment Customer will receive a credit for the fair market value of the Equipment (as determined by Xerox), less any costs incurred by Xerox.

EL 1.7 Leased Equipment Return

At the end of the lease term, Customer shall contact Xerox to schedule the return of the Leased Equipment together with any related Software to Xerox. At the time of removal, the Leased Equipment (and related Software) will be in the same condition as when delivered, reasonable wear and tear excepted.

EL 1.8 Maintenance Component Price Increase

Unless otherwise stated in an Order, Xerox may annually increase that amount of the Periodic Minimum Charge that Customer is charged for maintenance of Leased Equipment (the "**Maintenance Component**").

EL 1.9 Renewal

Unless Customer provides notice in writing at least ninety (90) days before the end of the term of an Order for Leased Equipment of its intention not to renew, said Order for such Leased Equipment will continue automatically on a month-to-month basis on the same terms and pricing.

EL 1.10 Finance Lease

A LEASE TRANSACTION DOCUMENT IS A "FINANCE LEASE" UNDER ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE AND, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED HEREIN, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A.

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EQUIPMENT PURCHASE MODULE

EP 1 TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in the General (GEN) Module, the following terms and conditions apply to the acquisition of Purchased Equipment.

EP 1.1 Contract Number

On all Order documents for Equipment Purchase Orders, Customer will include the contract number that is provided on the attached Equipment Purchase Pricing Exhibit.

EP 1.2 Title and Risk of Loss

Title and risk of loss to such Purchased Equipment will pass to Customer upon delivery to Customer Facility.

EP 1.3 Default

If Customer defaults under an Order 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 plus all applicable Transaction Taxes), plus applicable interest, at a rate established pursuant to § 55.03(1), Florida Statutes for Customer, or the highest rate allowed by applicable law, or, absent such law, the rate of 1.5% per month, for Non-Affiliated Eligible Entities on all amounts due from the due date until paid.

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MAINTENANCE SERVICES MODULE

MS 1 TERMS AND CONDITIONS SPECIFIC TO MAINTENANCE SERVICES

In addition to the terms and conditions in the General (GEN) Module, and except as otherwise set forth in an Order, the following terms and conditions apply to the provision of Maintenance Services.

MS 1.1 Maintenance Services

As a mandatory part of an Order that includes leased or rented Equipment, or pursuant to an Order for stand-alone Maintenance Services, or pursuant to an Order for Services that includes Maintenance Services for Equipment, 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”. This Module does not apply to maintenance of Third Party Hardware. Any such maintenance that Xerox provides on Third Party Hardware will be provided in accordance with the terms of the applicable Order. .

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 Consumables 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.

MS 1.3 Hours and Exclusions

Unless otherwise set forth in an Order, Maintenance Services will be provided during Xerox’s standard working hours (excluding locally-recognized Xerox holidays) in the areas within the geography in which the Equipment is delivered. Maintenance Services excludes repairs due to: (i) misuse, neglect or abuse; (ii) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox’s published specifications; (iii) use of options, accessories, or other products not serviced by Xerox; (iv) non-Xerox alterations, relocation, service or supplies; or (v) failure to perform operator maintenance procedures identified in operator manuals. Customer agrees to use Equipment in accordance with, and to perform all operator maintenance procedures for Equipment set

forth in, the applicable manuals and Documentation provided by Xerox. Customer agrees to purchase 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 (i) has been provided by Xerox or (ii) 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, 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 lease term of the Order and it shall be subject to the terms and conditions of this Agreement and the applicable Order(s). This remedy applies only if the Equipment has been continuously and exclusively maintained by Xerox or its designated service provider from the Date of Installation. Customer's use of non-Xerox approved consumables that affect the performance of the Equipment may invalidate this remedy.

MS 1.6 Charges for Maintenance Services

Except as otherwise stated in an Order, Xerox may annually increase charges for Maintenance Services.

MS 1.7 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.

MS 1.8 Remedy for Default (applies to Purchase with Maintenance Orders, and Maintenance Services Only Orders)

Unless otherwise agreed to by the parties in an Order, if Customer defaults under this Agreement or a Maintenance Services Order, Xerox, in addition to its other remedies (including the cessation of Maintenance Services), may require immediate payment, as liquidated damages for loss of bargain and not as a penalty, of: (a) all amounts then due, plus applicable interest on all amounts due from the due date until paid (at the rate established pursuant to § 55.03(1), Florida Statutes, for Customer, or the highest rate allowed by applicable law, or, absent such law, the rate of 1.5% per month for Non-Affiliated Eligible Entities; (b) the lesser of (i) the remaining minimum periodic base charge in such Maintenance Services Order's term, not to exceed six (6) such (minimum periodic base charge) payments for one year Maintenance Services Orders, or twelve (12) such payments for multi-year Maintenance Services Orders; and, (c) all applicable Transaction Taxes.

