

Customer Agreement Terms and Conditions

Common Terms

1.0 DEFINITIONS.

- a. **Agreement** means this Customer Agreement and all schedules, amendments, and/or addenda attached hereto or made a part thereof.
- b. **Client Software** means that portion of the Océ Software that resides in, and operates on, the desktop or portable computers in use by Customer or third parties and which provides access to the Server Software and computer system resources shared and used by the Océ Software.
- c. **Confidential Information** means Océ Firmware, Océ Software, Documentation, technical service manuals, service bulletins, databases, customer lists, pricing, results, discounts and/or such other information as is marked as "confidential" by a party hereto.
- d. **Consulting Services** means consulting provided by Océ as relates to the Océ Firmware and/or Océ Software. Consulting Services may be provided by Océ at any time during the term of this Agreement. Consulting Services, if any, and the price therefore are set forth on the Customer Agreement Addendum or on a separate statement of work signed by Océ and Customer.
- e. **Consumables** means toner, developer, paper, photoconductor or ink, as the case may be to be used, in conjunction with or for the Equipment.
- f. **Cover Sheet** means the front page of this Agreement.
- g. **Customer** means the business entity defined on the Cover Sheet.
- h. **Documentation** means documents and other materials provided to Customer to support use of Product(s).
- i. **Educational Services** means training provided by Océ as relates to the Océ Product(s), Océ Firmware and/or Océ Software.
- j. **Excess Charge** means charges in Excess of the Square Foot/Linear Foot or SmartClick Allowance specifically set forth on the Cover Sheet.
- k. **Effective Date** means (i) the date the installation is completed; or (ii) for Software which is not installed during the installation of the Equipment, the date the Software is enabled or shipped; or (iii) in the case of conversions or trials, the date specified by Océ.
- l. **Equipment** means printing and/or scanning equipment, including accessories and ancillary equipment each and all of which is identified by model number on the Cover Sheet, excluding NOLI Products.
- m. **Implementation Services** means services relating to the implementation of Océ Firmware and/or Océ Software and which are rendered at or about the time of Equipment installation and may include (but shall not be limited to) review of print applications, validation of hosts and network paths, validation of system configuration(s), and overview of printer/server operation. Implementation Services acquired hereunder, if any, and the costs thereof are set forth on the Customer Agreement Addendum.
- n. **Installation** means the Equipment is ready for commercial operation in accordance with manufacturer's published specifications.
- o. **Installation Site** means the Customer's "Ship To" address specified on the Cover Sheet and to which Customer requests that Océ ship the Equipment or Software. Delivery will be made to the Installation Site.
- p. **Maintenance** means the repair and/or replacement of parts, subassemblies, and Océ Firmware to keep the Product(s), and if applicable NOLI Products, in good working order per manufacturer's or Océ's written specifications, as the case may be, provided that repairs can be performed in the field. Parts required for repair may be used or remanufactured in accordance with Océ's specifications. Maintenance may be provided by Océ or a third party subcontracted by Océ.
- q. **NOLI Products** means Non-Océ Listed Items, which may include hardware, software (and specifically Third Party Software), equipment, supplies, service, warranty, network equipment and other items not listed in Océ's price list and as designated on the Customer Agreement Addendum.
- r. **Océ** means Océ North America, Inc.
- s. **Océ Firmware** means software embedded in Equipment in object code form, incidental to operation of the Equipment, authored and licensed by Océ to Customer or for which Océ has the right to sublicense to Customer.
- t. **Océ Software** means optional, standalone software in object code form offered and licensed by Océ to Customer or for which Océ has the right to sublicense to Customer and requiring activation or installation prior to being available to Customer.
- u. **Parts** means all parts certified by Océ as meeting manufacturers' and/or Océ specification, as the case may be, and which are required to provide Maintenance to Products. Such certification requirements shall be determined solely by Océ.
- v. **Product** means Equipment, Consumables, Maintenance, Professional Services, Educational Services and Parts provided hereunder, excluding NOLI Products.
- w. **Professional Services** means collectively Implementation Services, Educational Services and Consulting Services each of which as such services relate to Software acquired hereunder. Professional Services, if any, and the rates therefore, are specified in the Customer Agreement Addendum.
- x. **Server Software** means that portion of the Océ Software that resides in, and operates on, the computer systems of Customer which allow access by the Client Software to shared computer system resources, including data files and databases.
- y. **Service Charges** means charges invoiced by Océ for Maintenance Services and/or Software Support and or charges based on use.
- z. **SmartClick™** means an Océ proprietary measurement derived from (1) the amount of toner used; plus (2) the area of media used, for each application printed on the Equipment.
- aa. **Software** means all computer software programs provided by Océ, whether embedded in Product(s) or provided via separate media or download; the Software includes, but is not limited to, Océ Firmware, Océ Software and Third Party Software and software that is set forth in the Customer Agreement Addendum.
- bb. **Software Support** means access to Océ support specialists for operator questions, installation support, explanation of Software features and functionality, network connectivity questions, and other software support issues. Software Support includes making available updates, fixes, minor enhancements and improvements to the current version of the Océ Software and/or Océ Firmware and correcting reproducible errors in Océ Firmware or Océ Software which errors are caused by defects in the software. Software Support does NOT include (i) administration of servers or database products; (ii) support of Océ Firmware or Océ Software installed on equipment using "beta" or operating systems not supported by Océ; (iii) resolution of network errors not directly related to Océ Firmware or Océ Software; or (iv) installation, setup or support of third party products not supported by Océ or software not acquired from Océ. Software Support does not include updates, upgrades and new releases or versions of third party products sold with or used in conjunction with Océ Software.
- cc. **Third Party Software** means software authored by third parties other than Océ and made available by Océ to Customer and which requires Customer to enter into a license agreement directly with the third party software provider. Third Party Software provided hereunder is set forth on the Customer Agreement Addendum.

2.0 This Agreement governs the provision of Océ Products and NOLI Products identified on the Cover Sheet and/or Customer Agreement Addendum and shall be in effect from the earlier to occur of: (i) the date the Agreement, signed by Customer, is countersigned by Océ; or, (ii) shipment of the Océ Product; or, (iii) performance of any Professional Services and/or Maintenance. Once this Agreement becomes effective and legally binding as set forth in this Section, it is non-cancelable. Océ Products may be provided by either Océ North America, Inc. Production Printing Systems or Océ North

America, Inc. Wide Format Printing Systems. Océ has no responsibility for the decision or effect of the decision of Customer to acquire NOLI Products, even if Océ helps Customer identify, evaluate or select such NOLI Products. Customer and Océ shall sign a separate addendum ("Supplemental Agreement") in connection with the purchase of such NOLI Products.

