

Print Service Agreement

This Print Service Agreement is between Conekt Australia ABN 62 642 707 515 (we/us/our) and you (being the person and/or entity as described on the Purchase Order).

1 Definitions:

- 1.1 In the Agreement, the following definitions shall apply unless the context otherwise requires:
- 1.2 the **Agreement** means this agreement;
- 1.3 the **Charges** are the charges as set out in the Purchase Order and any other Charges that may be payable under the terms of this Agreement;
- 1.4 the **Commencement Date** means the date commencement date indicated on the Purchaser Order or in the event that no date is indicated the date that the Purchase Order is signed by you;
- 1.5 the **Conditions** means terms and conditions set out in the Agreement and includes any special terms and conditions agreed in writing between us;
- 1.6 the **Date of Installation** means the date upon which the Equipment is installed by us at the Location;
- 1.7 the **Equipment** means the items specified in the Purchase Order and can include services, software, or supplies;
- 1.8 the **Minimum term** means the period as set out in the (SMA) Solutions and Maintenance Agreement;
- 1.9 the **Rental Agreement** means an arrangement whereby we sell the Equipment to a finance company who will rent the Equipment to you, in accordance with clause 3;
- 1.10 the **Location** means the location specified in the Purchase Order or such location as the parties agree in writing from time to time;
- 1.11 the **Price** means the price of the Equipment set out in the Purchase Order;
- 1.12 the **Services** means the Services to be provided by us as set out in the Purchase Order; and
- 1.13 the **Software** means the computer programs incorporated into any Equipment and/or which are supplied separately by us under the Agreement.
- 1.14 the **Extended Term** means, where we permit you to continue to use the Equipment under this Agreement after the end of the Minimum Term, each consecutive period of one calendar month commencing on the day following the end of the Minimum Term.

2 Application:

- 2.1 The Conditions of the Agreement will be binding on the parties as from the Commencement Date.
- 2.2 The Agreement is for the Minimum Term . The Agreement shall continue past Minimum Term, subject to clause 16. The Minimum Term will be extended automatically for an Extended Term and, successive Extended Terms, irrespective of whether you have done any act or thing contrary to such an extension. During each Extended Term, you must continue to pay the Charges for each Period on the Payment Dates for such Period.
- 2.3 The Conditions contained herein shall govern the Agreement to the exclusion of any other terms and conditions and no variation, addition or modification to these Conditions shall be binding unless agreed in writing and signed by duly authorised representatives of each of the parties.
- 2.4 The Agreement applies to all items of Equipment individually. Should any one item fail, it will not affect the rights and liabilities of either party in respect of the other items of Equipment.

3 Payment of Equipment:

- 3.1 In the event that you agree to acquire the Equipment by way of a Rental Agreement or Print Purchase Agreement (**PPA**), you shall, subject to clause 3.2, secure that a Rental Agreement or PPA is concluded on terms satisfactory to us and implemented to our satisfaction, such that we are paid in full by the finance company within 4 weeks from the Commencement Date or such longer period as we may specify in writing.
- 3.2 We shall give you such reasonable co-operation, as we consider appropriate in order to ensure that a Rental Agreement or PPA is concluded and we are paid in accordance with clause 3.1.
- 3.3 You warrant that it will comply with the terms and conditions and pay all associated fees of any such Rental Agreement or PPA.
- 3.4 In the event that you are not able to secure a Rental Agreement or PPA Agreement in accordance with clause 3.1, you shall, unless we determine otherwise, become obliged to purchase the Equipment in accordance with clauses 3.4, 3.5 and 3.6.
- 3.5 If you become obliged to purchase the Equipment in accordance with clause 3.4, you shall, within 5 working days of the date you become so obliged, pay us a deposit of 20% of the Price (plus GST) (**Deposit**).
- 3.6 The Deposit shall not be refunded by us to you for any reason whatsoever.
- 3.7 The balance of the Price outstanding, after payment of the Deposit, shall be paid in full by you upon delivery of the Equipment to the Location. In the event of the Equipment having already been delivered to the Location, the balance of the Price outstanding shall be paid immediately upon notice from us to you.