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SOFTWARE LICENSE MODULE

SW 1 TERMS AND CONDITIONS SPECIFIC TO SOFTWARE

In addition to the terms and conditions in 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: (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, possesses the Equipment with which the Base Software was provided; or (ii) upon the expiration or termination of any Order under which Customer has leased 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, or be modified to contain, computer code capable of automatically disabling proper operation or functioning of the Equipment. Such disabling code may be activated if: (i) Xerox is denied reasonable access to periodically reset such code; (ii) Customer is notified of a default under an Order; or (iii) Customer's license is terminated or expires. Xerox shall notify Customer by screen message at least sixty (60) days prior to the activation of any such disabling code. In the event Customer has notified Xerox in writing that it disputes Xerox's right hereunder to disable the Equipment by activation of disabling code with respect to any Software, Xerox shall, if provided timely access to such Software by Customer, deactivate the disabling code until such dispute has been resolved to Customer's reasonable satisfaction, provided that Customer shall pay to Xerox any then current license fees for the Software that remained activated past its scheduled termination or expiration date and that such default (*i.e.*, subsection (ii) above) is not related to non-payment.
- 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

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.
- b. Xerox may make available new releases of the Software that primarily incorporate coding error fixes and 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. New releases of the Software that are not Maintenance Releases which include new content or functionality (“**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.

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.

SW 1.4 Third Party Software

Third Party Software is subject to license and support terms provided by the applicable Third Party Software vendor.

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**SERVICES MASTER AGREEMENT (“SMA”) MODULE
STANDALONE SERVICES AGREEMENT FOR NON-AFFILIATED ELIGIBLE
ENTITIES**



SERVICES MASTER AGREEMENT

THIS SERVICES MASTER AGREEMENT NO. << Enter 7 Digit Contract Number >>> (the “Agreement”, or “Contract”, or “SMA”) is between Xerox Corporation (“**Xerox**”), a New York corporation with offices at 201 Merritt 7, Norwalk, CT 06851 and << Enter Customer’s Legal Name >>> (“Customer”).

AGREEMENT STRUCTURE

This Agreement serves as a master agreement to enable Xerox and Customer to contract with each other for a range of products and services to be provided to the Customer over time. *However*, it is the intent of the parties that the products and services be acquired by the Customer under the auspices of the Master Agreement between Xerox and the University of South Florida (the “Master Agreement”) that resulted from the award of the **Invitation To Negotiate ITN-17-16-MH**. *Therefore*, the terms and conditions of the ITN Contract are incorporated herein by reference; however, and any conflict or inconsistency between the below terms and conditions of this Agreement and the Master Agreement shall be resolved in favor of this Agreement.

This 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 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. **Agreement** means this Services Master Agreement. This 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 consulting 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 Agreement.
- h. **Confidential Information** means information identified as confidential and provided by the disclosing party to the receiving party.
- i. **Consumable Supplies.** Consumable Supplies vary depending upon the Equipment model, and include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as "Phaser", only, 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 staples.
- 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.
- 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.
- 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. **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.
- t. **Effective Date** means the date this Agreement is signed by Xerox.
- u. **Equipment** means Xerox-brand equipment.

- v. **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 Agreement.
- w. **Existing Equipment** means devices which are leased, rented or owned by the Customer outside of this 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.
- x. **Existing Software** means software licensed by the Customer outside of this 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.
- y. **Feature Releases** means new releases of Software that include new content or functionality.
- z. **Force Majeure Event** means a circumstance beyond a party's reasonable control, which circumstances include, but are not limited to, the following: act of God (e.g., flood, earthquake, wind); fire; war; act of a public enemy or terrorist; act of sabotage; strike or other labor dispute; riot; misadventure of the sea; inability to secure materials and/or transportation; or a restriction imposed by legislation, an order or a rule or regulation of a governmental entity.
- aa. **Funds** means collectively Amortized Services and Third Party Funds.
- bb. **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."
- cc. **Maintenance Services** means required maintenance of Equipment to keep the Equipment in good working order.
- dd. **Module** means a specific set of terms and conditions contained in this Agreement that is identified as a "Module." The Modules under this Agreement are the DEF, GEN, SVC, EQP, EP, MS and SW Modules.
- ee. **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.
- ff. **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 Agreement ("XOA") (which is used solely for an outright purchase by Customer under the EP module of this 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.
- gg. **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.
- hh. **Privacy Laws** means state, federal, and international laws relating to data privacy and data protection as applicable to Xerox's performance of the Services.

