

# RENTAL & SERVICE AGREEMENT

## GENERAL CONDITIONS 10/2007

### 1. DEFINITIONS

1.1 Unless the context otherwise requires:

- \***Additional Charges**": Means the charges which may be made by IKON in respect of the provision of Additional Services which will be calculated in accordance with IKON's charging structure at its then prevailing rates;
- \***Additional Services**": Means any services which are not included in the Services;
- \***Billing Period**": Means each period for which Charges are due as specified in the Order;
- \***Charges**": Means the payment due to IKON in respect of the Products and Services as specified in the Order;
- \***Confidential Information**": Means all information identified in writing as being confidential, which is obtained from the Customer by IKON, or from IKON by the Customer or is generated by IKON in connection with this Agreement;
- \***Consumables**": Means supplies which are consumed in the operation of the Products including but not limited to paper and other media, binders, covers, transparencies, staples, toner, toner cartridges, ink and developer and any other item defined by the manufacturer as a consumable;
- \***Maintenance**": Means the carrying out of repairs, replacement of parts, or adjustment to the Products to rectify a fault during Working Hours (remotely or by attendance on Site as determined by IKON) following receipt of a request from the Customer;
- \***Material**": Means the documents or other material (if any) supplied by the Customer to IKON in a hard copy or electronic format for production or reproduction;
- \***Order**": Means the document attached to these General Conditions specifying the Products, Services, Charges and any other information relevant for the performance of the Service & Rental Agreement;
- \***Print**": Means a scan made to A4 width (210mm). Larger scans (including A4 when scanned longer than 210mm) will count as two (2) Prints.
- \***Products**": Means the equipment, accessories software or other products specified in the Order;
- \***Rentals**": Means the Charges for the hire of the Products specified in the Order;
- \***Services**": Means installation and/or configuration of the Products following delivery, Maintenance and Support;
- \***Site**": Means the location where the Products and Services are to be delivered as specified in the Order;
- \***Support**": Means advice by telephone, email or via the IKON or the developers website during Working Hours following receipt of a request from the Customer to diagnose faults in the software and advice to rectify such faults (remotely or by attendance on Site as determined by IKON);
- \***Term**": Means the initial minimum period of the Agreement specified in the Order;
- \***Working Hours**": Means Monday to Friday between 8.30 am to 12.30 am and from 1.30 pm to 5.30 pm, excluding Bank and Public Holidays.

### 2. TERM

2.1 If the Agreement is signed by IKON, the Term will start on the date the Customer signs the Order or the date of delivery of the Products if this is later. The Agreement will continue for the Term and thereafter for additional periods of twelve months each ("Extension") unless terminated by either party upon prior written notice of three (3) months not to expire before either the end of the Term or the end of the Extension.

### 3. SITE

3.1 The Customer shall at its cost prepare the Site and provide sufficient facilities to enable IKON to provide the Products and the Services. If requested by the Customer, IKON shall prepare or inspect the Site and such work will be charged to the Customer as an Additional Charge. The Customer is responsible for ensuring that its information technology system is compatible with the Products and the Services.

3.2 The Customer shall give IKON access to the Site and to the Products.

### 4. DELIVERY, INSTALLATION AND TRAINING

4.1 IKON will deliver and install the Products and provide training for an Additional Charge as specified in the Order.

### 5. PAYMENT

- 5.1 The Charges are payable in advance of the relevant Billing Period except for the Price for Extra Prints. At the end of every Billing Period the number of Prints made will be compared with the Number of Print Included in the Order and the Price for Extra Print shall be charged for every Black & White ("B&W") and Colour Print made in excess of the Number of Print Included. An estimate of the number of Prints may be made based on the number made in previous Billing Periods. There will be a minimum charge of 30 Euros plus VAT per Product.
- 5.2 If toner is included, it must be used in the Products only. If more toner is ordered than is required to produce the number of prints made during the Billing Period the Customer shall pay an Additional Charge. The Additional Charge will be calculated by reference to the respective manufacturer's average toner consumption and coverage for that Product.
- 5.3 The Customer shall pay IKON within thirty (30) days of the invoice date.
- 5.4 All payments shall be made in full on the due dates for payment without any deduction, set-off or counterclaim for damages or any other reason. This is an essential term of this Agreement.
- 5.5 IKON may increase the Charges by the annual increase to the Retail Price Index or five percent (5%) whichever is the greater. IKON will only make a higher increase with the agreement of the Customer.
- 5.6 If changes in taxation then IKON may increase the Rentals to maintain the net after tax rate of return.
- 5.7 The Rentals cannot be disputed. If the Customer wishes to dispute the Charges or Additional Charges related to the Services, written notice must be received by IKON within twenty (20) days of the date of the invoice.
- 5.8 Without prejudice to any other rights it may have, IKON reserves the right to charge interest at the current legal rate plus two percent (2%) on all overdue payments, such interest payments to run from the due date of payment until payment in full is received (both before and after any judgment) and/or to suspend the performance of the Agreement until payment in full, including any accrued interest, is received.