3.0 EQUIPMENT. Océ Products shipped hereunder, unless otherwise specifically set forth in the Cover Sheet or Customer Agreement Addendum may, in Océ's sole discretion, be New/Newly Manufactured, Factory Produced New Model, Like New, Remanufactured, Refurbished or Used. With respect to Wide Format Equipment, Océ may ship (at Océ's sole discretion) any Equipment type defined above. With respect to Production Equipment, if other than New/Newly Manufactured, the Equipment type shall be set forth on the Cover Sheet or Customer Agreement Addendum. Production Equipment, when acquired under a Fair Market Value (FMV) lease from Océ's affiliate Océ Financial Services, Inc., shall be either Remanufactured, Refurbished or "Like New" Equipment, in Océ's sole discretion. "Factory Produced New Model" means Equipment that has been disassembled, cleaned, refinished, inoperable components replaced with new or used components. Such Equipment is newly serialized Equipment with new features and/or functions. Customer is the first user of this Equipment, which is fully tested to assure product performance and reliability specifications. "Like New" means Equipment previously on trial, used as a demo unit, shown at a trade show or equipment with nominal foot/copy count. All Like New Equipment has been maintained by Océ, has not been pre-owned by any other party and has a nominal foot/copy count from a controlled pre-production environment. "New/Newly Manufactured" means Equipment that is newly assembled and which may contain a limited number of used components that have been thoroughly inspected and tested to assure product performance and reliability specifications. "Refurbished" means Equipment that has been under Océ maintenance, has been tested to ensure full functionality and reliability to specifications. "Remanufactured" means Equipment that has been disassembled, cleaned, refinished, inoperable components replaced with new or used components and is fully tested to assure product performance and reliability specifications. Meters have been reset to zero. "Used" means Equipment that has been maintained under Océ's authorized technical standards. Used Equipment is offered without warranty.

4.0 DELIVERY; RISK OF LOSS; INSURANCE. Delivery dates provided for by Océ are estimates only and Océ shall not be liable for delays in delivery due to causes beyond Océ's reasonable control. Customer is responsible for freight, delivery and rigging charges unless otherwise agreed. Notwithstanding any other provision herein and in addition to Service Charges, Océ may assess a fuel surcharge ("Fuel Surcharge") to offset increase in fuel expenses. Risk of loss shall pass to Customer upon delivery to Customer's loading dock. From the time of shipment until Customer's payment obligations have been satisfied, Customer agrees (a) to give Océ prompt written notice of any damage to or loss of the Equipment or any occurrence arising from the possession, use, or operation of the Equipment resulting in death, bodily injury or damage to property; and (b) to maintain, at its expense, comprehensive general liability and property insurance covering the Equipment in an amount at least equal to the Equipment purchase price.

5.0 TITLE; SECURITY INTEREST; TRADE-IN. Title to Océ Products (except with respect to Software) shall pass to Customer at Customer's loading dock. Océ shall retain a first priority security interest in the Océ Products and all proceeds therefrom until all purchase payments due Océ have been made. Customer authorizes Océ to file Uniform Commercial Code financing statements relating to any and all Océ Products purchased hereunder and Customer agrees to reimburse Océ upon demand for all costs incurred in connection therewith. Customer agrees that an original or a photocopy of this Agreement (in whole or in part) may be filed by Océ as a Uniform Commercial Code financing statement and Customer hereby authorizes Océ to file any and all UCC documents without Customer's authentication, to the extent permitted by applicable law. Customer agrees to immediately notify Océ in writing of any change in Customer's name or address or jurisdiction of organization, or discontinuance of its place or places of business. Prior to payment being made in full, Customer shall not move the Océ Products from the Installation Site without first obtaining prior written consent from Océ. Customer represents and warrants that any trade-in equipment is free and clear of all liens and encumbrances of any kind and that marketable title shall vest in Océ upon Océ's receipt of the trade-in equipment. Customer shall be responsible for related freight charges and trade-in equipment shall be packed in accordance with the manufacturer's specifications.

6.0 INSTALLATION AND SITE PREPARATION. Océ shall install the Equipment at the Installation Site. In no event shall Installation be later than thirty (30) days after delivery of the Equipment, except if delay is due solely to Océ. Customer shall be ready to timely receive the Equipment and shall have the area at the Installation Site prepared and ready to receive the unit of Equipment or the Software in accordance with Océ's power, environmental and other requirements prior to its delivery, including providing adequate power, analog phone line(s) and computers and/or network connection(s) (if required for the unit of Equipment), lighting, humidity, HVAC, and security. Installation services may be provided by an independent contractor at Océ's discretion. Installation services include uncrating, unpacking, connection to peripherals, power, communication and other utilities, and rendering the Equipment or Software ready for use. All site preparation, including electrical wiring, air conditioning and necessary permits or approvals, is Customer's responsibility. Unless otherwise specified in the Cover Sheet and/or Customer Agreement Addendum, Customer operator training is available from Océ at its training rate in effect at the time of such training pursuant to Section 29.0. Customer must complete an Océ site survey, or equivalent Océ form, prior to installation of any Equipment or Software that will be connected to Customer's computer network. In reliance on this information, Océ will either proceed with the installation, or advise Customer of potential problems that may limit functionality. If such survey has been completed and delivered to Océ, or if there are any changes to Customer's computer network or software, any attempts by Océ to remedy such problems will be at its standard charges then in effect, and Océ makes no representation or warranty that it can remedy such problems.

7.0 PAYMENT AND TAXES. Payment of the purchase price and other charges is due thirty (30) days from the date invoiced. Service Charges are billed for full month periods. If Equipment is installed on other than the first of the month, then Service Charges shall be pro-rated from the install date to the end of the month; in addition, use charges shall be charged based on the meter read for the same period. Once per twelve month period, Océ may adjust pricing for Maintenance Service Charges, or any component thereof, supplies and other materials, by a maximum of fifteen percent (15%). Customer shall pay on demand a late fee equal to the lesser of 1.5% per month or the maximum rate permitted by law, on all overdue payments whether such payments are due prior to or after a notice of default. All payments shall be made at the office of Océ set forth above, or at any other place designated by Océ. Customer shall pay or reimburse Océ for all costs of collection (including reasonable attorneys' fees, litigation expenses and court costs) of any overdue amounts. Customer shall pay or reimburse Océ for all license fees, duties, privilege, sales, use, excise, stamp, and other similar taxes and charges now or hereafter imposed upon this transaction or relating to the ownership, sale, use or operation of Equipment (exclusive of franchise taxes or taxes based upon Océ's net income).

8.0 DEFAULT AND REMEDIES.

- a. Any of the following shall constitute a default by Customer ("Default"):
 - (i) failure to pay any amounts when due and such failure remains unremedied for ten (10) days from the due date; or,
 - (ii) failure to comply with any provisions or perform any of its obligations arising under this Agreement or under any other documents or agreements relating to this Agreement, and such failure remains unremedied by Customer for a period of twenty (20) days.
- b. Upon Default, Océ may exercise any one or more of the following remedies (which remedies shall be cumulative):
 - (i) terminate this Agreement and/or any applicable Schedule;
 - (ii) declare all amounts due from Customer immediately due and payable in full;

- (iii) secure peaceable repossession and removal of the Océ Products by Océ or its agent without judicial process and sell or lease at such place as Océ may deem advisable and Océ may be the purchaser at any such sale;
- (iv) require Customer to pay all expenses, including reasonable attorney fees and costs, in connection with the retaking, refurbishing, selling or the like of the Océ Products;
- (v) exercise any other right or remedy available to it under the Uniform Commercial Code or any other applicable law or proceed by appropriate court action to enforce this Agreement or recover damages for breach thereof. To the extent permitted by applicable law, Customer waives all rights it may have to limit or modify any of Océ's rights and remedies under this Agreement, including but not limited to, any right to require Océ to dispose of the Océ Products or otherwise mitigate its damages.