- ii. **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.
- jj. **Products** means Software, Equipment, Third Party Products and/or Consumable Supplies supplied by Xerox and provided to Customer pursuant to an Order.
- kk. **Purchase Order or PO** means a document containing the applicable Services Contract number that is issued by Customer to Xerox for Order entry purposes only. Any terms in a PO are not binding and are of no force or effect.
- ll. **Purchased Equipment** means Equipment or Third Party Hardware that Xerox sells outright to Customer under the EP Module.
- mm. **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.
- nn. **Remote Data Access** means electronic transmission of Remote Data to or from a secure offsite location.
- oo. **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.
- pp. **Service Level Agreements or SLAs** means the levels of performance for the Services, if applicable, as set out in the applicable Order.
- qq. **Services** means managed services (e.g. copy center and mailroom services), consultative services, and/or professional services, including, but not limited to, assessment, document management, and managed and centralized print services, as more fully described in the applicable Order. Standard back-office administrative and contract support functions, such as billing, contract management and order processing, are not Services, but are included in the pricing provided for the Services hereunder.
- rr. **Services Contract** means the applicable terms and conditions of this Agreement, the first Order having a particular assigned Services Contract number, and each additional Order, if any, with the same Services Contract number.
- ss. **Software** means Base Software and Application Software.
- tt. **Statement of Work or SOW** means a document which references the applicable Services Contract number and specifies the details of a particular transaction where Customer wishes to acquire Services, Maintenance Services and/or Products from Xerox under this Agreement.
- uu. **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.
- vv. **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.
- ww. **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.

- xx. **Third Party Hardware** means non-Xerox brand equipment.
- yy. **Third Party Products** means, collectively, Third Party Hardware and Third Party Software.
- zz. **Third Party Software** means non-Xerox brand software.
- aaa. **Transaction Taxes** means any and all Taxes that are required to be paid in respect of any transaction and resulting Charges under this Agreement and any transaction documents, including but not limited to sales, use, services, rental, excise, transaction-based gross receipts, and privilege Taxes.
- bbb. **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.
- ccc. **Xerox Confidential Information** means Confidential Information belonging to Xerox and includes, without limitation, whether marked as such or not, any services procedures manuals, Xerox Tools, Xerox Client Tools and Xerox Intellectual Property.
- ddd. **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).
- eee. **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.
- fff. **Xerox Products** means Equipment, Software and Consumable Supplies acquired pursuant to this Agreement.
- ggg. **Xerox Tools** means certain proprietary tools used by Xerox to provide certain Services, and any modifications, enhancements, improvements thereto and derivative works thereof.

GENERAL MODULE

GEN 1. – GENERAL

The terms and conditions in this General (GEN) Module apply to all Services, Maintenance Services, and Products acquired by Customer under this Agreement.

GEN 1.1– AGREEMENT STRUCTURE

- a. **General Contract Structure.** The parties intend for this Agreement to serve as a master agreement stating the terms and conditions governing separate transactions between (i) Xerox and Customer, and (ii) Xerox and Customer Affiliates. Xerox will provide, and Customer will procure, Services, Maintenance Services and/or Products in accordance with the terms and conditions stated in this Agreement, any Services Contract(s), and any applicable Orders.
- b. **Orders and Services Contracts.**
 - i. Xerox may accept Orders either by its signature or by commencing performance. Xerox reserves the right to review and approve Customer's credit, or in the case of an Order by a Customer Affiliate, such Affiliate's credit, prior to acceptance of an Order and the entity placing the Order hereby authorizes Xerox or its agent to obtain credit reports from commercial credit reporting agencies for this purpose. If a Customer Affiliate establishes a Services Contract by placing an Order hereunder, it will be the "Customer" for the purposes of such Services Contract.

- ii. 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 Agreement's number followed by a three digit extension. Each Services Contract constitutes a separate contract under this 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 this Agreement, the first Order under the Services Contract number and each additional Order with the same Services Contract number.
- iii. Unless Customer provides notice in writing at least thirty (30) days before the end of the term of an Order of its intention not to renew, the Order will renew automatically on a month-to-month basis on the same terms and at the same price.
- iv. 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 – CHARGES, PAYMENT AND DEFAULT

- a. **Charges.** Charges for the particular Services, Maintenance Services, and/or Products will be set forth in an Order and are exclusive of any and all Transaction Taxes. Xerox's then current overtime rates will apply to Services requested and performed outside Customer's standard working hours.
- b. **Payment.** Customer agrees to pay Xerox all undisputed amounts due under each invoice via check, Automated Clearing House debit, Electronic Funds Transfer, or direct debit from Customer's bank account within thirty (30) days from invoice receipt, which is deemed to occur three (3) days from the invoice date. Restrictive covenants submitted for or with payment to indicate that it is in full satisfaction of an invoice will not operate as an accord and satisfaction to reduce Customer's payment obligations if it is not, in fact, full payment. For any payment not received by Xerox within ten (10) days after the due date, Xerox may charge, and Customer agrees to pay, a late charge of the greater of \$25 or five percent (5.0%) of the amount overdue (not to exceed the maximum amount permitted by applicable law) as reasonable collection costs. If Customer disputes any amount included in an invoice, then (i) Customer must notify Xerox of the dispute in writing, (ii) such notice shall include a description of the items Customer is disputing and the reason such items are being disputed; and (iii) Customer shall promptly exercise its best efforts to work with Xerox to resolve such dispute. Pending resolution of such disputed amount, Customer shall pay any and all undisputed amounts within thirty (30) days of invoice date, including the MMC which Customer agrees shall not be subject to dispute at any time.
- c. **Default.** Customer will be in default if Xerox does not receive any payment within fifteen (15) days after the date it is due, or if Customer breaches any other obligation under this Agreement, any Services Contract, or any other agreement with Xerox. If Customer, defaults, Xerox, in addition to its other remedies (including cessation of Services, Maintenance Services and/ or Consumable Supplies), may require immediate payment of (1) all amounts then due, plus interest on all amounts due from the due date until paid at the rate established by applicable law, or, absent such law, the rate of 1.5% per month, and (2) any early termination charges set forth in this Agreement or in the applicable Services Contract and/or Order(s).