4 Rental Agreement:

- 4.1 In the event that you agree to acquire the Equipment from us by way of a Rental Agreement or PPA you agree to pay us the Charges as set out in the Purchase Order.
- 4.2 The title in the Equipment shall not pass to you at any time unless in accordance with clause 4.3.
- 4.3 In the event that you purchase the Equipment from us, clause 7 shall apply.
- 4.4 In the event that you do not acquire the Equipment you agree to return the Equipment at your expense at the end of the Finance term to a location determined by us.

5 Purchase:

- 5.1 In the event that you agree to acquire the Equipment from us by way of purchase you shall purchase the Equipment in accordance with this clause 5. The time for payment of the Price or any part thereof shall be of the essence of the Agreement.
- 5.2 You shall pay the Deposit to us on the Commencement Date.
- 5.3 The Deposit paid will not be refunded for any reason whatsoever.
- 5.4 The balance of the Price outstanding after payment of the Deposit shall be paid in full by you to us upon delivery of the Equipment to the Location. If, for whatever reason, the Deposit has not been paid prior to delivery, the full Price shall be payable upon delivery.
- 5.5 Should for any reason full payment not be received prior to the Equipment being delivered we reserve the right to remove the Equipment from the Location and charge you all associated administration costs.

6 Delivery:

- 6.1 Delivery dates and/or times are business estimates only and while every effort will be made to meet them, we will not accept any responsibility or liability if any delivery dates and/or times are not met.
- 6.2 You agree to inspect the Equipment upon delivery and notify us, in writing, immediately but no later than 5 working days from date of delivery, of any defects found, failing which you will only be entitled to return the Equipment with our express authority.
- 6.3 We reserve the right to make a charge for delivery of any Equipment requested by you and also a separate charge for collection and disposal of any existing equipment.

7 Title:

- 7.1 The title in the Equipment will not pass to you until payment of the Price is received by us in full.
- 7.2 If you acquire the Equipment by way of a Rental Agreement, the title in the Equipment will not pass to you.
- 7.3 You agree that for any equipment that we are requested to remove from your premises, title of that Equipment is wholly passed to us and you agree to pay any outstanding amount that may be owing to any finance company under any associated finance agreement.

8 Risk:

- 8.1 The risk of loss or of damage to the Equipment shall pass to you at the moment the Equipment is delivered to the Location. Where you choose to collect the Equipment, risk shall pass when the Equipment is collected.
- 8.2 Until title to the Equipment has passed to you pursuant to clause 7 we shall be entitled at any time and without notice to you to repossess the Equipment and for that purpose enter any premises where the Equipment is located.

9 Cancellation of Equipment:

- 9.1 In the event that you cancel an order for any Equipment or Software we shall be entitled to charge an administration cost of no more than 30% of the value of the charges and fees payable under the Agreement for the Term or holding over period but not in addition to clauses 3.4 and 5.2 above.

10 Suitability:

- 10.1 You warrant that any Equipment ordered from us is suitable for your purpose and that the Equipment so ordered is compatible with any software, network or other items to which the Equipment is to be linked.
- 10.2 We do not accept any liability whatsoever should you have ordered Equipment from us which is later deemed to be unsuitable for your requirements.

11 Equipment Location and Removal:

- 11.1 In the event of the Services being provided under this Agreement and/or the Equipment being supplied in accordance with clause 4, this clause 11 shall apply.
- 11.2 You agree to store the Equipment in the agreed Location, which you will ensure is safe, secure and suitable.

- 11.3 You agree to give us at least 14 days' notice in writing should you wish to move the Equipment. We must expressly authorise you in writing before moving the Equipment.
- 11.4 We reserve the right to charge you for the decommissioning and/or the re-commissioning of the Equipment due to the relocation of the Equipment.

