

RENTAL AND SERVICE AGREEMENT

This document sets out the Canon Parties' terms and conditions for the supply and rental of products and services.

1 Introduction

- 1.1 This **Agreement** comprises separate sections being:
- (a) Part A – CFNZ Rental terms;
 - (b) Part B – Canon Products and Services supply terms (to the extent stated in the Schedule);
 - (c) Part C – Canon Parties' common terms and conditions;
 - (d) the applicable Rental and Service Schedule; and
 - (e) any Statement of Works (**SOW**).
- 1.2 Once this Agreement is formed, the parties each enter into the following Parts:

You	Canon	CFNZ
Part A	-	Part A
Part B	Part B	-
Part C	Part C	Part C
Schedules	Schedules	Schedules
SOW	SOW	-

- 1.3 The rights and obligations of Canon and CFNZ under this Agreement are several and neither has any responsibility to You for the performance of this Agreement by the other.

2 Term

- 2.1 This Agreement begins on the Commencement Date and continues for the Term.

Part A - Rental

3 Agreement to Rent

- 3.1 CFNZ agrees to rent the Rented Products and Services to You and You agree to rent the Rented Products and Services from CFNZ on the terms of this Agreement.

4 Charges and payment

- 4.1 This clause 4 concerns Rental Instalments. Where applicable, Part B sets out additional payment terms.
- 4.2 In consideration for the supply of the Rental Products and Services, You must pay CFNZ:
- (a) all Rental Instalments at the frequency stated in the Schedule;
 - (b) an interim rental charge calculated as a daily proportion of the applicable Rent Instalment for any Rented Products and Services installed during any Interim Period;
 - (c) interest on any overdue and undisputed payments at the rate of 20% per annum calculated daily and Canon may suspend any Services until it receives payment in full; and
 - (d) all costs and expenses, including reasonable legal costs (on a solicitor and client basis), that CFNZ incurs exercising its rights under this Agreement, including registering and maintaining CFNZ's security interests granted under clause 24 and any amounts CFNZ pays to release any lien claimed by anyone over the Rented Products and Services or to remedy Your breach under this Agreement.
- 4.3 You must make all payments due to CFNZ in full by direct debit or as agreed between You and CFNZ. Rental Instalments must be paid in advance at the frequency stated in the Schedule and Your first Rental

Instalment is due on installation of the Rental Products. A payment is not made until CFNZ actually receives the payment. The Schedule constitutes a tax invoice for the supply of the Rental Products and Services.

- 4.4 Your payment obligations to CFNZ are absolute, unconditional, and are not subject to any deduction, set-off, defence, counterclaim or recoupment of any kind whatsoever.
- 4.5 You must pay, or reimburse CFNZ for, all duties, taxes (except income tax) and other government charges payable by CFNZ or You related to the Rented Products and Services, their use, possession or operation, this Agreement or the Rental. CFNZ may vary the Rental Instalments in line with any variation to such government charges by written notice to You.

5 You are renter, not owner of Rented Products and Services

- 5.1 You do not own the Rented Products and Services and have no other interest in them except as renter.
- 5.2 You must not authorise or pledge, credit or create any lien, mortgage, charge, security interest or encumbrance on the Rented Products and Services. CFNZ may change or deal with CFNZ's interests in this Agreement in any way without notice to You.
- 5.3 You must ensure that CFNZ has access to the Rented Products and Services during Business Hours to exercise any of CFNZ's rights, including testing the Rented Products or otherwise assessing if You are complying with Your obligations. You authorise CFNZ to enter any premises where the Rented Products are located for these purposes. CFNZ will give You reasonable notice before doing so, unless CFNZ concludes it must act quickly to protect CFNZ's interest in the Rented Products.