GEN 1.3 – TAXES

Customer will be responsible for all Transaction Taxes. Transaction Taxes will be included in Xerox's invoice unless Xerox receives proof of Customer's tax exempt status. Customer shall not be responsible for Excluded Taxes.

GEN 1.4 – RESERVED.

GEN 1.5 – RESERVED.

GEN 1.6 – CUSTOMER RESPONSIBILITIES

Customer agrees to perform its responsibilities under this 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 (or its Affiliates') 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;
- 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. **Mutual Warranties.** Each party represents and warrants to the other, as an essential part of this Agreement, that:
 - i. it is duly organized and validly existing and in good standing under the laws of the state of its incorporation or formation;
 - ii. this Agreement and the Orders hereunder have been duly authorized by all appropriate corporate action for signature; and

- iii. the individual signing this Agreement, and all Orders (where applicable), is duly authorized to do so.
- b. **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. As Customer's exclusive remedy under this warranty for 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. Customer's sole remedy for breach of this warranty is 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 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.
- c. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND XEROX DISCLAIMS AND CUSTOMER WAIVES ALL OTHER WARRANTIES INCLUDING ANY WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED HEREIN AND AS PERMITTED BY APPLICABLE LAW, CUSTOMER WAIVES ALL RIGHTS AND REMEDIES CONFERRED UPON A LESSEE BY ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.
- d. The warranties set forth in this Agreement are expressly conditioned upon the use of the Services, Products and Output of Services for their intended purposes in the systems environment for 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 Agreement. Xerox agrees not to decompile or reverse engineer any Customer Intellectual Property. Except as expressly set forth in this Agreement, no rights to any Customer Intellectual Property are granted to Xerox.
- b. **Ownership of Output of Services and License to Xerox Intellectual Property.** Except to the extent that the Output of Services may incorporate any Xerox Intellectual Property, the Output of Services shall be the sole and exclusive property of Customer. To the foregoing extent, Xerox hereby assigns, grants, conveys, and transfers to Customer all rights in and to the Output of Services for the applicable Order. To the extent that the Output of Services may incorporate any Xerox Intellectual Property, Xerox grants Customer a non-exclusive, perpetual, fully paid-up, worldwide right to use, display and reproduce the Xerox Intellectual Property only as required for use of the Output of Services for Customer's customary business purposes and not for resale, license or distribution outside of Customer's organization. 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 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 – INDEMNIFICATION

- a. **General Indemnification.** Xerox and, to the extent allowed by applicable law, the Customer, if promptly notified and given the right to control the defense, shall indemnify, defend and hold harmless the other party, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, from and against all claims by a third party for losses, damages, costs or liability of any kind (including expenses and

reasonable legal fees) that a court finally awards such party ("Claims") for bodily injury (including death) and damage to real or tangible property, to the extent proximately caused by the negligent acts or omissions, or willful misconduct of the indemnifying party (or its Affiliates) in connection with this Agreement.

- b. Xerox Indemnification.** Xerox shall, if promptly notified by Customer (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Customer, its Affiliates and their respective officers, directors, employees, agents successors and assigns, for all Claims that Xerox Products or Customer's use of the Services provided by Xerox under this Agreement infringe a U.S. patent, copyright or other intellectual property right. Notwithstanding anything to the contrary herein, Xerox shall have no obligation under this subsection **GEN 1.9(b)** to the extent any Claim is based on or arises out of any (i) Services performed using Customer Assets, Customer Content or other materials provided to Xerox by Customer for which Customer failed to provide sufficient rights to Xerox; (ii) infringement by Services resulting from Customer's direction, specification or design, (iii) modification or alteration to such Xerox Products or Services not approved in writing by Xerox; (iv) any combination or use of the Xerox Products or Services not approved in writing by Xerox; (v) use of the Xerox Products or Services not in accordance with the applicable Documentation; or (vi) Customer's failure to use corrections or enhancements to the Xerox Products provided by Xerox. If a Claim is made, or appears likely to be made, pursuant to this subsection **GEN 1.9(b)**, Customer agrees to permit Xerox, at Xerox's sole option and expense, to obtain the right to enable Customer to continue to use such Xerox Products, to make them non-infringing or to replace them with items that are at least functionally equivalent. If Xerox determines that none of these alternatives is reasonably available, Customer agrees to return such Xerox Products to Xerox upon Xerox's written request. Xerox will then give Customer a refund equal to the amount Customer paid Xerox for such Xerox Products less a reasonable usage fee.
- c. Customer Indemnification.** To the extent allowed by applicable law, Customer shall, if promptly notified by Xerox (or its Affiliate(s)) and given the right to control the defense, indemnify, defend and hold harmless Xerox, its Affiliates, and their respective officers, directors, employees, agents, successors and assigns, for all Claims for intellectual property infringement to the extent such Claim is based on (i) Xerox's use of Customer Assets or customer's content or materials used in performing Services or providing Products under this Agreement or any Order entered into hereunder; (ii) Customer's use of the Products or Services not in accordance with this Agreement or the applicable Documentation; and (iii) Claims arising out of or related to Section **GEN 1.9(b)(i)-(vi)** or Customer's failure to perform its responsibilities under Section **GEN 1.6(j)**
- d.** The indemnifying party is not responsible for any litigation expenses of the indemnified party or any settlements unless it pre-approves them in writing.