9.0 WARRANTY. Océ warrants that on completion of Installation, Equipment will be (i) in material conformance with the manufacturer's published specifications, (ii) qualified for Océ's standard maintenance services; (iii) free from material defects in workmanship and materials. All parts found to be defective during installation shall be repaired or replaced at the option of Océ. All parts replaced under this warranty shall become the property of Océ. If a warranty period is marked on the Cover Sheet, then warranty shall continue from Installation for the period set forth on the Cover Sheet. Customer's sole and exclusive remedy for breach of the foregoing warranty shall be to reject the Equipment and cancel the affected Equipment Schedule. In no event shall a breach of this warranty give rise to a claim for damages against Océ. Océ's obligation hereunder is limited to the repair or replacement (at Océ's option) of any Equipment, material or part which does not conform to this warranty. The warranty set forth herein applies only to New/Newly Manufactured, Factory Produced New Models, Remanufactured or Refurbished Equipment and is conditioned upon Customer giving prompt notice to Océ of any discovered defects. Océ is not obligated by this warranty to perform repairs or parts replacement for defects or damage resulting in whole or part from (i) alteration, relocation, repairs, or use of parts, software or services not provided by Océ or its authorized representative, (ii) accident, (iii) abuse, willful misconduct, or negligence; (iv) the acts or omissions of Customer. The repair or replacement of expendable items (for example photoconductor drums, fuser rollers, and inkjet print heads) are not covered by this warranty or Maintenance. The foregoing examples do not comprise a complete list and expendables may vary on different products and Océ shall maintain the complete list of expendable items. THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. Océ provides no warranty for NOLI Products. For NOLI Products, Customer may receive a warranty directly from such product or software vendor.

10.0 LIMITATION OF LIABILITY. EXCEPTING AS TO A VIOLATION OF THE SOFTWARE LICENSE TERMS HEREOF BY CUSTOMER, NEITHER PARTY, NOR OCÉ'S SUPPLIERS, SHALL BE LIABLE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, DATA, REVENUE OR PROFIT, OR FOR INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR DAMAGES SUFFERED OR CLAIMED TO HAVE BEEN SUFFERED BY ANY THIRD PARTY INCLUDING CUSTOMERS OF CUSTOMER, EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES. OCÉ'S MAXIMUM LIABILITY FOR ANY CLAIM FOR DAMAGES RELATING TO ITS PERFORMANCE OR NON-PERFORMANCE UNDER THIS AGREEMENT SHALL BE LIMITED: (A) WITH REGARD TO EQUIPMENT, TO THE PURCHASE PRICE OF THE EQUIPMENT; (B) WITH REGARD TO SOFTWARE, TO THE LICENSE FEE OF THE SOFTWARE; (C) WITH REGARD TO MAINTENANCE, TO AN AMOUNT EQUAL TO TWELVE (12) MONTHS OF MONTHLY MAINTENANCE CHARGES FOR THE RELATED EQUIPMENT, SOFTWARE OR SERVICES GIVING RISE TO SUCH DAMAGES; AND (D) WITH REGARD TO PROFESSIONAL SERVICES, TO THE AMOUNT PAID FOR THE PROFESSIONAL SERVICES GIVING RISE TO SUCH DAMAGES.

11.0 INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS. Océ agrees to defend Customer against and hold Customer harmless from, claims, costs (including reasonable and necessary attorney fees), damages, demands judgments and liabilities arising out the claims of third parties that an Océ Product (but specifically excluding Third Party Software and NOLI Products) infringes such third party's United States patent, copyright or other intellectual property right and Océ agrees to pay the resulting costs, damages and attorneys' fees finally awarded, provided that Customer promptly notifies Océ in writing of the claim and fully cooperates with Océ and Océ has sole control of the defense and all related settlement negotiations. Océ's obligation under this Section is conditioned on Customer's agreement that if such Océ Products (except Third Party Software or NOLI Products, or the use thereof), becomes, or in Océ's opinion is likely to become, the subject of such a claim, Customer shall permit Océ, at Océ's option and expense, either to procure the right for Customer to continue using the Océ Products or to replace or modify the Océ Products so that it becomes non-infringing, and if neither of the foregoing alternatives is available on terms which are reasonable in Océ's judgment, Customer shall return the Océ Product upon the request of Océ. Upon such return, Océ shall refund the applicable Océ Product purchase price paid by Customer, less depreciation deducted on a five year straight-line basis. Océ shall have no liability for any claim based upon or any damages attributable to: (i) the combination, operation or use of the Equipment or Software with equipment or software not supplied or authorized in writing by Océ; (ii) modification of the Equipment or Software; or (iii) Equipment or Software made pursuant to specifications furnished by Customer. The foregoing states the entire obligation and liability of Océ with respect to infringement of patents, copyrights or other intellectual property rights. Customer shall indemnify and hold Océ harmless from and against any liability and expense, including reasonable attorneys' fees incurred by Océ in connection with any claim that the Equipment or Software, or any part thereof, custom made pursuant to specifications furnished by Customer infringes any third party's patent, copyright or other intellectual property right.

12.0 CONFIDENTIALITY. Customer shall maintain the confidentiality of Confidential Information and shall not disclose any Confidential Information to any third party without first having obtained the written approval of Océ. Customer shall not sell, transfer, distribute, disclose or otherwise make available the Confidential Information to any third party and shall secure and protect it from disclosure and shall take such action as is necessary with its employees (including contractors and temporary help) and other persons permitted access to them to satisfy Customer's obligations hereunder. Neither party will use for any purpose, other than performing this Agreement, or disclose to any third party any trade secrets or non-public information of the other party or its affiliates including, but not limited to, marketing information and strategy, marketing models, product information, advertising and promotional copy, pricing information, financial information, customer lists, test results, and all other proprietary information, trade secrets and non-public information. The parties agree to restrict circulation of all of such information within their own organization, except to the extent necessary to perform its obligations, and in no case will any disclosure be made to any third party, unless such disclosure is requested or required in any judicial or administrative proceeding or otherwise required by law. Upon termination of this Agreement, Customer shall either (i) return all Confidential Information to Océ, including the Documentation, and all copies thereof, or (ii) at Océ sole option, certify to Océ in writing that the Confidential Information, including the Documentation, and all copies thereof, has been destroyed. Océ makes no representations as to the destruction of Customer data on returned Equipment that contain Customer data, and shall not otherwise be liable for failure to destroy such Customer data, or for the release of same. Any information on Equipment returned to Océ shall not be considered confidential or proprietary nor shall be subject to applicable agreement provisions pertaining to same. Security software/hardware on products that do not contain standard hard disk drive overwrite capability may be available for purchase. This will enable the Customer to determine the level of security required without intervention from Océ, and to complete erasing of data prior to pick-up.

13.0 NOTICES; CHANGES. Notices, requests or other communications shall be in writing and delivered by (a) United States first class mail, postage prepaid, and addressed to the other party at the address set forth on the face of this Agreement (or to such other address as such party shall have

designated by proper notice), (b) personal delivery or (c) commercial overnight delivery service. Such notices will be deemed to have been given on the date when received or acceptance refused. Each party consents to service of process by certified mail at its address above (or such other address as it shall have designated by proper notice) in connection with any legal action brought by the other party. Customer authorizes Océ to fill in descriptive material in the Schedule (including serial numbers) and to correct any errors under the Agreement or Schedule. Upon reasonable notice, provided there is no material adverse effect on performance, Océ shall have the right to change design, colors, materials or specifications of Equipment when it deems necessary.