### 6. MAINTENANCE AND SUPPORT

- 6.1 IKON will use its reasonable commercial endeavours to respond to a request for Maintenance and Support on a timely basis, provided such request is received during Working Hours.
- 6.2 Maintenance and Support does not include the correction of any fault:
  - (i) caused by the Customer's failure to maintain a suitable environment for the Products at the Site in accordance with the manufacturer's or licensor's of the Product written specifications including failure to maintain a constant power supply, air conditioning or humidity control;
  - (ii) caused by the Customer's neglect or misuse of Products including operating the Products outside design specification or failure to operate them in accordance with the manufacturer's or licensor's instruction manuals;
  - (iii) caused by the alteration or modification of Products by any party other than IKON;
  - (iv) caused by the relocation of Products both on Site or to another location by any party other than IKON;
  - (v) caused by the use of defective or inappropriate Consumables;
  - (vi) caused by the failure of, or changes to, or connection and disconnection from any external device or system;
  - (vii) caused by failure or damage caused by, act of violence, fires, floods, explosions, power surge, or adverse environmental or other natural conditions;
  - (viii) where IKON reasonably considers that the Products cannot be economically repaired because parts are no longer available from the applicable manufacturer or the Products are of excessive age, wear or deterioration.
- 6.3 If the Product is not performing to the manufacturer's specification, then following a request by the Customer, IKON will replace it with an identical model or one with similar features or capabilities provided that the Product was supplied by and has only been maintained by IKON. IKON will do this only if the fault has not arisen for the reasons stated in Clause 6.2 above and the Customer has carried out all its obligations.
- 6.4 If requested IKON may provide the Customer with Additional Services for an Additional Charge including but not limited to:
  - (i) correction of any faults caused by the circumstances described in Clause 6.2 above;
  - (ii) Maintenance or Support provided outside Working Hours;
  - (iii) supply or renewal of Consumables except for toner if shown as included in the Order;
  - (iv) operator training;
  - (v) the relocation of Products on or from the Site;
  - (vi) connection of the Products and configuration to a computer network or other system;
  - (vii) supply of upgrades, software patches or service packs;
  - (viii) any requirement to carry out an annual or other test on the Products to satisfy statutory regulations or any repair necessitated as a result of a failure to satisfy such test.

### 7. INSURANCE, RISK & TITLE

7.1 Liability for loss or damage to Products shall pass to the Customer upon delivery. The Customer is liable for and must be insured against any damages or loss caused by or to the Products.

7.2 Title to the Products and all rights in the software (if any) shall be retained by IKON.

### 8. SOFTWARE

8.1 The Customer shall enter into all software licences required by the licensors including licences (if any) for software included within the Products.

8.2 In the event of any conflict between the terms of the applicable licensor's licence agreement and this Agreement, the licensor's conditions shall prevail only in relation to the software.

### 9. IKON'S WARRANTY

9.1 IKON can help the Customer to select Products and Services based on the requirements specified by the Customer, but their assessment and selection remains the Customer's sole responsibility. The Customer acknowledges that IKON acts as a reseller only of the Products that IKON neither designs, publishes nor manufactures any of the Products and that IKON therefore disclaims any and all warranties.

9.2 IKON warrants that Services shall be performed with reasonable care and skill in accordance with the approved standard of the manufacturer of the Product.