12 Provision for Services:

Our Obligations

- 12.1 We shall provide all parts and labour in order to carry out the Services of the Equipment specified under the Purchase Order, to the manufacturer's approved standards.
- 12.2 We shall provide the Services during its normal business hours, which are 9.00 am to 5.00 pm, Monday to Friday excluding Public holidays.
- 12.3 In response to a call for maintenance by you, we shall use our best endeavors to attend the Location within four working hours, in accordance with clause 12.1, from the time of your call for maintenance being recorded during our normal business hours.
- 12.4 The response time for which we shall endeavor to achieve, as set out in clause 12. 3, is not of the essence of the Agreement.
- 12.5 We shall provide the Services with reasonable skill and care.

Your obligations

- 12.6 You agree to operate the Equipment in accordance with the manufacturer's operating instructions.
- 12.7 We reserve the right to charge you for remedying faults if the Equipment is used otherwise in accordance with the manufacturer's operating instructions.
- 12.8 Unless otherwise agreed in writing you agrees to pay in full our invoices within 30 days from the invoice date. Time for payment shall be of the essence and late payment is a repudiatory breach of the Agreement, which without prejudice to any other remedy available to us under the Agreement we are entitled to: suspend the provision of the Service hereunder; and/or terminate the Agreement; charge interest penalties of up to 10% per day on late payments.
- 12.9 You agree to submit meter readings to us for the Equipment monthly, or at our request and/or to allow our representative access to obtain such meter readings in order to calculate the relevant Charge for the Services. In the absence of suitable meter readings being available, we reserve the right to submit an estimated invoice to you for our Charges. You must give up-to-date meter readings at requests for additional toner, whether these are made via the call centre or the web.
- 12.10 You agree to allow our representative or agent access to your premises at any time during our normal working hours in order that we may inspect, service or test the Equipment and provide us with assistance that we may require from time to time to perform our obligations under this Agreement.
- 12.11 You agree not to copy, modify, merge, decompile, or make available or disclose any Software supplied by us in accordance with the Agreement, in whole or in part to any third party, except where permitted by law.
- 12.12 You agree to make full back up copies of all your data prior to us conducting any work on your systems and that you will implement effective audit controls, data security measures and virus controls at all times.

- 12.13 You are responsible for and liable for any charges arising from damage to the Equipment arising out of negligence or misuse or environmental factors including electrical storms, damage to Equipment arising out of the use of consumables other than those provided by us, denial of reasonable access to perform the Services, and additional efforts which we in our absolute discretion may decide to assist you in resolving any problems not covered by this Agreement.

13 Third Party Contracts

Acknowledgment

- 13.1 You acknowledge that:
- 13.2 we supply the Services and Equipment to you pursuant to terms and conditions of various third-party supply agreements;
- 13.3 we will not be held liable to you in the event of any third-party breaching any of its obligations under its supply agreement with us and you release us from any claim that may arise under this Agreement from such breach.

Third Party Software

- 13.4 You acknowledge that the Equipment supplied includes third party Software.
- 13.5 You acknowledge that we are not liable to you for the performance or operation of the third-party Software.

Third Party Equipment

- 13.6 You acknowledge that the Equipment is supplied by a third party and we give you no warranty in respect of the Equipment except as set out in this Agreement. Any warranty provided under, and any warranty period referred to in the third-party Equipment manufacturer's documentation refers to the manufacturer's warranty, not a warranty provided by us. We will use reasonable endeavors to pass any warranty given by the manufacturer or supplier on to you to the extent that we are required to do so in order for you to receive the benefit of such warranty however, we are not the third-party manufacturer's agent and any obligations we have as supplier of the Equipment to remedy any failure are limited under the Australia Consumer Law.
- 13.7 It is acknowledged and agreed that we (or our partners) are authorised to install a Conekt Device manager (CDM) on a local pc or Server. The CDM uses a small software program called the Information Collection Engine to perform periodic scans in the environment. The data is then sent to a Print Audit and hosted on servers so no additional information is written to the computer's disk drives. The Information Collection Engine is compatible with Internet proxy servers. It will enable us to remotely collect meter reads, automate supplies fulfillment and report service information for managing fleets of copiers, printers, fax machines, and multi-function devices.
- 13.8 It is acknowledged and agreed that we (or our partners) are authorised to install a OPS Printer / CSRC – (DCA) Data Collection Agent on your server. This is a software application that is installed to collect metrics of network connected imaging devices or local attached printers (as long as an agent is installed and running). The DCA runs as a Windows service (or optionally, as scheduled task), allowing it to operate 24 hours a day, 7 days a week.