6 Your Obligations

- 6.1 You must:
- (a) select the Rented Products and Services and satisfy Yourself as to their identity, condition and fitness for purpose (collectively '**suitability**'). CFNZ is not responsible for the suitability of the Rented Products and Services under this Part A;
 - (b) maintain the Rented Products in good working order and condition and in accordance with the manufacturer's Specifications and recommendations;
 - (c) only use the Rented Products for the purpose for which they were designed;
 - (d) if Part B does not apply, enter into and comply with a service agreement for the Rented Products and Services only with Canon-accredited persons and not do anything that may cause any such person to believe CFNZ is responsible for paying that person's account;
 - (e) not alter the Rented Products in a way that may adversely affect its value without CFNZ's prior written consent;
 - (f) not move the Rented Products from the location stated in the Schedule without CFNZ's prior written consent;
 - (g) secure the Rented Products from theft and damage and not do or allow anything to be done likely to jeopardise its condition or value; and
 - (h) keep the Rented Products in Your possession and not enter into any agreement with anyone in relation to the Rented Products (except as required to maintain or repair it) or do anything to prejudice CFNZ's rights in the Products.

7 Insurance

- 7.1 While You possess or control the Rented Products, You must maintain appropriate public liability and property insurance against loss or damage to the Rented Products for all foreseeable risks and for not less than its Replacement Value.

7.2 You must:

- (a) ensure CFNZ's interests as owner are covered under Your applicable insurance policies and produce certificates of currency or proof of payment at CFNZ's request;
- (b) notify CFNZ of any circumstances that may entitle a claim to be made under any insurance policy in relation to the Rented Products; and
- (c) pay any insurance proceeds You receive in relation to the Rented Products to CFNZ and CFNZ (at its discretion) may apply it to repair or replace the Rented Products or reduce Your liability to CFNZ.

8 Personal Property Securities Act (PPSA)

8.1 Unless otherwise defined in this Agreement, in this clause 8, capitalised terms used have the meanings given to them in the PPSA, and references to sections are to those in the PPSA.

8.2 You grant CFNZ a Security Interest in all Rented Products and the Proceeds of those Rented Products (**Collateral**) supplied to You to secure payment of all amounts owing to CFNZ under this Agreement or any other agreement.

8.3 You acknowledge that for the purposes of section 36(b) that this Agreement creates a Purchase Money Security Interest for Rented Products supplied under this Agreement until payment for such is received by CFNZ.

8.4 CFNZ may register a Financing Statement in the Personal Property Securities Register (**Register**) to perfect its Security Interest in the Collateral. You will pay CFNZ's costs of registering a Financing Statement or a Financing Change Statement on CFNZ's demand or, where applicable, CFNZ will debit it against the trading account You have with CFNZ.

8.5 You must:

- (a) do all things necessary and provide CFNZ immediately on request all information required by CFNZ to register a Financing Statement over the Collateral;
- (b) do all things necessary to enable the perfection, re-perfection or maintenance of perfection;
- (c) on request by CFNZ, promptly execute any documents and do anything else required by CFNZ to ensure that CFNZ's Security Interest in the Collateral constitutes a Perfected Security Interest in the Collateral; and
- (d) provide CFNZ, within 2 Business Days of receiving a written request, copies of all Security Interests registered over the Customer's personal property.

8.6 You will not agree to allow any person to file a Financing Statement over the Collateral without CFNZ's prior consent and will notify CFNZ immediately if You become aware of any person taking steps to file a Financing Statement against any of the Collateral.

8.7 You:

- (a) agree that nothing in sections 114(1)(a), 120(1), 133 and 134 will apply to this Agreement; and waive Your right to:
- (b) receive a statement of account under section 116;
- (c) receive notice of a proposal by CFNZ to retain Collateral under section 120(2);
- (d) object to a proposal by CFNZ to retain Collateral under section 121;
- (e) not have Rental Products damaged if CFNZ removes an accession under section 125;
- (f) receive notice of the removal of an accession under section 129;
- (g) apply to the Court for an order concerning the removal of an accession under section 131; or
- (h) receive a copy of the Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to the Security Interest created by this Agreement (section 148).