Software License Terms

14.0 THIRD PARTY SOFTWARE, OCÉ FIRMWARE AND OCÉ SOFTWARE. Océ makes available to customers Third Party Software as well as licenses Océ Firmware and Océ Software. Customer is not acquiring title to or any interest in any Software other than a license to use the Software in conjunction with the Equipment. Third Party Software and Océ Software is specifically set forth on the Cover Sheet and/or Customer Agreement Addendum. Océ Firmware is not specifically set forth on the Cover Sheet or Customer Agreement Addendum. If Customer is purchasing or licensing Third Party Software (for example, Adobe or Onyx software), Customer will enter into a license agreement directly with the Third Party Software licensor. This is typically done during installation and registration of the software.

15.0 OCÉ SOFTWARE. If Customer is purchasing or licensing Océ Software, the terms and conditions set forth below apply:

- a. With respect to Océ Software used in conjunction with Production Equipment and VarioPrint models greater than 72 pages per minute:
 - (i) Océ hereby grants to Customer a personal, non-exclusive, non-transferable, limited license to use the Océ Software (in compiled object code form) in the United States solely for internal use and solely in conjunction with the Production Equipment identified in the Customer Agreement Addendum, and to use the Documentation in support of Customer's authorized use of the Océ Software until this Agreement is terminated in accordance with its terms or until Customer ceases using Océ Software with the Production Equipment.
 - (ii) The license granted in this Section 15(a) may not be assigned by Customer without the written consent of Océ and the payment of an additional license fee by the assignee (or subsequent licensee). Océ Software is licensed "as is", with no warranty, and Océ expressly disclaims all express and/or implied warranties.
- b. With respect to Océ Software used in conjunction with Wide Format Equipment, the terms and conditions set forth below apply:
 - (i) Océ grants to Customer the right to use the Océ Software only on a single computer at the Installation Site for its own internal use, except that the Océ Software may be executed from a common disk shared by multiple CPUs provided that one authorized copy of the Océ Software has been licensed from Océ for each individual computer executing the Océ Software. Océ makes no representation (and expressly denies and representations or warranties) as to the proper operation of the Océ Software in a multi-user environment if only a single user version of the Océ Software is licensed hereunder.
 - (ii) If a Fixed Client/Server License is specified in the Customer Agreement Addendum, Customer may install and use one (1) copy of the Server Software solely at the Installation Site and may copy and distribute the Client Software to its own internal users and to third parties for the sole purpose of accessing the Server Software; provided, however that in no event shall the number of workstations (C.P.U.'s) on which the Client Software has been installed exceed the number of workstations specified in the Customer Agreement Addendum.
 - (iii) If a Concurrent Client/Server License is specified in the Customer Agreement Addendum, Customer may install and use one (1) copy of the Server Software solely at the Installation Site and may copy and distribute the Client Software to its own internal users and to third parties for the sole purpose of accessing the Server Software; provided, however that in no event shall the number of users accessing the Server Software at any one time exceed the number of users specified in the Customer Agreement Addendum.
 - (iv) Customer may access the Océ Customer Service web site twenty-four hours per day, seven days per week. The web site provides self-support tools for Customer without charge. Information available to Customer may include: (i) problem solutions knowledge base; (ii) limited download of software; (iii) online information forums; and (iv) access to technical Documentation. Support beyond that set forth in this Océ Software License may be available upon purchase of Maintenance from Océ. Océ may, from time to time, release new versions of, or enhancements, updates or modifications to, the Océ Software. So long as Customer pays a license maintenance fee, Océ will provide such modifications, updates and enhancements to Océ Software free of additional charges. In the event that Océ introduces new versions of Océ Software and should Customer desire to license such new versions, Océ may require Customer to enter into a new license agreement at an additional charge. Prior versions of Océ Software shall be supported for a period of time as determined by Océ in its sole discretion.
- c. With respect to both Sections 15.0 a) and b) above:
 - (i) Except as expressly provided herein, Customer shall not, without the prior written consent of Océ, copy the Océ Software in whole or in part, except that Customer may make one (1) copy of the Océ Software (other than the embedded firmware) in machine readable format for backup purposes. The Océ Software is protected by United States copyright law. The original and any copy in whole or in part of the Océ Software made by Customer shall include Océ's copyright and other proprietary notices and shall remain the property of Océ.
 - (ii) This License does not include the rights to, and Customer is expressly prohibited from:
 - (aa) Modifying, translating, or merging the Océ Software with another program.
 - (bb) Reverse-engineering, disassembling, decompiling, or making any attempt to discover the source code of the Océ Software.
 - (cc) Sublicensing, selling, renting, or leasing any portion of the Océ Software.
 - (iii) The granting of rights to Customer hereunder is expressly conditioned upon Customer's full and strict compliance with all terms and conditions of this Agreement. This License is, and any rights hereunder are, non-transferable, non-exclusive and limited as set forth herein.
 - (iv) Océ, or an auditor appointed by Océ, shall have the right, upon reasonable notice, exercised no more than once per year, to inspect the applicable records of Customer, and Licensee grants Customer reasonable access to its personnel, records and facilities for such purpose.
 - (v) Customer agrees that it will not translate, disassemble, decompile, reverse engineer, or create derivative works based on the Océ Software or any portion thereof.
- d. CUSTOMER ACKNOWLEDGES THAT THE Océ SOFTWARE MAY INCLUDE FEATURES LIMITING ITS OPERABILITY BEYOND THE SCOPE OR TERM OF THIS LICENSE. Use, duplication, disclosure by or to the U.S. Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer Software-Restricted Rights Clause at FAR 52.227-19, when applicable, or in the Technical Data-Commercial Items Clause at DFARS 252.227-7015 or successor provisions, when applicable. The parties acknowledge and agree that the Océ Software is "commercial computer software" as that term is defined in the DFARS and, therefore, that the U.S. Government is subject to DFARS 227.7202. The contractor/manufacturer is Océ North America, Inc., 5450 North Cumberland Avenue, Chicago, IL 60656. None of the Océ Software or underlying information or technology or any direct product thereof may be downloaded, exported or re-exported without the prior written consent, if required, of the Office of Export Administration of the U.S. Department of Commerce. Customer agrees to comply with any other applicable export laws and regulations.

