



KONICA MINOLTA

TERMS AND CONDITIONS APPLICABLE TO THE STANDARD SALES ORDER FORM AND MAINTENANCE AGREEMENT, AND THE SALES ORDER FORM AND MAINTENANCE AGREEMENT - PRODUCTION PRODUCTS

July 2007; Version 11

1. Definitions

- i. "Business Hours" means between the hours of 9am and 5pm Monday - Friday only, and excluding all Bank Holidays and Good
- ii. Friday and any other public holiday in England.
- iii. "Contract" means any contract between KMBS and the Customer for the sale and purchase of the Equipment, incorporating these terms and conditions.
- iv. "Copy Charge" means the A4 copy or print recorded on the Equipment meter, as detailed on the Sales Order Form. Charges set out refer to A4 size. Other sizes are charged pro-rata to size; the A4 charge is the minimum charge per page.
- v. The "Customer" is as specified on the order form and maintenance agreement constituting the purchase Contract.
- vi. The "Equipment" means the goods as specified on the Sales Order Form
- vii. "Intellectual Property" means any patent, registered design, copyright, database right, design right, topography right, trade mark, service mark, application to register any of the aforementioned rights, trade secret, right in unpatented know-how, right of confidence and any other intellectual or industrial property right of any nature whatsoever in any part of the world
- viii. "KMBS" means Konica Minolta Business Solutions (UK) Ltd.
- ix. "Location" means the initial point of installation of the Equipment as shown on the Sales Order Form.
- x. "New" means a device which has produced a number of pages no greater than 1% of the total machine life as defined by the manufacturer for that model. This data is available from KMBS on request.
- xi. "WEEE" means Waste Electrical and Electronic Equipment, with reference to the European Community directive 2002/96/EC. See www.Konicaminolta.co.uk/weeenotes

2. Agreement

KMBS will provide Equipment, Supplies (to be updated when appropriate) and maintenance according to the details in the Sales Order Form for the period of the agreement subject to the following clauses which may be updated from time to time and communicated accordingly to the Customer in writing, either by first class post, fax or by email using the contact details KMBS holds for the Customer at the time.

3. Equipment

- i. The Customer must ensure that the product meets the Customer's requirements. If the product fails to meet the Customer's requirements then the Customer must notify KMBS in writing within 28 days of installation.
- ii. KMBS will not be liable for any consequential loss arising from non-availability of the equipment for whatever reason.

4. Normal Working Hours.

Normal working hours for the provision of service are during Business Hours. .You may request toner, order staples, request a preventative maintenance visit or an emergency call-out of an engineer by visiting <https://e-bizhub.konicaminolta.co.uk>, or by phoning 0871 5747200.

5. Copy Charges **will** include

- i. Initial training for principal and one back up operator. Additional training may be arranged, at the charges prevailing at the time, from your Konica Minolta account manager or by contacting our training administration department on 0871 5747200 option 3.
- ii. Starter, i.e. those materials included with the machine at the time of delivery.
- iii. Consumable parts
- iv. Spare parts
- v. Any modification parts
- vi. Labour during normal working hours associated with maintenance of the stand-alone machine and its ancillary items, but not with external interface aspects. See section 6 (vi - ix) below.
- vii. Toner (unless noted as excluded)
- viii. The Copy Charge quoted is fixed for the first 12 months of this agreement and thereafter will be reviewed on an annual basis. Increases will be in line with market conditions and as such the Customer has the right to cancel the agreement if increases of more than nine percent are applied in any 12 month period. You will receive notification of any increase with your invoice prior to that where the increase will be applied.

6. Copy Charges will **not** include

- i. Toner (where noted as excluded)

- ii. Staples
- iii. Output materials
- iv. Relocation of the Equipment
- v. Service made necessary by the continued use of the Equipment outside agreed specification
- vi. Access to KMBS' Hotline support. Access to the KMBS Hotline is free to Customers with a Konfidence Plus Contract relating to the device in question, confirmed by reference to its serial number. KMBS will use reasonable endeavours to ensure this Hotline support is available during Business Hours via a chargeable telephone call, on 01268 534444.
- vii. Support of any functionality associated with connection to external environments such as fax communication, printing, scan to network/email/etc. Such support will be provided on a time and materials basis unless the Customer has a current Konfidence Plus contract relating to the device in question, confirmed by reference to its serial number. This contract entitles the Customer and the Customer's employees to free contact with KMBS's Hotline staff during Business Hours, and, subject to Hotline evaluation of the Customer situation, physical attendance during Business Hours at the Customer site by appropriately qualified and capable KBMS staff. Such attendance at the Customer site will be on the basis that KMBS will use its reasonable endeavours to remedy issues arising, but cannot guarantee resolution of all issues in an environment involving third party products, software, networks, etc.
- viii. Support of any third party print controller, unless the relevant Konfidence Plus contract is in effect relating to the device in question, confirmed by reference to its serial number. Such a contract being in effect entitles the Customer to the same support as described in section 6 (vii) above. NOTE: For each item of Equipment ordered, the relevant sections associated with Konfidence Plus must be completed for a Konfidence Plus contract to be effected. Absence of the relevant information against any item of Equipment will result in no contract being created.
- ix. Any software