GEN 1.10 – LIMITATION OF LIABILITY

Except as prohibited by law, the following limitations apply:

- a. NO CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION **GEN 1.10(c)**, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND INDEMNITY) OR OTHERWISE, AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b. LIMITATION ON RECOVERY.** SUBJECT TO SECTION **GEN 1.10(c)**, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY (AND ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS) FOR DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT,

WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND INDEMNITY), OR OTHERWISE, WILL BE LIMITED TO AN AMOUNT EQUAL TO THE LESSER OF THE AMOUNT OF ALL CHARGES PAID BY CUSTOMER TO XEROX UNDER THE ORDER UNDER WHICH THE CLAIM AROSE (LESS PASS THROUGH EXPENSES SUCH AS, WITHOUT LIMITATION, POSTAGE) IN THE TWELVE (12) MONTHS PRIOR TO THE DATE UPON WHICH THE CLAIM AROSE OR \$200,000. THE EXISTENCE OF MULTIPLE CLAIMS OR SUITS UNDER OR RELATED TO THIS AGREEMENT AND ANY ORDERS HEREUNDER WILL NOT ENLARGE OR EXTEND THIS LIMITATION OF DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING SET FORTH IN THIS SECTION **GEN 1.10(b)** SHALL LIMIT CUSTOMER'S OBLIGATION TO PAY XEROX ALL CHARGES AND EXPENSES FOR PRODUCTS AND SERVICES PROVIDED UNDER THIS AGREEMENT.

- c. **EXCEPTIONS.** THE LIMITATIONS SET FORTH IN SECTION **GEN 1.10** SHALL NOT APPLY WITH RESPECT TO:
- i. EITHER PARTY'S WILLFUL MISCONDUCT OR FRAUD;
 - ii. A PARTY EXCEEDING ITS RIGHTS, IF ANY, TO THE OTHER PARTY'S INTELLECTUAL PROPERTY OR MISAPPROPRIATING OR INFRINGING THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS GRANTED UNDER THIS AGREEMENT.

GEN 1.11 – TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall continue for a term of months, and continue on a month-to-month basis thereafter until expressly renewed by mutual written agreement or terminated by either party upon thirty (30) days' written notice. 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 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, the terms and conditions of this Agreement as if this Agreement were still in effect. Termination of any Order shall not affect this Agreement or any other Orders then in effect. Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

GEN 1.12– CONFIDENTIALITY

- a. **Obligation.** Customer and Xerox acknowledge that, during the term of this Agreement and any Order hereunder, each party (or its Affiliates) may be provided with or have access to, certain Confidential Information belonging to the other party (or its Affiliates). The parties will ensure that their employees comply with their respective corporate policies and procedures regarding the disclosure of Confidential Information. The parties agree to use the Confidential Information provided under this Agreement only for purposes directly related to the performance of obligations and use of rights granted under this Agreement. The receiving party may not disclose Confidential Information to third parties unless such third party has a need to know such Confidential Information in order to perform under this Agreement and has agreed in writing to be bound by terms no less restrictive than those set forth herein. Each party shall be responsible for any breaches of the obligations in this Section by its employees and such third parties. The receiving party shall protect the disclosing party's Confidential Information with the same degree of care that it uses to protect its own confidential information of like importance, but not less than reasonable care. Each party agrees not to disclose the terms and conditions of this Agreement, all Services Contracts and Orders, and any attachments and exhibits thereto, without the other party's prior written consent. Xerox may use Customer as a reference with other

customers, including in marketing materials. Xerox may disclose the identity and address of Customer to Xerox's third party licensors if contractually required for royalty reporting purposes.

- b. **Unilateral Cancellation/Public Records Law. (*applicable to State and Local Florida Government Customers only*)** Notwithstanding any confidentiality provisions in this Agreement, as an agency or subdivision of the State of Florida, Customer is subject to Chapter 119, Florida Statutes ("Florida Public Records Act"). As such, this Agreement and all associated materials and information may be considered a "public record." While Customer will endeavor not to voluntarily disclose this Agreement or other associated information, it reserves the absolute right to interpret its legal obligations under the Florida Public Records Act. Any necessary disclosure of this Agreement or any other information pursuant to a public records request shall not be considered a breach of any confidentiality provisions.