16.0 OCÉ FIRMWARE. Océ Firmware is protected by United States copyright law. Océ grants Customer a non-exclusive, non-transferable (except as set forth in this paragraph), limited license to use the Océ Firmware (in compiled object code form) in the United States solely for internal use and solely in conjunction with the Equipment identified in the Cover Sheet and/or Customer Agreement Addendum, and to use the Documentation in support of Customer's authorized use of the Océ Firmware until this Agreement is terminated in accordance with its terms or until Customer ceases using Océ firmware with the Equipment. The license granted herein for Océ Firmware is incidental to the operation and use of the Equipment in which it is embedded and the use thereof is limited to the Equipment in which the Océ Firmware is embedded. As to Customer, the license to use Océ Firmware terminates upon transfer of title to the Equipment and shall vest with the transferee of such Equipment IN ORDER TO RECEIVE SUPPORT FROM OCÉ FOR ASSIGNABLE OCÉ FIRMWARE, INCLUDING UPDATES, MODIFICATIONS AND/OR ENHANCEMENTS, CUSTOMER'S ASSIGNEE MUST OBTAIN OCÉ'S PRIOR WRITTEN APPROVAL OF SUCH ASSIGNMENT AND MUST REGISTER WITH OCÉ. OCÉ MAY, IN ITS DISCRETION, REFUSE TO GRANT SUCH APPROVAL OR TO PROVIDE SUPPORT FOR ANY ASSIGNED OCÉ FIRMWARE. All Océ Firmware is a "commercial component," as this term is defined in 48 C.F.R. §2.101, consisting of "commercial computer software" and "computer software documentation," as such terms are defined in 48 C.F.R. §252.227-7014(a)(1) and 48 C.F.R. §252.227-7014(a)(5), respectively, and used in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable and all as amended from time to time. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, and other relevant sections of the Code of Federal Regulations, as applicable, and all as amended from time to time, all U.S. Government entities acquire Océ Firmware only with those rights set forth in this Agreement. Océ Firmware support is provided as part of Maintenance. Customer must pay for Maintenance to receive support for Océ Firmware. If Customer discontinues paying for Maintenance, Customer will not receive support, modifications, updates or enhancements for Océ Firmware, however, Customer is permitted to use the Océ Firmware solely with the Product(s) and "as is" with no obligation on the part of Océ with respect to such use or maintenance, subject to the restrictions set forth above, including those limiting assignability of the Océ Firmware.

17.0 TERMINATION. Upon termination of any license granted hereunder with respect to the Océ Software and Océ Firmware, including upgrades and updates, and Customer's right to possess or use the same, shall immediately cease, unless otherwise specifically set forth herein. Upon such termination, Customer shall: (i) cease to use the Océ Software; (ii) return all Océ Software, any and all Océ confidential information in Customer's possession, and all Software Documentation; and (iii) deinstall such Software, and upon such deinstallation provide evidence reasonably satisfactory to Océ of such deinstallation. Customer shall use its best efforts to take necessary steps to achieve the requirements of this Section with regard to any client of Customer who was given access to or a license of the Software by Customer.

18.0 LIMITED WARRANTY. Océ warrants that the media on which the Océ Software is delivered will be free from defects in materials and workmanship under normal use for the Warranty Period. This warranty shall be terminated immediately if the media is subjected to accident, abuse, or improper use. Océ will be obliged to honor this warranty only if Customer provides notice to Océ of a defect in the media during the Warranty Period. Océ also warrants that upon installation, the Océ Software will materially conform to Océ's then current published specifications, provided the Océ Software is properly installed and used. Océ further warrants that prior to shipment, Océ has tested the Océ Software using commercially available virus detection programs and no viruses were found and that, except as noted herein, the Océ Software contains no "time bombs" or other disabling devices. Océ has implemented disabling code to protect Océ Software and Equipment against unlicensed use. Improperly or non-licensed Océ Software will operate only for a limited time, or will operate in some diminished capacity. There are no other warranties, express or implied in connection with the Océ Software.

19.0 DISCLAIMER. Customer expressly acknowledges and agrees that the Océ Software is provided "as is" and without warranty of any kind, express or implied. Océ expressly disclaims any other warranty, implied or statutory, including warranties of habitability, non-infringement and fitness for a particular purpose. OCÉ DOES NOT WARRANT THAT THE OCÉ SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. The entire liability of Océ, and the sole remedy of Customer, in the event of breach of these Océ Software License Terms shall be, at Océ's option, (i) Océ's use of commercially reasonable efforts to correct or replace the non-conforming Océ Software within a reasonable period of time after receiving written notice from Customer or (ii) refund the license fee paid by Customer to Océ less a reasonable fee for the period of use (based on depreciation deducted over a five year straight line basis), provided Customer ceases all use of and returns the Océ Software to Océ.

Product & Software Maintenance Terms

The following Product and Software Maintenance Terms are only applicable if Maintenance is being purchased by Customer under this Agreement.

20.0 MAINTENANCE TERMS AND CONDITIONS. Pricing and term for Maintenance purchased by Customer is set forth in the Cover Sheet and/or Customer Agreement Addendum. The following general terms and provisions apply to any and all Maintenance purchased hereunder:

- a. Océ's standard preventive Maintenance services will be provided during Océ's standard business hours (Monday through Friday, 8:30 AM to 5:00 PM local time, excluding Océ recognized holidays). The length and frequency of periods of time required for preventive maintenance are determined by Océ. Preventive Maintenance means testing, adjusting, cleaning and replacement of components scheduled in accordance with the Equipment service specifications. Maintenance performed on weekends, holidays (if available) or between 5PM and 8:30AM (at Customer's request) shall be billed at Océ's holiday rates in effect at the time of such service unless otherwise set forth in the Cover Sheet and/or Customer Agreement Addendum. Corrective Maintenance coverage will be provided as is specifically set forth in the Cover Sheet and/or Customer Agreement Addendum.
- b. Engineering changes, including safety changes, shall be performed as deemed necessary by Océ. If Océ cannot perform a safety modification through no fault of Océ, or, if Customer refuses to permit installation of a safety change or removes any component deemed by Océ as integral to maintaining the safety of the Equipment, Océ may discontinue Maintenance for all Equipment until the problem as identified by Océ is remedied by Customer.
- c. Océ warrants that all material and parts furnished pursuant to its obligations to provide Maintenance hereunder will be in good working order at the time of Installation, and Océ's obligation is limited to the repair or replacement of any material or part which does not conform to this warranty. Océ is not responsible for repairing or replacing parts, nor shall Océ be liable for providing or failing to provide Maintenance, to the extent that such repair or replacement is due to Customer's acts or omissions. All parts replaced during maintenance shall become the property of Océ. Parts used by Océ may, in Océ's sole discretion, be used, reconditioned or remanufactured in accordance with manufacturer's specifications.
- d. Customer shall: (i) provide Océ full, free and safe access to the Equipment for performance of Maintenance by Océ; (ii) allow Océ to store reasonable quantities of maintenance equipment and/or parts on Customer's premises; (iii) provide a suitable environment for the Equipment in accordance with manufacturer's environmental requirements; **(iv) unless otherwise agreed in writing, report to Océ by the last business day of each calendar month (but no later than the 6th business day of the following month), the monthly usage according to the meter reading in footage or images as applicable;** and (v) promptly inform Océ of any Equipment malfunctions or operating problems.
- e. Customer shall NOT interfere with the proper operation of the meter.