8.8 You authorise CFNZ as an agent for You to request information from

any secured party relating to any Security Interest held in personal property that is or has been in Your possession or control.

8.9 CFNZ may at its discretion require You to pay all reasonable costs, including legal costs on a solicitor-client basis, incurred CFNZ in connection with:

- (a) perfecting and maintaining perfection of CFNZ's Security Interest;
- (b) discharge or amendment of any Financing Statement registered by CFNZ whether or not the change was initiated by You; and
- (c) any costs CFNZ incurs in the course of enforcing any of its rights under the PPSA, this Agreement, or at law generally.

Part B - Products and Services

9 Agreement to Supply

9.1 In consideration of You paying the Charge or entering into Part A Rental or both, Canon agrees to supply to You the:

- (a) Hardware;
- (b) Software;
- (collectively the '**Products**') and the:
- (c) Service Plan;
- (d) Software Support;
- (e) Professional Services;
- (f) LFP Onsite Service and Support (**OSS**);
- (g) any other Services stated in an SOW,

collectively, the '**Services**', described in the Rental and Service Schedule on the terms of this Agreement.

9.2 Where You do not select any Services in the Schedule, clause 13.1(d) applies and Canon has no responsibility to provide You with any ongoing Services except any delivery and installation of the Hardware included in the Charges.

9.3 Unless otherwise stated in the Schedule:

- (a) Service Plans and eMaintenance are supplied for the Minimum Term and any applicable Subsequent Term;
- (b) Software Support, Professional Services and other Services stated in a SOW are supplied for the periods stated in the Schedule or SOW.

9.4 Each of the service periods described in clause 9.3 will automatically extend for a Subsequent Term unless either party gives 60 days written notice to end the applicable Service before the end of the relevant Term.

10 Representations

10.1 You acknowledge You have:

- (a) only relied on Canon's written representations or statements made to You regarding the Products and Services, their fitness for any purpose, qualities or characteristics or any other matters in respect of the Products and Services; and
- (b) satisfied Yourself the Products and Services are fit for the purpose for which You require them.

11 Charge

11.1 In consideration for the supply of the Products and Services, You must pay the Charge to Canon, including (where relevant):

- (a) the Charge for any Products and Services not incorporated in the Rental Instalments under Part A;
- (b) GST and other taxes, duties, fees or other government levies that may be imposed on or in respect of the Products and Services; and
- (c) packaging, insurance and delivery charges for the Products delivered to Your locations.

11.2 Canon may vary the Charge to directly reflect material changes in government levies or taxes including custom duties and any changes in GST imposed on Canon in connection with the Products and/or Services.

11.3 Toner is only supplied for use in the Hardware. The supply of toner,

excluding the cost of delivery, is included in the Service Charge when stated in the Schedule. When it is included in the Service Charge, it is provided on the basis that if Your toner orders over any 6 month period exceed Your actual toner usage for the Hardware (as detailed in Canon's service records), Canon may charge You for any excess toner supplied at Current Rates.

- 11.4 User Replaceable Parts are only supplied for use in the Hardware and, if not charged on a time and materials basis at the Current Rate, is included in the Service Charge. When they are included in the Service Charge, if You misplace, damage or use them in other hardware, Canon may charge You for those User Replaceable Parts at Current Rates. Toner delivery will be charged at the rate specified in the Schedule.
- 11.5 Canon may charge You a reasonable Additional Charge when You require Canon personnel to undertake induction and/or training of more than a nominal duration that You run.
- 11.6 During the Minimum Term and any Subsequent Terms, Canon may vary the Charge for any Services, the Minimum Service Charge, Scan Charge, and Toner Delivery Charge, by providing You at least 14 days written notice and You are deemed to accept the varied Charges unless You notify Canon otherwise within those 14 days. If You do not accept the varied Charge, the Services will cease.
- 11.7 Click Charges are set on the assumption You will meet expected average Click volumes for the Minimum Term and:
- where Your actual Click volumes are below the expected average output for that Hardware, Canon may vary the Service Charge to compensate it for the shortfall or charge a reasonable minimum charge at Canon's Current Rate; and
 - if Canon reasonably considers Your weighted toner page coverage is above average, Canon may vary the Service Charge to compensate for this.