7. Charges for the following are at the discretion of KMBS

- i. Additional Training after installation
- ii. Service due to misuse, negligence, water damage, fire or flood damage
- iii. User preventable service calls
- iv. Service outside normal working hours
- v. Excessive toner usage (greater than 40% coverage when toner is included in the page cost); we reserve the right to invoice Customers for the additional costs involved in sustained production of abnormal page types/content dramatically exceeding a typical level of toner consumption.
- vi. Interest charges of not more than 3% above National Westminster Bank PLC's base rate for accounts not paid in full by the due date.
- vii. All consumables not separately paid for in full by the Customer and unused at the expiry of the agreement which are not returned to KMBS within 28 days of the expiry of the agreement.
- viii. A single charge of £75 plus VAT will be levied in all cases where direct debit is not selected by the Customer as the Customer's means of payment.

8. Customer Responsibilities

- i. Appoint principal operator and one back up operator for the machine. Your uptime can be dramatically enhanced if you have one or more key operators, who have some enhanced understanding of machine use, e.g. jam clearance, settings adjustments, use of scan, fax etc.
- ii. Promptly carry out recommended daily maintenance of the Equipment. Load paper which has been stored in appropriate climatic conditions, clean the platen glass etc.
- iii. Immediately inform KMBS of any defects in the Equipment as soon as the Customer becomes aware of them.
- iv. Use only KMBS approved paper and other supplies. While we do not explicitly recommend any specific paper, we have (in partnership with Howard Smith Paper) identified a range of compatible papers for most Customer requirements. Contact your account manager or visit www.konicaminolta.co.uk/bssupport.
- v. Provide meter readings as required by KMBS. We reserve the right to calculate your average usage and estimate your charges, in the absence of any meter reading supplied by yourselves. Any excess charges above actual costs will be deducted from subsequent invoices.
- vi. Promptly pay all accounts rendered. Payment for the Equipment is required to be made within seven days from the date of invoice. Payment for all other charges is required to be made within 30 days of invoice. We recommend Direct Debit as the most cost effective method for our Customers to pay service charges. Not only does this reduce your administration burden, but the Direct Debit Guarantee provides you with full protection against errors and with the peace of mind that this brings.
- vii. If the Equipment is to be relocated or moved under the cover of this Agreement, the prior approval of KMBS is required. Please give notice of any such relocation to KMBS by contacting our administration department in Basildon on 01268 534444 or such other number as determined by KMBS during Business Hours and we will gladly assist you in relocating your Equipment. If you do not advise us before moving the Equipment, you will be responsible for any consequent damage or malfunction.

9. Term of Agreement

- i. This agreement shall come into force on the date of acceptance by KMBS and will continue until the expiry of the initial period shown on the signed agreement, or, as a default in the absence of any period inserted, for a period of 60 months. Thereafter it will continue until terminated by either party giving to the other not less than three (3) months notice of termination in writing, such notice not to expire earlier than the end of the initial period.
- ii. Any such notice of termination subject to this clause shall be sent by registered mail directed to the address shown in this agreement.

- iii. All Contracts may be subject to additional maintenance charges after 5 years in respect of Equipment which is New at the time of installation and after 3 years in respect of not New Equipment. KMBS shall give 90 days written notice to the Customer should any such charges be applicable to the agreement.