14 Charges:

- 14.1 We reserve the right to vary the Charges set out in the Agreement. If invoice payment remains overdue for 14 days past the due date and a reminder to pay has to be sent to you, we reserve the right to charge an additional administration fee of 20% of the invoice value of the overdue amount.
- 14.2 The Services set out overleaf will be charged for at the agreed prices subject to any changes under clause 14.1 and shall include the supply and fitting of spare parts and various cleaning operations required to maintain the Equipment.

- 14.3 We shall levy additional Charges to work required by you due to the following:
- 14.3.1 external forces outside of our control including accident, disaster or burglary;
 - 14.3.2 work required outside of our normal working hours as set out in 12.2;
 - 14.3.3 errors caused by Software not supplied by us;
 - 14.3.4 faults or damage caused by your negligence;
 - 14.3.5 data being lost or damaged due to no fault of us or due to you not complying with 12.12;
 - 14.3.6 the connection of accessories, fittings or the use of supplies that have neither been approved and/or supplied by us;
 - 14.3.7 the malfunction of any other item of equipment, software or network to which the Equipment is linked.
 - 14.3.8 Where the Equipment concerned has been supplied by another party and has been in your possession prior to the commencement of the Agreement we reserve the right to charge you for bringing the Equipment up to a proper serviceable condition.
- 14.4 Consumables including such items as paper, labels, transparencies, staples and toner cartridges shall, unless otherwise specified, be charged to you separately at our rates.
- 14.5 Where Services are calculated on a cost per print/copy/scan basis, we will use the meter readings to determine usage and calculate its charges accordingly. Charges are based on A4 prints. In the absence of a fixed charge for A3 size prints/copies/scans these will be charged at twice the A4 rate. We reserve the right to charge for scanning where no prints are physically made.
- 14.6 Service contracts shall be charged at frequencies as indicated by the Purchase Order and shall be charged in advance unless otherwise indicated by using writing.
- 14.7 All consumables and consumable spare parts including (but not limited to) toners, developers, fuser oil and fuser rollers, supplied to you for use in the Equipment under a toner inclusive print/copy/scan Charge arrangement, as set out in the Purchase Order, shall remain our property until consumed by you in operation of the Equipment. We shall be entitled at any time and without notice to you to enter any premises where the Equipment is located to repossess such items. Toner supplied in excess of the manufacturer's recommended consumption rates (i.e. 6%-page coverage for B&W and colour copiers/printers) will be charged for separately at our prevailing rates. This charge for excess toner will be made after periodic meter readings have been taken and compared to toner issuance.
- 14.8 You shall not be entitled to set off any amount due to you by us against any amount due by you to us, whether under this Agreement or otherwise.
- 14.9 In the event that you request payment for the Services provided to be collected by the finance company, without prejudice to any other Condition herein, the Agreement shall continue for the Minimum Term regardless of whether or not the leasing/rental arrangement is settled.
- 14.10 We are entitled to levy a minimum monthly charge of \$25 per machine.
- 14.11 You acknowledge that all Charges made exclude GST unless specified in writing by us.
- 14.12 Merchant fees will apply for any credit card transactions.
- 14.13 We are entitled to charge you for the cost of freight for all required consumables.
- 14.14 We are entitled to charge a \$25 fee for accounts not set up on direct debit.

15 Liability:

- 15.1 Except for the terms of the Agreement, you agree that all other conditions, warranties, terms, representations and undertakings express or implied or any duty under Australian law, are to the fullest extent permitted by law, excluded from the Agreement.