12 Payment

- 12.1 You must pay Canon in full by direct debit for all correctly-rendered invoices by the 20th of the month following the invoice date without any deduction or set-off.
- 12.2 If You reasonably dispute an invoiced amount, You must pay Canon the undisputed amount by the due date. Any invoice dispute must be resolved by the parties subject to clause 36.
- 12.3 Subject to clause 12.2, if payment is not received in full when due:
- Canon may charge You a reasonable late payment fee; and
 - You must pay interest on the unpaid and undisputed amount at the rate of 10% above the current RBNZ Official Cash Rate, calculated daily; and
 - Canon may defer delivery of any Products, and suspend the relevant Services and provision of any Software until it receives payment in full; and
 - Canon may charge You any costs or fees it incurs in recovering any amounts owed by You, including debt collection and legal fees.

13 Canon's Responsibilities

- 13.1 Canon warrants:
- the Products will comply with the Specifications (if any);
 - it has the right to supply the Products and the Products are free from any charges or encumbrances;
 - it will supply the Services stated in the Schedule with all due care and skill and in a professional manner consistent with generally-accepted industry standards and any agreed Service Levels stated in the Schedule or SOW;
 - any Warranty provided with the Products will be transferred to You subject to the terms stated in the Warranty; and
 - Canon's entry into and performance of its obligations under this Agreement will not infringe the rights of any third party or cause You to be in breach of any obligations to a third party.
- 13.2 If Your Hardware is relocated from its original or agreed location, Canon may terminate the Agreement without notice or vary Charges for Services.

14 Delivery, Installation and Training

- 14.1 Unless otherwise agreed in writing, all delivery and installation dates are estimates and Canon is not liable for any loss, costs, expense, liability or damages You suffer because Canon did not meet these estimated dates.
- 14.2 Canon will (at your expense and during Business Hours):
- deliver and install the Hardware to Your location on the Delivery Date stated in the Schedule;
 - where stated in the Schedule, train Your personnel to correctly use the Products in accordance with any agreed Training Plan;
- provided:
- You comply with any delivery and installation terms Canon provides you and do all other necessary things to accept delivery and installation of the Products, including, prior to delivery and installation of the Products, providing Canon with all requested information about Your Customer Environment;
 - Your personnel and any applicable third parties are ready to attend the training at the agreed time; and
 - Your locations meet the Specifications for installation and training (where applicable).
- 14.3 If Canon delivers the Products and Your Customer Environment or personnel or both are not ready for Canon to complete the installation or perform the Services, or You have not provided Your accurate and complete network or other information requested by Canon within a reasonable time before the installation date, You must grant Canon a reasonable extension of time to complete it and Canon may charge you and Additional Charge (including travel costs).