Further, Xerox may be considered a contractor of a public agency as defined in § 119.0701(1)(b), and may be required by law to keep and maintain public records related to its services; provide copies of, or allow inspection of, such public records to Customer upon request; and ensure that exempt or confidential and exempt records are not disclosed except as authorized by law. Upon completion of this Agreement or performance of the services, Xerox may transfer all public records related to the services to Customer, at no cost to Customer, or may keep such public records in accordance with the applicable state record retention requirements. If Xerox chooses to transfer such records to Customer, Xerox shall destroy any duplicate records in its possession that are exempt or confidential and exempt from disclosure.

CUSTOMER CANNOT PROVIDE LEGAL ADVICE TO XEROX REGARDING ITS LEGAL DUTIES. HOWEVER, XEROX MAY CONTACT CUSTOMER'S CUSTODIAN OF PUBLIC RECORDS AT <INSERT EMAIL> OR <INSERT PHONE> IF XEROX HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES TO XEROX'S DUTY TO PROVIDE AND MAINTAIN PUBLIC RECORDS RELATING TO THIS AGREEMENT.

Customer may unilaterally cancel the Agreement for refusal by Xerox to comply with the provisions of Chapter 119, Florida Statutes.

- c. **Exclusions.** The obligations of confidentiality will not apply to any Confidential Information that: (1) was in the publicly available prior to, at the time of, or subsequent to the date of disclosure through no fault of the receiving party; (2) was rightfully in the receiving party's possession or the possession of any third party free of any obligation of confidentiality; or (3) was developed by the receiving party's employees independently of and without reference to any of the other party's Confidential Information.
- d. **Return of Information.** Upon termination or expiration of this Agreement or an Order, except as otherwise set forth hereunder, each party shall cease use of the other party's Confidential Information and other data and, upon request, shall (1) return all such Confidential Information and any copies thereof, or (2) permanently destroy such Confidential Information and certify that such Confidential Information has been so destroyed; provided, however, that any obligations regarding removal of Customer Confidential Information stored on hard drives on Equipment owned by Xerox and any costs associated with such removal will be set forth in the applicable Order.
- e. **Disclosure under Legal Requirement.** If the recipient of Confidential Information is required to disclose Confidential Information pursuant to a court order or by law or regulation, that party will (1) notify the disclosing party of the obligation to make such disclosure, and (2) reasonably cooperate with the disclosing party if the disclosing party

seeks a protective order, but any costs incurred by the receiving party will be reimbursed by the disclosing party, except for costs of the receiving party's employees.

- f. **Duration of Confidentiality Obligation.** Except for Private Information and Xerox Intellectual Property, the obligations set forth in this Section shall continue for one (1) year after termination or expiration of this Agreement or the Order under which such Confidential Information was disclosed, whichever occurs later. The duration of confidentiality obligations with respect to Private Information shall be governed by applicable Privacy Laws. Confidentiality obligations with respect to Xerox Intellectual Property shall continue so long as it continues to be Xerox trade secrets, as defined by § 688.002(4), Florida Statutes, as applicable..
- g. **Residual Rights.** Each party understands that the other party shall be free to use for any purpose the Residuals resulting from access to Confidential Information as a result of the performance of its obligations under an Order, provided that such party shall maintain the confidentiality of such Confidential Information as provided herein. Neither party shall pay royalties for the use of Residuals. However, the foregoing shall not be deemed to grant either party a license under the other party's copyrights or patents.

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 – GOVERNING LAW AND JURISDICTION

This Agreement, each respective Order, and any dispute or claim arising out of or in connection with this Agreement or such Order, shall be governed by and construed in accordance with the laws of Florida without regard to its conflict of laws provisions and submitted to the exclusive jurisdiction of the federal and state courts of Florida. The parties agree to waive their rights to a jury trial.

GEN 1.15 – RESERVED.

GEN 1.16– FORCE MAJEURE

Except for Customer's absolute and unconditional obligation to make all required payments of any amounts not properly disputed under this Agreement, neither Customer nor Xerox shall be liable to the other party during any period in which its performance is delayed or prevented, in whole or in part, by a Force Majeure Event. If such a circumstance occurs, the party whose performance is delayed or prevented shall undertake reasonable action to notify the other party thereof.

GEN 1.17 – INSURANCE COVERAGE

Xerox shall maintain the following limits of insurance coverage during the term of this Agreement:

- a. Where required by law, Workers Compensation, at statutory limits;
- b. Employers Liability, with \$1,000,000 USD limit of liability or at statutory limits, whichever is greater;
- c. Commercial General Liability, including Products - Completed Operations coverage and Broad Form Contractual, with \$2,000,000 USD limit of liability per occurrence for Bodily Injury and Property Damage; and,
- d. Where applicable, Automobile Liability, with a combined single limit of liability of \$2,000,000 USD per accident or at statutory limits, whichever is greater.