- f. If Customer does not report to Océ the monthly usage as required by Section 20.0(d) Océ will estimate any excess Meter Charges and payment will be due from Customer based upon such estimate.
- g. The Maintenance term shall commence upon installation of the Equipment or, if already installed, upon certification by Océ, or, at the conclusion of the Warranty period, if any.
- h. Maintenance shall be automatically renewed for successive one (1) year terms at Océ's then-current charges and under the terms and conditions herein unless either party gives the other written notice of its intent not to renew at least thirty (30) days prior to the expiration of any initial or renewal term. Océ may also notify Customer ninety (90) days in advance of the time of renewal that Maintenance for specific Océ Products covered under this Agreement will not be renewed. Customer may terminate Maintenance in any renewal term upon thirty (30) days prior written notice. If Customer provides notice of Intent to terminate during the first thirty (30) days of Maintenance in a renewal term, Customer shall be responsible for the charges for the period of coverage up until the effective date of termination. After the first thirty (30) days of coverage in any renewal term, Customer may provide notice to terminate Maintenance subject to a termination charge equal to the monthly charges for twelve (12) months or the period of Maintenance remaining in the renewal term, whichever is less. For prepaid agreements, Océ will refund or credit the pro rata price of the remaining term less the applicable termination charge.
- i. Océ shall not be obligated hereunder to provide Maintenance or warranty services determined by Océ to be necessary due to or caused by, in whole or part: (i) failure to continually provide a suitable environment in accordance with Océ's requirements; (ii) neglect, misuse, or use of the Equipment for purposes other than for which it was designed, or failure to operate the Equipment in accordance with Océ's or manufacturer's operating instructions or within manufacturer's specifications; (iii) accident, disaster, including effects of water, wind, lightning, or transportation; terrorism, vandalism or burglary; (iv) alteration of Equipment, including any deviation from Equipment design, unless previously authorized in writing by Océ; (v) attachment(s) to the Equipment, including connection of devices not supplied by Océ, which cause the Equipment to malfunction, unless previously authorized in writing by Océ; (vi) use of improper, or inadequate use of or failure to use, supplies; (vii) the use of forms not in compliance with Océ's paper specifications; (viii) maintenance or repair services performed by Customer or a third party without written authorization from Océ; or, (x) pre or post processing Equipment disconnected from the printing system to which it was originally installed unless previously authorized in writing by Océ. If in Océ's sole opinion, Equipment has been rendered unrepairable, then Océ may refuse to render services under this Agreement and may terminate this Agreement.
- j. In the event Customer removes an Océ Product covered by Maintenance from the Installation Site, breaches this Agreement (or any other agreement it has with Océ), or, in the event Océ declares an end of life date with respect to an Océ Product (provided Océ has given customer no less than ninety (90) days prior written notice of such end of life date), Océ may withdraw such Océ Product from maintenance coverage under this Agreement in which case Customer shall not be entitled to any refund for any payments made hereunder.

21.0 ORDERING OF SUPPLIES AND OTHER MATERIALS. Customer orders for supplies, Customer or field replaceable units, consumables, expendables or any other materials (a) must include a valid Customer purchase order number; (b) are shipped to Customer FOB, Océ's warehouse; and (c) are subject to a thirty percent (30%) restocking fee if accepted for return by Océ pursuant to its Material Return Authorization (MRA) procedure. If Customer requires a carrier other than Océ's preferred carrier(s), the order will be subject to a surcharge plus actual delivery charges. "Expedite/Emergency Orders" are any orders, regardless of the shipping method, that per Customer's request, must be shipped on the same day as ordered and such Expedite/Emergency Orders are subject to an expedite surcharge plus actual delivery charges. Non standard carrier and Expedite/Emergency Order surcharges are subject to change without notice. Claims for shortages, damages in transit or lost shipments, as well as invoice discrepancies must be made within thirty (30) days of receipt or invoice date (whichever is applicable). Customer agrees that it is purchasing only toner/developer and that the bottles are and will remain the property of Océ. Moreover, empty toner bottles for certain models are recycled by Océ in accordance with its environmentally friendly practices. Accordingly, Customer agrees to return to Océ those empty toner bottles for those certain models that are shipped to Customer with pre-paid return labels using such pre-paid labels. IN THE EVENT OCÉ DETERMINES IN ITS SOLE DISCRETION THAT CUSTOMER HAS ORDERED CONSUMABLES BEYOND ITS REASONABLE REQUIREMENTS BASED ON INDUSTRY ACCEPTED CLICK VOLUME MEASUREMENTS, OCÉ MAY, IN ITS SOLE DISCRETION, UPON REASONABLE DEMONSTRATION OF SUCH EXCESS USE TO CUSTOMER, BILL CUSTOMER THE LIST PRICE OF THE EXCESS CONSUMABLES.

22.0 MAINTENANCE SERVICE CHARGES. For the period covering the Effective Date to the date that monthly billing commences for the first Minimum Maintenance Payment set forth on the Cover Sheet ("Interim Period"), Customer shall pay Océ an amount equal to the Minimum Maintenance Payment divided by 30 and multiplied by the number of days in the Interim Period. Such amount shall be due and payable on the tenth day following the date that monthly billing commences. Océ shall invoice the Minimum Maintenance Payment in advance and shall invoice the Excess Meter Charges and other usage fees ("Maintenance Service Charges") periodically as indicated on the Cover Sheet. If applicable, Customer shall provide meter readings by the last business day of each month (but no later than the 6th business day of the following month) by an Océ approved method. Should such meter readings not be provided in a timely fashion, Excess Meter Charges may be estimated by Océ. Except for wide format products, When supplies are included in the Minimum Maintenance Payment, Customer is entitled to the amount of toner which, on average, covers six percent (6%) of the media unless another coverage rate is specified in an applicable program or document. Notwithstanding any other provision herein and in addition to Maintenance Service charges, Océ may assess a fuel surcharge ("Fuel Surcharge") to offset increases in fuel expenses. The Equipment may contain software that allows Océ to access the Equipment remotely ("Remote Software"). In such cases, Customer authorizes Océ to use the Remote Software to (a) receive software updates and transmit use and service data accumulated by the Equipment over Customer's network by means of an HTTPS protocol and (b) store and analyze such data solely for Océ's own purposes related to servicing the Equipment and for product improvement. Customer hereby requests that Océ enable the Remote Software on the Equipment listed on the Cover Sheet and/or Customer Agreement Addendum.

23.0 EXCLUSIONS. The following are not within the scope of Maintenance Service or warranty: (i) provision and installation of optional retrofits; (ii) enhancement of any feature of the Product(s); (iii) services connected with Product(s) relocation; (iv) installation/removal of accessories, attachments, or other devices; (v) exterior painting or refinishing of Product(s); (vi) maintenance, installation, or removal of Product(s) or devices not provided by Océ; (vii) performance of normal operator functions as described in applicable Océ operator manual(s), including, but not limited to, loading of toner and/or paper; (viii) performance of services necessitated by accident, negligence, temperature, inadequate ventilation, power failure, improper electrical power, unauthorized alteration of Product(s), tampering, service by other than Océ, causes other than ordinary use, improper supplies or accessories, interconnect of Product(s) by electrical or electronic, or mechanical means, with incompatible Product(s), or failure to use Océ operating system software; (ix) performance of services necessitated by the introduction of a computer virus or other bug into the Product(s); (x) repair or replacement of Expendable Items listed in Common Terms, Section 9 above; and (xi) performance of service necessitated by any modification, alteration or any other change whatsoever of Customer's computer system into which the Product(s) is integrated or otherwise connected. Maintenance provided by Océ to resolve an exclusion set forth under this paragraph shall be billed at Océ's (i) then published hourly service rates and minimum charges for service time, including travel and waiting time; (ii) parts and material prices then in effect; and (iii) charges for shipping and travel expenses.

24.0 CUSTOMER RESPONSIBILITIES. Customer agrees: (a) not to use paper, recycled paper, parts, photoconductors, toner, or other supplies which will cause a need for excessive service and (b) that replaced parts are the property of Océ.