15 Your Responsibilities

- 15.1 You warrant:
- You have disclosed to Canon all relevant information relating to Your Customer Environment to enable Canon to suggest Products and Services suitable for You;
 - You own the rights or have the right to use any software, hardware, systems, IP addresses, domain names and other items in Your Customer Environment;
 - Your Customer Environment is in good working order and You are solely responsible for its availability and integrity;
 - to take all reasonable precautions to safeguard Your business and specifically Your Customer Environment, the Software and all software and data to minimise potential loss or disruption, including (as applicable) implementing effective audit control, working methods, firewalls, virus checking controls and data security measures including appropriate data and software back-ups;
 - to follow Canon or the manufacturer's written instructions for the Products including any stated maintenance tasks; and
 - You will only use the Products for the purposes it is commonly supplied.
- 15.2 You acknowledge the Hardware is designed to work at its best using spare parts or other replaceable items (such as consumables) made or recommended for use by Canon. If anything else is used, You may experience loss of quality or performance and Canon is not liable for any complaint concerning that poor performance. Also, using such other products may cause actual damage to the Hardware and in such an event Canon may refuse to repair it or charge an Additional Charge for such repairs and Canon may be obliged to withdraw its Service Plans entirely without penalty or liability to You.
- 15.3 As part of a Service Plan, Canon may use refurbished or recycled spare parts.
- 15.4 You must grant Canon personnel access to Your locations and Customer Environment (including relevant passwords and/or data) reasonably required by Canon to perform its obligations under this Agreement.
- 15.5 You must:
- purchase and install the consumables necessary to operate the Hardware, including ink, paper, staples, printheads, batteries and any other specified materials;

- (b) only use Canon to install the Hardware and spare parts (if relevant and excluding any User Replaceable Parts) in the Hardware and, if labour is not included in the Service Charge, pay labour charges;
- (c) install any User Replaceable Parts;
- (d) let Canon know of any defect in the operation of the Products as soon as practicable after You become aware of the defect;
- (e) unless otherwise agreed in writing, only allow Canon to relocate the Hardware; and
- (f) allow Canon to supply Services remotely where appropriate.

16 Hardware Remote Monitoring

- 16.1 Canon will enable eMetering and eConsumables at no Charge on eMaintenance-operable Hardware unless You inform Canon You do not want it enabled in which case clause 16.2 applies. eMonitoring will be supplied if stated in the Schedule. All eMaintenance components are provided under the terms of the 'eMaintenance End User Licence Agreement' that is available on request. If Canon is required to attend Your location to rectify the disabling of eMaintenance due to Your actions or network set-up (including password expiry), Canon may charge You a reasonable Additional Charge.
- 16.2 Subject to clause 16.1, if You opt out of eMetering or eConsumables or Your actions cause eMaintenance to be disabled (including due to Your network setup and password expiry), You will provide Canon with monthly meter readings for the Hardware (or other period agreed by the parties) by entering the current meter read into Canon's email based system by the due date. If You fail to do so, Canon will charge a reasonable Additional Charge for meter-read administration and (at its option) contact You to obtain the meter read or estimate it based on Your past usage, or if a Minimum Service Charge applies, apply the minimum charge. If Canon is unable to obtain a meter read it may suspend the supply of a Service Plan or consumables (including toner) or both.
- 16.3 As part of a Service Plan:
- (a) Canon may periodically update the RDT and firmware remotely and if You notify Canon You do not wish Canon to update it remotely, Canon may charge You a reasonable Additional Charge to update it onsite; and
 - (b) You are responsible for any network charges incurred as a result of remote monitoring or updating software or both.

17 Software Support Inclusions

- 17.1 Software Support consists of:
- (a) phone, email, remote access and on-site support by a technician for Software during Business Hours, as Canon deems necessary, to ensure the Software remains in substantial conformity with its Specifications;
 - (b) Updates if and when available to Canon at no Additional Charge; and
 - (c) New Releases if and when available to Canon at a separate Charge unless otherwise stated in the Schedule. You are responsible for ensuring any New Releases are compatible with and suitable for Your requirements and agree New Releases are only provided for periods Canon considers commercially viable.

18 Professional Services

- 18.1 Canon will perform the Professional Services stated in the Schedule or SOW.
- 18.2 Unless otherwise agreed in writing, in addition to the Charge, You will reimburse Canon for materials and reasonable travel, administrative and out-of-pocket expenses incurred in conjunction with the Professional Services. Where requested by You, Canon will supply You with proof of expenses when issuing its invoice for payment.
- 18.3 If You cancel a booking for Professional Services with less than 2 Business Days' notice before the scheduled attendance date, Canon may charge 100% of the Charge as cancellation fees.
- 18.4 Clauses 17.1(a) and 20 apply where Canon Materials are used as part of Professional Services.