9.3 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR AS REQUIRED BY LAW, THE PRECEDING IS IKON'S ONLY WARRANTY CONCERNING THE PRODUCTS AND SERVICES PROVIDED TO CUSTOMER, AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. NO WARRANTIES ARE CREATED BY ANY COURSE OF DEALING BETWEEN THE PARTIES, COURSE OF PERFORMANCE, TRADE USAGE OR INDUSTRY CUSTOM.

### 10. CUSTOMER'S UNDERTAKINGS

- 10.1 The Customer undertakes to:
  - (i) keep the Products at the Site;
  - (ii) supply all assistance, documentation and other information necessary for IKON to diagnose or remedy any fault and to deliver the Products and Services;
  - (iii) maintain current backups of all data and adequate virus protection systems for its business.
- 10.2 The Customer warrants that it is the owner of the Material and/or properly authorised licensee of the Material and that it violates no intellectual property of third parties by having IKON perform the Services. The Customer indemnifies IKON from and against any liability arising from actual or alleged infringement of any intellectual property right arising from the use of or reproduction of the Material, and any defamatory, libellous or illegal statements contained within the Material.

### 11. IKON'S LIABILITY

- 11.1 IKON shall not be liable, neither statutory nor pursuant to this Agreement, to the Customer for any indirect losses, including but not limited to loss of profits, goodwill, consequential losses, loss of data or infection of any computer system with a virus, or any other type of indirect loss such as loss or damage suffered by the Customer as a result of an action brought by a third party.
- 11.2 IKON's liability to the Customer for any direct damage to the Customer's property arising from the use or supply of Products, Services or Additional Services shall at all times be limited to the amount of EUR 1,000,000. IKON's liability for any direct loss or damage of whatsoever nature and howsoever caused, other than to the Customer's property, shall in no event exceed the Charges billed in the previous six (6) months to the Customer under this Agreement.
- 11.3 IKON shall not be liable for imperfect work caused by any inaccuracies in specifications or information supplied by the Customer.
- 11.4 IKON has calculated the Charges and Additional Charges on the basis that it is not responsible for any other risks.
- 11.5 Nothing in this Agreement is intended to exclude IKON's liability for intentional act or omission (opzet) or conscious recklessness (bewuste roekeloosheid) caused by its executive officer (directeur of leidinggevende ondergeschikte) or death or personal injury caused by IKON's negligence.

### 12. INTELLECTUAL PROPERTY

12.1 IKON's pre-existing proprietary rights shall remain with IKON and nothing in this Agreement serves to grant the Customer any rights in any intellectual property embodied in a solution developed by IKON on behalf of the Customer, including but not limited to (i) all patent, copyright, trade mark and other intellectual property rights therein; and (ii) all methodologies, processes, techniques, ideas, concepts, trade secrets and know-how embodied in the solution.

### 13. FORCE MAJEURE

13.1 IKON may, without liability, delay performance or cancel this Agreement on account of force majeure or other circumstances beyond its control including, but not limited to, acts of God, war, riot, fire, earthquake, explosion, flood, strike, lockout, injunction or telecommunications, electrical or source of supply failure, or the unavailability of services, personnel, products or materials.

### 14. CONFIDENTIALITY

14.1 Except as in relation to any assignee or subcontractor referred to in clause 15.2 below, neither party shall, without the previous written consent of the other, use, publish or disclose to any person, nor cause nor permit any of its servants, agents or subcontractors to use, publish or disclose any Confidential Information which it has received from the other, otherwise than for the performance of its duties under this Agreement, other than Confidential Information (i) which becomes generally available in the public domain other than by its unauthorised disclosure by the receiving party; or (ii) which has or may come into the possession of one party otherwise than in breach of a duty of confidence to the other party; or (iii) which is already in the possession of a party with the right to disclose; or (iv) which is required to be disclosed by law.

### 15. ASSIGNMENT AND SUBCONTRACTING

15.1 The Customer shall not, without IKON's prior written consent, assign any benefit or obligation under this Agreement in whole or in part.

15.2 IKON may, assign any benefit or obligation under this Agreement in whole or in part or subcontract the performance of any of its obligations under this Agreement. The subcontracting by IKON of any of its obligations under this Agreement in whole or in part shall not relieve IKON of its responsibility for the performance of its obligations to the Customer.