25.0 SOFTWARE SUPPORT.

The provisions of Section 25.0(a) apply only those models beginning with "VP", "VS", "JetStream", "ColorStream", "CS" or "CPS":

- a. Provided no uncured Default has occurred, and Customer is covered under an active Océ software maintenance agreement, Océ will
 - (i) use reasonable efforts to correct reproducible errors in any current, unaltered release of Software caused by a defect or malfunction which prevents Customer from operating the Software in a manner consistent with Océ's then current published specifications. Océ, in its sole discretion, shall choose the method to correct or replace the Software. These methods may include, but are not limited to, telephone, remote and on-site support. Support of any Software modified by Customer or any third party not authorized in writing by Océ, is not covered by this Agreement. If either Customer or a third party modifies the Software and, in Océ's sole opinion, such modification affects the performance of the Software, Customer shall pay Océ, at Océ's then applicable rates, for all resulting support services.
 - (ii) make Software revisions available at no charge for Software deemed by Océ as "current" release versions. Software revisions shall be defined as enhancements, modifications, updates, and improvements to the Software that Océ classifies as "dot releases", meaning the Software revision code changes only in the fractional portion of the program level (i.e. v1.20 >v1.25> v1.41, etc.). Installation of Software revisions may, at Océ's sole discretion, be chargeable at Océ's then published hourly Professional Services rates with minimum charges for service time, including travel and on-site wait time. In addition, the cost of any server hardware modifications/upgrades required to run the new Software release is the Customer's sole responsibility.
 - (iii) make "new" Software releases available to Customers at reasonable upgrade prices. New Software releases are defined as those enhancements, modifications, updates, and improvements that Océ classifies as a "version release", meaning the whole number portion of the Software version changes (i.e. v1.xx >v2.xx>v3.xx etc.). Installation of Software revisions may, at Océ's sole discretion, be chargeable at Océ's then published hourly Professional Services rates with minimum charges for service time, including travel and on-site wait time. In addition, the cost of any server hardware modifications/upgrades required to run the new Software release is the Customer's sole responsibility.
 - (iv) Support does not include (i) administration of servers or database products; (ii) support of Software installed on equipment using "beta" or operating systems not supported by Océ; (iii) resolution of network errors not directly related to Software; or (iv) installation, setup or support of third party products not supported by Océ or software not acquired from Océ. Maintenance does not include updates, upgrades and new releases or versions of third party products sold with or used in conjunction with Océ Software. Software support shall terminate if Océ declares end of life for such Software, and then only with at least ninety (90) days prior written notice.
- b. The following terms are applicable only if Software Support is made available to Customer through Customer's purchase of "Incidents":
 - (i) For certain Océ Equipment, Software Support is provided on a "per Incident" basis. An "Incident" is defined as a question related to a specific issue with regard to the maintained Software that can be resolved telephonically by isolating its origin to a single cause.
 - (ii) Incidents may be purchased individually or in quantities as in accordance with Océ's policy. Any such Incidents purchased by Customer are set forth on the Customer Agreement Addendum. An Incident will be considered "used" when Océ: (1) corrects the problem; (2) creates a reasonable work-around; (3) provides information in response to a Customer question; or (4) isolates the cause of the support issue to product provided by a party other than Océ. An Incident will not be considered "used" if the problem results from a defect in maintained Software for which no Software patch or workaround is then available from Océ. Issues that Océ determines cannot reasonably be resolved as Incidents may be escalated, with the consent of Customer, to an Océ Software Engineer or scheduled for on-site support at Océ's then-current consulting rates. Océ DOES NOT REPRESENT OR WARRANT THAT ALL SOFTWARE ISSUES CAN OR WILL BE RESOLVED AS INCIDENTS. Incidents purchases are non-transferable and non-refundable. Incidents not used by Customer shall expire at the end of the Maintenance Service Initial Term or the applicable Maintenance Service Renewal Term. At the start of each Maintenance Service Renewal Term, Customer shall receive the same number of Incidents purchased during the Maintenance Service Initial Term unless Customer purchases additional Incidents in accordance with Océ's then-current policy.
 - (iii) Océ will provide Software Support through the use of Incidents to those Customer employees who have been issued an ID code providing email/telephone access to the Océ Software Support Center. Customer shall be responsible for controlling ID code access and for any unauthorized use of ID codes. ID codes are non-transferable.
 - (iv) An overview of the total number of Incidents purchased, number used and number remaining available for use are available by contacting the Software Support Center with access provided using the Customer's ID code.
 - (v) Software Support does not include: (1) training; (2) maintenance materials; (3) on-site support; (4) on-site implementation, installation or integration support; (5) re-installation of Software on computer equipment supplied by Océ after modification of such computer equipment by Customer (such as installation of memory, disk, interface boards, other software, etc.); (6) re-installation or re-initialization of Software after changes in a networking system or alteration of the parameters of Customer's current networking system; or (7) support or service required because of the upgrade of any software not licensed by Océ, such as operating system or utilities software, even if running on computer equipment supplied by Océ. Océ may make these services available at Océ's then-current consulting rates. Océ reserves the right to decline to perform such services.
- c. It is the responsibility of Customer to make and maintain adequate backups of data and configuration of Software. Océ shall not be liable for any losses (of data or productivity or of any other kind) resulting from rebuilding or reconfiguring Software to the original, factory configuration. Reloading, rebuilding and reconfiguring of server software may, at Océ's sole discretion, be chargeable at Océ's then published hourly Professional Services rates with minimum charges for service time, including travel and on-site wait time.

26.0 LICENSE FEE. The license for the various Océ Software products listed herein is covered by a one time license fee for these products. In order to receive updates, fixes and enhancements (maintenance) for the Océ Software products, Customer must continue to pay the maintenance fee which is identified on the face of the Customer Agreement next to the Software as "Service Charge". If Customer discontinues paying the maintenance fee, Customer will not receive maintenance, however, Customer is permitted to use the Océ Software solely with the Product(s) and "as is" with no obligation on the part of Océ with respect to such use or maintenance, subject to the terms and conditions herein including those restricting the assignability of Océ Software. With respect to third party software, Océ is a reseller of such software. Customer's license for such third party software is granted from the third party software provider and the terms of the license agreement that comes with that software must be referenced for updates, fixes and enhancements.

27.0 MISCELLANEOUS. This Agreement shall constitute the entire agreement between Customer and Océ with respect to product(s), services and software. Any variance from or additions to the terms and conditions of this Customer Agreement, or any amendments, schedules or addenda, in any