GEN 1.18 – FUNDING (*Applies To State & Local Government Customers Only*)

Customer represents and warrants that all payments due and to become due during Customer's current fiscal year are within the fiscal budget of such year and are included within an unrestricted

and unencumbered appropriation currently available for the acquisition of the Products, and it is Customer's intent to use the Products for the entire initial term and to make all payments required under the Agreement or an Order. If (i) through no action initiated by Customer, Customer's governing body does not appropriate funds for the continuation of the Agreement or an Order for any fiscal year after the first fiscal year and has no funds to do so from other sources, and (ii) Customer has made a reasonable but unsuccessful effort to find an assignee within Customer's general organization who can continue the Agreement or an Order, the Agreement or the Order may be terminated. To effect this termination, Customer must, 30 days prior to the beginning of the fiscal year for which Customer's governing body does not appropriate funds for the upcoming fiscal year, notify Xerox that Customer's governing body failed to appropriate funds and that Customer has made the required effort to find an assignee. Customer's notice must certify that canceled Equipment is not being replaced by equipment performing similar functions during the ensuing fiscal year. Customer agrees to release the Equipment to Xerox and, when returned, the Equipment will be in good condition and free of all liens and encumbrances. Customer will then be released from any further payments obligations beyond those payments due for the current fiscal year.

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 Agreement. Xerox agrees to comply with Customer's internal policies regarding security and safety at Customer Facilities that are reasonable and customary under the circumstances and which do not conflict with the terms of this Agreement. Customer agrees to provide Xerox with reasonable prior written notice of such policies and any changes to such policies. 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.

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. Amendment.** All changes to this Agreement must be made in a writing signed by Customer and Xerox. Any amendment of this Agreement shall not affect the obligations of either party under any then-existing Orders, which shall continue in effect unless the amendment expressly states that it applies to such existing Orders. An amendment to a Services Contract shall reference the number of the Services Contract that it amends.
- c. No Waiver; Severability; Survival.** The failure by Customer or Xerox to insist upon strict performance of any of the terms and conditions in this Agreement or to exercise any rights or remedies will not be construed as a waiver of the right to assert those rights or to rely on that term or condition at any time thereafter. If any provision is held invalid by any arbitrator or any court under applicable law, such provision shall be deemed to be restated as nearly as possible to reflect the original intention of the parties in accordance with applicable law. The remainder of this Agreement shall remain in full force and effect. Any terms and conditions of this Agreement or any Order which by their nature extend beyond the termination or expiration of the Agreement or Order will survive such termination or expiration.
- d. Independent Contractors.** Xerox shall perform all Services hereunder in the capacity of independent contractor and not as Customer's employee, agent, or representative. Xerox employees shall not be entitled to privileges of employment that Customer may provide to Customer's employees, and Xerox shall be responsible for payment of all unemployment, social security, federal (state and local, as necessary) and other payroll taxes in regard to its employees involved in the performance of the Services. Neither of the parties, nor their respective employees or Affiliates, shall be authorized to conclude contracts in the name of the other party, or to act or appear as a representative of the other, whether in performing the Services or otherwise.

- e. **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. Should one of the parties hire the other party's personnel in violation of this Agreement, the violating party shall immediately pay to the other, as liquidated damages and as the sole remedy for such violation, an amount equal to such personnel's then current annual compensation (or the amount paid to such person during the previous twelve (12) months in the case of an independent contractor).
- f. **Assignment.** Except for Xerox's assignment to an Affiliate or to a third party for the purposes of securitizing or factoring, neither party may assign this Agreement and any Order(s) hereunder without the prior written consent of the other party. In the event of a permitted assignment by Xerox, each successive assignee of Xerox will have all of the rights but none of the obligations of Xerox pursuant to this Agreement. Customer will continue to look to Xerox for performance of Xerox's obligations hereunder and Customer hereby waives and releases any assignees of Xerox from any such claim. Customer will not assert any defense, counterclaim, or setoff that Customer may have or claim against Xerox against any assignee of Xerox.
- g. **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.
- h. **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.
- i. **Order of Precedence; Entire Agreement.** This Agreement, including all schedules, attachments, exhibits and amendments hereto and the Services Contract(s) hereunder, constitutes the entire agreement between the parties as to the subject matter and supersedes all prior and contemporaneous oral and written agreements regarding the subject matter hereof and neither party has relied on or is relying on any other information, representation, discussion or understanding in entering into and completing the transactions contemplated in this Agreement. The parties agree that except as expressly set forth in this Agreement, in the event of any conflict between terms and conditions, the order of precedence shall be this Agreement, the applicable Orders under the Services Contract (excluding Customer POs), and the SOW or DOS, as applicable. If a term in this Agreement expressly provides for a term in an Order to take precedence, such provision in the Order shall prevail to the extent of any conflict. Notwithstanding the foregoing, provisions in the General Module of this Agreement related to: (1) Section **GEN 1.8** (Intellectual Property Ownership); (2) Section **GEN 1.9** (Indemnification); (3) Section **GEN 1.10** (Limitation of Liability); (4) Section **GEN 1.12** (Confidentiality); and (5) Section **GEN 1.3** (Taxes), will prevail over conflicting provisions in any other contractual document.