19 Tests

- 19.1 If an SOW states tests are required for a specific Deliverable, on

completion of each Deliverable, Canon will demonstrate its functionality materially complies with its Specifications. You are responsible for conducting any additional testing of the Deliverables subject to any applicable Acceptance Criteria the parties agree before the tests take place.

- 19.2 If You reasonably determine a submitted Deliverable does not materially comply with the Acceptance Criteria and it is not due to an exclusion stated in clause 20, You must provide Your written reasons to Canon within 10 Business Days of the tests being conducted.
- 19.3 Canon will then use commercially reasonable efforts to promptly resolve any deficiencies You raise under clause 19.2 and submit the Deliverable for re-testing.
- 19.4 If the tests are still not successfully completed, You must consider any reasonable alternative Canon proposes (including reviewing the SOW). Alternatively, if a Deliverable fails a test but performs substantially to the functional requirements stated in the SOW, You may cancel the supply of the applicable Deliverable and clause 31.3 applies.
- 19.5 Notwithstanding the above clauses, if the parties subsequently determine the applicable functional requirements stated in the SOW are inappropriate or require modifying due to changed circumstances, incorrect assumptions or other reasons at the time the Deliverable is delivered and tested, the parties will negotiate in good faith to appropriately vary the requirements.
- 19.6 The Deliverables are deemed accepted if:
- (a) there is no SOW or tests;
 - (b) You do not notify Canon within the 10 Business Day period stated in clause 19.2; or
 - (c) You give written notice waiving Your requirement for the Deliverables to pass the tests; or
 - (d) You use the Deliverable for your business purposes or in a production environment or both without Canon's prior written consent.

20 Services Exclusions

- 20.1 Canon has no liability for, and is not required to provide Services under this Agreement if it relates to:
- (a) damage arising out of external causes outside Canon's control including accident, disaster, electrical fault, power surges, lightning, internet connection fault, or theft;
 - (b) You, or a third party for whom You are liable, not following Canon's or the manufacturer's written instructions for the Products;
 - (c) You using incompatible materials in the Hardware;
 - (d) unauthorised repairs or repair of damage caused by non-Canon personnel installing or modifying the Products;
 - (e) Your (or Your third party for whom You are liable) abnormal use, storage or handling of the Products (including failure to provide appropriate environmental conditions) and any repair or damage caused by such misuse;
 - (f) any malfunction or specific requirement of any other item of hardware or software You link to the Products;
 - (g) correction or errors in any software not supplied by Canon;
 - (h) Your data loss or damage;
 - (i) You changing Your Customer Environment (other than as agreed in writing);
 - (j) where You have not installed or maintained any error correction, current Updates or New Releases supplied or made generally available by Canon or other relevant third party manufacturers;
 - (k) Hardware decommissioning, re-commissioning or relocations not performed by Canon;
 - (l) the Software demonstrates a fault for which its third party manufacturer has not or does not intend to release a correction;
 - (m) where You customise the Software (when customisations are permitted under Your licence terms);
 - (n) where You repeatedly request on-site Service and Canon

- reasonably determines there is no fault; or
- (o) Software Support You request after its Term expires.
- 21 Additional Services**
- 21.1 Canon is not obliged but may agree to provide the following Additional Services for an Additional Charge:
- (a) Services outside of Business Hours;
 - (b) repairs necessitated by a virus or denial-of-service attack (or similar) in Your Customer Environment;
 - (c) Preventative Maintenance;
 - (d) training other than that stated in the Schedule or SOW;
 - (e) Professional Services installation of New Releases;
 - (f) installation of any User Replaceable Parts in the Hardware;
 - (g) MFD hard disk erase and removal; and
 - (h) any other services not expressly included in the Services.

21.2 At Your request and on reasonable notice, Canon may relocate the Hardware at Your expense and consistent with the Specifications.