10. WEEE

- i. Removal of products no longer required by the Customer will be arranged by KMBS at the Customer's request, subject to certain conditions, including a declaration of ownership by the Customer of the product to be removed, and the transfer of ownership to KMBS. Should the product be judged by KMBS to have reached the end of its life, the product will be disposed of within the requirements of the WEEE directive where it applies
- ii. KMBS' WEEE Registration Number is WEE/JH0052TQ

11. Termination

KMBS shall have the right to terminate this agreement with immediate effect in the event of any of the following situations:

- i. If the price of such goods or services shall remain unpaid at the expiration of the allotted credit period.
- ii. The Customer, being an individual, is unable to pay his debts as they become due, becomes bankrupt or begins negotiations with his creditors
- iii. The Customer, being a company, is unable to pay its debts (as defined in the Insolvency Act 1986), goes into liquidation or has a receiver or administrative receiver appointed over all or any of its assets.
- iv. Should the Customer wish to terminate the agreement prior to the expiry of the initial period of the agreement KMBS reserve the right to charge twelve months charges calculated using the average monthly copy volume of the Equipment measured over the total installed life of the Equipment. If less than twelve months remains on the agreement then KMBS shall charge for the unexpired number of full calendar months.

12. Title and Risk.

- i. Property and title of the Equipment shall not pass to the Customer until the price due in terms of the Contract has been received by the company and credited to its bank account.
- ii. Until the price of the Equipment has been paid the Customer will hold and store the Equipment as agent for KMBS and in a manner which clearly distinguishes the Equipment from any other Equipment of the Customer and indicates that they are in fact owned by KMBS and not by the Customer.
- iii. The Customer shall not sell or dispose of any item of Equipment until the price due in terms of the agreement has been received by KMBS.
- iv. All consumables not separately paid for in full by the Customer remain the property of KMBS until used.
- v. On the happening of any of the following events KMBS may recover any of the Equipment remaining in the Customers possession and KMBS or its authorised representative will be entitled to remove any Equipment for which the price has not been paid:
 - If the price for the Equipment remains unpaid at the expiration of the allotted credit period.
 - If the agreement is terminated under clause 11 above.
 - If the Customer has any diligence carried out against it or its assets.
- vi. Notwithstanding the provisions of this clause risk in all the Equipment supplied shall pass to the Customer who will be liable for the insurance of such Equipment upon delivery to the Customer's premises.
- vii. Sub Clauses 11i,11ii,11iii and 11iv of this clause shall each be construed and receive effect as a separate clause of these conditions.

13. Application of Terms

- i. Subject to any variation under condition 13(iii) the Contract shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).
- ii. No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- iii. These conditions apply to all KMBS' sales and any variation to these conditions and any representations about the Equipment shall have no effect unless expressly agreed in writing and signed by an authorised representative of KMBS. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of KMBS which is not set out in the Contract. Nothing in this condition shall exclude or limit KMBS' liability for fraudulent misrepresentation.
- iv. Each order or acceptance of a quotation for Equipment by the Customer from KMBS shall be deemed to be an offer by the Customer to buy the Equipment subject to these conditions.
- v. No order placed by the Customer shall be deemed to be accepted by KMBS until a written acknowledgement of order is issued by KMBS or (if earlier) KMBS delivers the Equipment to the Customer.
- vi. The Customer shall ensure that the terms of its order and any applicable specification are complete and accurate.
- vii. Any quotation is given on the basis that no Contract shall come into existence until KMBS despatches an acknowledgement of order to the Customer. Any quotation is valid for a period of 30 days only from its date, provided that KMBS has not previously withdrawn it.

14. General

- i. All prices quoted are exclusive of applicable VAT.
- ii. The Customer's rights are regulated by the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 as may be amended from time to time and a warranty from KMBS may be available on request.
- iii. Except in respect of death or personal injury caused by the company's negligence the amount of any damages recoverable by the Customer from KMBS for breach of Contract or negligence shall be limited to the invoice price of the Equipment.
- iv. In respect of non-payment of any sum in full for Equipment, supplies or services by the due date, all monies owing by the Customer to KMBS shall become due.
- v. KMBS reserves the right to postpone or withdraw services if accounts become overdue and to limit or terminate credit facilities at any time.
- vi. The Company's senior management reserves the right to refuse to accept an order from a Customer without giving a reason to the Customer.
- vii. No failure of KMBS to enforce at any time or for any period of time any of the provisions of the agreement shall be construed as a waiver of any such provision or a waiver of the right of KMBS thereafter to enforce each and every such provision
- viii. The benefit of this agreement may not be assigned to any other party without the prior written agreement of KMBS. Such agreement not to be unreasonably withheld
- ix. All Intellectual Property in the Equipment, KMBS and all information collected by KMBS in performance of this agreement is and shall remain the exclusive property of KMBS and no license for use of this Intellectual Property by the Customer outside the terms of this agreement or otherwise are granted to the Customer.

15. Governing Law and Jurisdiction

This agreement and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.