- 15.2 Our liability for damage to your property caused by us, or the negligence of our employees, shall be limited to \$5,000 (five thousand dollars) in aggregate in respect of any one claim. If that limit is not adequate you agree to take up your own additional insurance cover.
- 15.3 Save as set out in 15.2 and except in respect of death or personal injury caused by our negligence we shall not be liable to you for any indirect or consequential loss or damage, whether for loss of profit, reputation or goodwill, or any financial loss, or any liability you may have to a third party, howsoever caused.
- 15.4 Any liability on our part, which is determined by a Court of Law as not having been excluded or limited under the provisions of the clauses above shall not exceed the previous 3-month's Charges.
- 15.5 Under no circumstances will we be responsible for providing maintenance services in respect of Software, which we have not supplied to you.
- 15.6 You acknowledge that any Software supplied by us is not manufactured by us and accordingly our sole liability to you in respect of the Software is to pass on the benefit of any guarantee or warranty given to us in respect of the Software to the extent that this is possible. You shall be responsible for ensuring that all appropriate virus checks are carried out on or before the loading of the Software onto your Equipment.
- 15.7 We do not warrant that the operation of any Software supplied by us shall remain either uninterrupted, error free or that any specific requirements notified by you to us will continue to be met, in the event of your operating systems being altered after the Date of Installation.
- 15.8 You acknowledge that we may not successfully diagnose or correct any faults or errors, which may occur and that in the circumstances we may charge an appropriate fee.
- 15.9 We shall not be liable to you for any delay in carrying out any of our duties caused by strikes, lock-outs, fire, accidents, defective Equipment or any other cause beyond our reasonable control. In these circumstances we may, without liability on our part, cancel part or all of the Agreement or in the event we may delay in carrying out all or part of its duties herein.

16 Termination:

- 16.1 We may terminate the Agreement at any time after the Minimum Term by giving you at least 30 days written notice.
- 16.2 You may terminate the Agreement after the Minimum Term by giving us at least 6 months written notice.
- 16.3 In the event that the Agreement is terminated by either party prior to the end of the Minimum Term, as set out in clause 1.8, or we terminate the Agreement due to the occurrence of your breach of any Condition contained herein, you shall pay to us:
 - 16.3.1 any outstanding sums due and will fall due during the notice period to us; and
 - 16.3.2 agreed compensation for loss of revenue to the end of the Minimum Term calculated by the total average monthly charges that you have been charged by us for the Equipment and/or Services provided under this Agreement as at the date of termination multiplied by the months remaining in the Minimum Term basis plus an administration fee of \$400 plus GST.

- 16.4 Without prejudice to any other right or remedy to us we shall be entitled to terminate the Agreement or suspend any provision herein without any liability in the event:
- 16.4.1 you make any voluntary arrangement with its creditors or becomes subject to any administration order; or
 - 16.4.2 (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
 - 16.4.3 an encumbrancer takes possession or a receiver is appointed of any property or your assets; or
 - 16.4.4 you cease or threaten to cease to carry on your business; or
 - 16.4.5 you fail to produce at least 80% of the total average volume produced on the Equipment for 3 consecutive months; or
 - 16.4.6 you breached any of the Conditions; or we reasonably apprehend that any of the events mentioned above is about to occur.

17 Data Protection:

- 17.1 Details of the Agreement and the conduct of your account may be registered with a licensed credit agency. This and other information supplied by you may be disclosed to any person for whom we act as agent, to any member or associated company of the group of companies of which we are a member or to any person acting on our behalf or any purposes connected with our business.

18 General:

- 18.1 Communications under the Agreement must be in writing and sent by registered post or by hand to the recipient's principle place of business.
- 18.2 We are entitled to transfer our rights and obligations under the Agreement, or any part of it to any person, firm or corporate body whomsoever it thinks fit.
- 18.3 You may not assign any part of the Agreement without our written consent.
- 18.4 The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 18.5 No waiver by us of any breach of the Agreement by you shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 18.6 No failure by us to exercise any power given to it or to insist upon strict compliance by you with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute any waiver of our rights under the Agreement.
- 18.7 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby. The Agreement shall be governed by and construed in all respects in accordance with the laws of New South Wales, Australia.
- 18.8 You acknowledge that we may vary these terms and conditions at any time at our sole discretion, which will be available on our website <https://www.conekt.com.au/legal> and you agree to be bound to such amended terms and conditions and warrant that you will review our terms and conditions on a regular basis to ensure that you are familiar with our current terms and conditions.