22 Risk and Title

- 22.1 Risk in the Products, Canon Materials, consumables and replacement spare parts passes to You on delivery.
- 22.2 Except for Rented Products, title to the Hardware and any consumables and replacement spare parts passes to You on payment in full to Canon. Title in spare parts removed from Hardware when Canon performs work under a Service Plan vests in Canon on removal.
- 22.3 Unless and until title passes to You under clause 22.2, You must not:
- (a) do, or allow anything to be done, that is inconsistent with Canon's ownership including deal with, sell, part with possession of, convert, mix with or affix to other goods, or dispose of the Hardware;
 - (b) relocate the Hardware to another location without Canon's prior written consent; or
 - (c) alter the Products in any way that may adversely affect their value without Canon's prior written consent.
- 22.4 Subject to clause 23.3, title to the Software and Canon Materials remains with Canon.
- 22.5 Where title in the Hardware has not passed to You under clause 22.2, Canon may, with reasonable notice, enter Your locations where the Hardware, consumables and replacement spare parts are located during Business Hours, re-possess them and recover any associated costs. Exercising this right does not limit any rights or remedies Canon may have under this Agreement including the right to recover damages for breach of contract.
- 22.6 Until title passes to You, You shall: account to Canon for the Products consumables and replacement spare parts and any proceeds of such; hold the Products consumables and replacement spare parts as agent for Canon; and will if required, store the Products consumables and replacement spare parts in such a way that they are clearly identifiable as Canon's property.

23 Intellectual Property Rights and Licensing

- 23.1 The ownership of the IPR in any item existing before the Commencement Date will not be transferred or assigned from one party to the other party merely by virtue of that item's use by the other party under this Agreement.
- 23.2 Nothing in this clause affects the ownership of any IPR in any item coming into existence independently of this Agreement and which is incorporated into the Products.
- 23.3 On receipt of payment in full of the Charge and subject always to Your compliance with this clause 23, Canon grants You a non-exclusive and non-transferable licence during the Term to use the Software and/or Canon Materials for Your internal business purposes. In the case of Canon Materials, the licence granted is also royalty-free.
- 23.4 You may, subject to clause 23.5(c):
- (a) use one copy of the Software where 'use' means storing, loading, installing, executing or displaying the Software for Your own internal purposes; and

- (b) make a reasonable number of back-up copies of the Software and Canon Materials to support the permitted use, provided all copies include Canon or the third party manufacturer's copyright notice as it appears in the original copy of the Software provided.

23.5 You must not:

- (a) copy, reproduce, export or deal in the Software or Canon Materials in any way except as expressly permitted by this Agreement and to the extent and in the circumstances permitted by law;
- (b) remove, alter or obliterate any IPR or proprietary notice or other notice required by national legislation or regulation on any Product supplied by Canon; and
- (c) decompile, reverse engineer, disassemble or otherwise reduce any part of the Software to human-readable form nor permit any third party to do so.

23.6 If Software or Canon Materials contains any items in which IPR are owned by a third party, Canon warrants You are entitled to use them for the purpose contemplated under this Agreement without having to obtain consent from that third party, except where You are required to enter into a third party licence and You are informed of that requirement before entering into this Agreement.