SERVICES MODULE

SVC 1 – TERMS AND CONDITIONS SPECIFIC TO SERVICES

In addition to the terms and conditions 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 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 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 the Order and this Agreement.

SVC 1.5 – EARLY TERMINATION OF SERVICES AND LABOR

Except as otherwise set forth in a Services Contract, upon ninety (90) days prior written notice, Customer may terminate or reduce any Services or labor provided pursuant to an Order without incurring early termination charges, except as set forth in the next sentence. Notwithstanding the foregoing, if any such Services or labor provided under an Order are terminated (a) by Xerox due to Customer's default or (b) by Customer and Customer acquires similar services from another supplier within six (6) months of the termination of such Services or labor, Customer shall pay all amounts due as of the termination date, together with the early termination charges, for loss of bargain and not as a penalty, stated in the Order or, if not specifically stated therein, an amount equal to the then current MMC for said terminated or reduced Services or labor multiplied by the number of months remaining in the term of the related Order, not to exceed six (6) months.

SVC 1.6 – RECOVERY OF FUNDS BALANCES

Notwithstanding any other provision in the Agreement to the contrary, should an Order be terminated prior to expiration for any reason or a unit of Third Party Hardware or any Third Party Software for which Third Party Funds have been provided is removed or replaced prior to expiration, Customer agrees to pay to Xerox, in addition to any other amounts owed under said Order, an amount equal to the remaining principal balance of the Funds together with a 15% disengagement fee, for loss of bargain and not as a penalty.

EQUIPMENT MODULE

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

In addition to the terms and conditions in 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 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 – EQUIPMENT STATUS

Unless Customer is acquiring previously installed equipment, Equipment will be either: (a) "Newly Manufactured," which may contain some recycled components that are reconditioned; (b) "Factory Produced New Model" which is manufactured and newly serialized at a Xerox factory, adds functions and features to a product previously disassembled to a Xerox predetermined standard, and contains new components and recycled components that are reconditioned; or (c) "Remanufactured," which has been factory produced following disassembly to a Xerox predetermined standard and contains both new components and recycled components that are reconditioned. Xerox makes no representations as to the status of any Third Party Hardware that Xerox may provide under any Order.

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 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 that 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 provides Supplier Equipment to Customer, the following terms shall apply unless otherwise specified in an Order:

- a. Unless Supplier Equipment is purchased by Customer, Xerox (or the applicable third party vendor) shall at all times retain title to the Supplier Equipment. Customer hereby authorizes Xerox or its agents to file financing statements necessary to protect Xerox's rights to Supplier Equipment. Each party will promptly notify the other, in writing, of any change in ownership, and the Customer will notify Xerox if it relocates its principal place of business or changes the name of its business. The risk of loss for the Supplier Equipment shall pass to Customer upon delivery to the applicable Customer Facilities.
- b. Customer agrees to use the Supplier Equipment in accordance with, and to perform, all operator maintenance procedures for the Supplier Equipment described in the applicable Documentation made available or provided by Xerox. The Customer shall not (unless the Supplier Equipment is Purchased Equipment, and then only with Xerox's prior consent):
 - i. sell, charge, let or part with possession of the Supplier Equipment;
 - ii. remove the Supplier Equipment from Customer Facilities in which it is installed; or
 - iii. make any changes or additions to the Supplier Equipment.
- c. **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 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 the Customer Maintenance Releases or Updates 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, Third Party Hardware 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.

EQP 1.9 – REMOVAL OF HAZARDOUS WASTE

Customer agrees to take responsibility for legally disposing of all hazardous wastes generated from the use of Third Party Hardware or supplies.

EQUIPMENT PURCHASE MODULE

EP 1 – TERMS AND CONDITIONS SPECIFIC TO EQUIPMENT PURCHASE

In addition to the terms and conditions in the General (GEN) Module, the following terms and conditions apply to the acquisition of Purchased Equipment:

FL-University of So. Florida Master Agreement (Schedule A)	19	11/26/2017
FL-University of So. Florida Master Agreement (Schedule A)	18	11/26/2017

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, plus all applicable Transaction Taxes and applicable interest on all amounts due from the due date until paid.

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 c.ii – iii; GEN 1.6 b – j; GEN 1.7 b.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 the General (GEN) Module, and except as otherwise set forth in an Order, the following terms and conditions apply to provision of Maintenance Services.

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.” This Module does not apply to maintenance of Third Party Hardware. Maintenance that Xerox provides on Third Party Hardware will be provided in accordance with the terms of the applicable Order.

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.

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, as Customer's exclusive remedy for Xerox's failure to provide Maintenance Services, 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.

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 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.
- 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.

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.

SW 1.4 – THIRD PARTY SOFTWARE

Third Party Software is subject to license and support terms provided by the applicable Third Party Software vendor.

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 NON-AFFILIATED ENTITY NAME

XEROX CORPORATION

Signature

Signature

Name (please print)

Name

Title

Title

Address

Address

Date

Date