### 16. TRANSFER OF UNDERTAKINGS REGULATIONS (THE "REGULATIONS")

- 16.1 Should the Regulations apply in respect of this Agreement, then the Customer shall, or where the Customer is not the employer, the Customer shall use its reasonable endeavours to procure that, prior to the start date of this Agreement full and accurate details of each of the employees to whom the Regulations apply ("the Transferring Employees") and any other information which IKON may reasonably require relating to the Transferring Employees ("the Information") is provided to IKON either by itself or by the employer of the Transferring Employees.
- 16.2 The Customer indemnifies IKON against all liability arising from the Information being incomplete or inaccurate or misleading and from any act or omission of the Customer in relation to the Transferring Employees (or any other employee) which by virtue of the Regulations is deemed to be an act or omission of IKON or any claim by all or any of the Transferring Employees arising from their employment prior to the start date of this Agreement including but not limited to all payments and benefits accrued due to the Transferring Employees prior to the start date of this Agreement.

### 17. PROHIBITION ON HIRING

17.1 Except where the Regulations apply, either during any IKON employee's assignment to Customer or within six (6) months after the completion of such an assignment, should the Customer hire or otherwise employ such person in any manner whatsoever to perform services similar to those Services provided to the Customer hereunder or have any such person provide such services through a third party, then the Customer shall pay IKON, as a one-time placement fee as compensation for the screening, hiring and training costs incurred by IKON with respect to the replacement of each such employee, a sum equal to six (6) months' salary for each such person the Customer hires, engages or otherwise employs (but in no event more than 30,000 Euro for each such person).

### 18. TERMINATION

- 18.1 IKON may terminate this Agreement with immediate effect on written notice if the Customer is unable to pay its debts or is in material breach of any other term of this Agreement provided that it has notified the Customer in writing of the breach and given the Customer not less than thirty (30) days in which to correct the breach.
- 18.2 In the event of such termination, the Customer will pay to IKON (i) all arrears of Charges and other sums due; plus (ii) a sum equal to the total of all Rentals which would (but for termination) have become due and payable from the date of termination until the end of the Term or the Extension, less a discount for early receipt calculated at the rate of 3% per annum; plus (iii) a sum equal to twelve (12) months' Service Charges.
- 18.3 The Customer may, as its sole right and remedy, terminate the provision of Services under this Agreement with immediate effect on written notice if IKON is in material breach of any term of this Agreement provided that it has notified IKON in writing of the breach and given IKON not less than thirty (30) days in which to correct the breach. In the event of such termination, the Customer will either (i) enter into a service agreement with a third party authorised service provider of the manufacturer to provide the Services and will continue to pay all Rentals to IKON for the remainder of the Term or the Extension; or (ii) pay to IKON a sum equal to the total of all Rentals which would (but for termination) have become due and payable from the date of termination until the end of the Term or the Extension.
- 18.4 On termination of this Agreement for any reason, the Customer will allow IKON to collect the Products from the Site. The Products must be in the same condition as when delivered to the Customer except for ordinary wear and tear.

### 19. GENERAL PROVISIONS

- 19.1 This Agreement sets forth the entire understanding between the parties and supersedes all prior agreements, arrangements and communications, whether oral or written, with respect to the supply of Products, Services and Additional Services. Any purchase order issued by the Customer shall be for its administrative purposes only and none of its terms and conditions shall be of any force or effect against IKON. No other agreements, representations or warranties, whether oral or written, shall be deemed to bind the parties with respect to this Agreement.
- 19.2 This Agreement may not be modified or amended except by mutual written agreement signed by authorised signatories of both parties.
- 19.3 The waiver of a breach or default by either party shall not be construed as a waiver of any succeeding breach of the same or other provisions; nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.
- 19.4 Any notice to be served shall be in writing and served upon the recipient at its address set out in the Order by registered post.
- 19.5 Save as otherwise expressly provided all Charges and Additional Charges are expressed exclusive of value added tax ("VAT") and any VAT arising in respect of any supply shall be paid to IKON by the Customer in addition to such charges.
- 19.6 Headings to clauses are for the purpose of information and identification only.
- 19.7 This Agreement shall be governed by and construed in accordance with Dutch law and the parties submit to the non-exclusive jurisdiction of the courts of Amsterdam.