purchase order or other written notification from Customer will be of no effect. This Agreement may not be assigned by Customer without the written consent of Océ and shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, permitted successors and assigns. Customer may deliver the signed Agreement to Océ by facsimile or electronic transmission. This Agreement shall become effective and legally binding at the earlier to occur of (a) the date it is signed by Customer and countersigned by Océ, or (b) shipment of the Product(s)/Software set forth herein, or (c) upon performance of any Consulting Services, Educational services, or Maintenance set forth herein. By delivering the Customer signed Agreement to Océ by facsimile or electronic transmission, Customer intends and agrees that such facsimile or electronic transmission shall constitute an original of the Agreement, shall be legally binding on Customer as if the Agreement were manually signed by Customer and personally delivered to Océ, shall be the best evidence of the Customer's agreement and shall be admissible in any legal proceeding. Océ shall have no duty or obligation whatsoever to verify or inquire as to the validity, execution, signer's authority, or any other matter concerning the propriety of the facsimile or electronic transmission. No amendment hereunder shall be effective unless in writing, signed by the parties hereto and no waiver shall be effective unless in writing, signed by the party to be charged. Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof. Except for obligations of payment, neither Océ nor Customer shall be liable for nonperformance caused by circumstances beyond their control, during the time such circumstances exist including, but not limited to, work stoppages, floods, and Acts of God. Customer agrees that Océ may use Customer's name and/or logo in connection with press releases, marketing literature, advertising and other public announcements or publicity materials concerning the Océ Products acquired by Customer from Océ. Océ does not acquire any ownership interest in any Customer trademarks. Océ shall properly attribute ownership of Customer's trademarks to Customer. The captions in this Agreement are for convenience only and shall not define or limit any of the terms hereof. This Agreement is the result of negotiation between the parties and, accordingly, shall not be construed for or against either party regardless of which party drafted this Agreement or any portion thereof. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS WITHOUT REGARD TO ITS CHOICE OF LAW RULES. Each party expressly and irrevocably agrees: (a) that any and all legal disputes whatsoever concerning this Customer Agreement and any amendments, schedules or addenda entered into hereunder, must be brought in the State or Federal courts located in Chicago, Illinois and that such courts shall have the exclusive jurisdiction and authority to resolve such disputes; (b) to submit to the jurisdiction of the State and Federal courts located in Chicago, Illinois, for purposes of resolving legal disputes concerning this Agreement and any Schedules entered into hereunder, and to waive any and all objections to personal jurisdiction and/or to venue; and (c) to waive any right to trial by jury in legal disputes concerning this Agreement and any amendments, schedules or addenda entered into hereunder.

Professional Services Terms

28.0 All Professional Services provided hereunder shall be set forth on the Customer Agreement Addendum. A statement of work ("Statement of Work") shall be signed by Customer prior to commencement of any Professional Services. The Statement of Work shall include the completion date (if applicable), total cost, a description of the work to be performed, acceptance criteria (if applicable) and maintenance charges (if applicable). All work product created under a Professional Services statement of work and all ideas, improvements, know-how, discoveries, and techniques including without limitation, computer programs, routines and code, developed in connection with Professional Services shall be owned by Océ. Océ grants to Customer a personal, non-exclusive, non-transferable royalty-free limited license to use such work product in the United States solely for internal use and solely in conjunction with the Equipment identified in the Customer Agreement Addendum.

Educational Services Terms

29.0 All Educational Services shall be set forth on the Customer Agreement Addendum. The following terms are only applicable if Educational Services are purchased and apply to any and all Educational Services purchased hereunder:

- a. Educational Services are offered to Customer by Océ in the form of training sessions and are provided during Océ's standard business hours (Monday through Friday excluding Océ recognized holidays - 8:00 AM to 5:00 PM local time) unless Customer purchases after hour on-site training at additional cost. Training may take place at an Océ central training facility or at Customer's site as determined by Océ and Customer. Each training session is a one-time event or a one-time visit. Customers are charged separately for each training session. The composition and duration of each training session is determined solely at Océ's discretion.
- b. Unless otherwise set forth in a writing signed by both parties, standard Océ published rates apply. Océ published rates are subject to change without notice. Customer is responsible for Customer's travel and lodging expenses. Océ will bill Customer, and Customer agrees to pay, Océ's reasonable travel, hotel and other reasonable expenses in connection with Customer on-site training sessions.
- c. Training materials for each training session are provided to Customer and/or Customer's registrants as set forth under Océ's then current policy. Such training materials are Océ Confidential Information.
- d. Unless otherwise agreed in writing, Educational Services must be completed within sixty (60) days after the date of Installation. In the event Educational Services are not completed within this time period and provided the delay is not due to Océ, Customer's Educational Services shall automatically terminate with no further obligation on the part of Océ, in which case Customer shall not be entitled to a refund. Monies paid towards a training session in connection with a specific model of Equipment or software is not transferrable to any other model of Equipment or software and may not be used by Customer to pay for any other Equipment, Maintenance, Professional Services or training offering.
- e. Cancellation. (i) Océ may cancel an on-site training session by providing notice to Customer no less than five (5) business days prior to the scheduled date of training. If a training session is cancelled by Océ and Océ and Customer do not agree to reschedule such session, upon request of Customer, Océ will refund the purchase price for the cancelled training session. Océ is not responsible for any expenses incurred by Customer or Customer's registrant in connection with such cancellation. (ii) Océ may reschedule a training session by providing notice to Customer no less than five (5) business days prior to the scheduled date of training. Océ is not responsible for any expenses incurred by Customer or Customer's registrant in connection with such rescheduling. (iii) Upon written notice to Océ received no less than five business days prior to the date of a scheduled training session, Customer may cancel such training session and receive a full refund of Customer's purchase price for such training session; or, Customer may reschedule such training session at a mutually agreeable time and place. If Océ and Customer do not agree on dates and location for a rescheduled session, upon request of Customer, Océ will refund the purchase price for the cancelled training session. In the event that Océ has incurred any non-refundable costs or expenses, such as travel, lodging and related expenses, in anticipation of such training session, Customer shall reimburse Océ for such costs and expenses. (iv) Monies received for a training session, the cancellation notice of which is received by Océ within five business days of the scheduled date for such training session, are not refundable. However, Océ may, within its sole discretion, apply such monies to a rescheduled training session. In any event, to the extent Océ has incurred any non-refundable costs or expenses, such as travel, lodging and related expenses, in anticipation of such training session, Customer shall reimburse Océ for such costs and expenses. (v) Océ is not obligated to refund any monies paid for registrants not attending any scheduled training session.



Océ North America, Inc.

Amendment

ONA Origination office: 5450 Cumberland Avenue Chicago IL 60656
ONA Administrative office: 5450 Cumberland Avenue Chicago IL 60656

Customer:	County of Hidalgo
Contract No:	0552003530

Andria Hernandez, Bids and Contracts Analyst, August 2012

THIS AMENDMENT IS ATTACHED TO AND MADE A PART OF THE AGREEMENT BETWEEN Océ North America, Inc. and County of Hidalgo

Océ North America, Inc. Customer Agreement Terms and Conditions:

Section 2.0:

Beginning in the third line, delete the sentence "Once this agreement becomes effective and legally binding as set forth in this Section, it is non-cancelable."

Section 27.0:

Beginning in the sixteenth line, delete the sentence "Customer agrees that Océ may use Customer's name and/or logo in connection with press releases, marketing literature, advertising and other public announcements or publicity materials concerning the Océ products acquired by Customer from Océ."

Throughout the paragraph, replace "Illinois" with "Texas", and "Chicago, Illinois" with "McAllen, Texas".

In the twenty-first line, the sentence beginning with "THIS AGREEMENT SHALL BE GOVERNED...", add "and is performable in Hidalgo County" to the end of the sentence.

Delete the last sentence: "and (c) to waive any right to trial by jury in legal disputes concerning this Agreement and any amendments, schedules or addenda entered into hereunder."

Section 29.0:

Add the following: "f. Notwithstanding anything to the contrary herein, Customer may terminate this Agreement without cause on thirty (30) days written notice to Océ."

Except as contained herein, the terms and conditions of the Agreement shall remain in full force and effect. This Agreement will not commence and will not be binding on us until accepted by us.

Customer Authorized Signature	Océ Authorized Signature
Customer Name: <u>County of Hidalgo</u>	Date: _____
Authorized Signature: _____	Accepted by: _____
Name (print): _____	Name (print): _____
Title: _____ Date: _____	Title: _____