24 Infringement of Intellectual Property Rights

- 24.1 Canon will indemnify You against any final judgement, award or settlement made against You in respect of any Product or Canon Materials suspected or alleged to infringe a third party's New Zealand IPRs, subject to You:
- (a) notifying Canon in writing of the alleged infringement as soon as reasonably practicable;
 - (b) not making admissions about the alleged infringement;
 - (c) allowing Canon to conduct the defence of any alleged infringement and You providing reasonable assistance to Canon; and
 - (d) agreeing the indemnity will not apply if the infringement is due to Your abnormal use or misuse of the Product or Canon Materials.
- 24.2 If any Product or Canon Materials are held, or in Canon's reasonable opinion are likely to be held, to be an infringement of a third party's New Zealand IPRs, Canon will, at its expense and option:
- (a) procure the right for You to continue using the Product or Canon Materials;
 - (b) modify or amend the Product or Canon Materials to circumvent any infringement; or
 - (c) replace all or part of the Product or Canon Materials with materials of a similar capability.
- 24.3 To the full extent permitted by law, the remedies stated in clause 24 constitute Your sole remedies and Canon's sole liability with respect to any infringement.
- 24.4 Your rights and Canon's indemnity under clause 24 will not apply to any Product or Canon Materials where the infringement claim arises from:
- (a) Your use of the Product or Canon Materials in combination with any third party product (including software) not approved by Canon or in breach of a third party license;
 - (b) modification of the Product or Canon Materials by You or a third party without Canon's approval; or
 - (c) the use of the Product or Canon Materials other than as contemplated in this Agreement, including any documents (including third party licenses) supplied with the Product or Canon Materials, or operating instructions provided by Canon.

Part C - General Terms and Conditions

(d)

25 All Parties' Obligations

- 25.1 Each party agrees:
- (a) it has full power and authority to enter into and perform this Agreement;

- (b) to act reasonably in performing its obligations and exercising its rights under this Agreement;
- (c) that when communicating with each other, it is responsible for conducting appropriate virus checks on any electronic media sent or received to or from the other party.

26 Your representations and warranties

- 26.1 You irrevocably represent and warrant to the Canon Parties:
- (a) if You are a body corporate, You are properly incorporated and validly exist;
 - (b) You are not subject to any Insolvency Event;
 - (c) You have not failed to observe any applicable law, security interest, or any other legal instrument or arrangement You are bound to that may materially affect Your ability to perform Your obligations under this Agreement;
 - (d) all information You supply the Canon Parties is correct and not misleading;
 - (e) You have not relied on any representation made by anyone acting on the Canon Parties' behalf concerning the impact on You of entering this Agreement (including Your financial affairs or taxation position) and how this transaction may be classified under New Zealand accounting standards;
 - (f) if You are entering into this Agreement as a trustee:
 - (i) for the purposes of clause 25.1(a), this Agreement binds You personally and as trustee of the trust;
 - (ii) You will not resign as trustee or cause the trust to be wound up without the Canon Parties' prior written consent;
 - (g) any Rented Products and Services are wholly or predominantly for business purposes and You acknowledge that the Credit Contracts and Consumer Finance Act 2003 does not apply to this Agreement; and
 - (h) You are in trade and acquiring the Rented Products and Services, Products and Services for business purposes only and accordingly:
 - (i) the Consumer Guarantees Act 1993 does not apply to the Rented Products and Services, Products and or Services supplied under this Agreement; and
 - (ii) You agree that sections 9, 12A, and 13 of the Fair Trading Act 1986 do not apply to this Agreement.
- 26.2 If the Canon Parties reasonably believe Your financial situation has adversely changed, the Canon Parties may, at any time, require You to provide a guarantee and/or security documentation (including personal/bank guarantees, debentures or other security).

27 Safety and WHS Laws

- 27.1 Each party must comply with all applicable laws and safety standards relating to the safe handling of the Products, including workplace health and safety laws (**WHS**).
- 27.2 You must ensure:
- (a) Your use of the Rented Products and Products does not place the public, community or environment at risk of injury, illness or damage; and
 - (b) the Rented Products and Products are periodically tested in accordance with AS/NZS 3760:2010 (and any replacement standard).
- 27.3 Canon will comply with Your reasonable security and WHS policies when You provide them to Canon in writing in advance.
- 27.4 Where Canon is required to use additional personnel or special equipment such as a stair-walker or crane to install or service the Hardware to comply with WHS or Your policies, an Additional Charge may apply.

28 GST

- 28.1 Where GST is payable on any supply under this Agreement, You will pay the GST amount as part of the Charge on receipt of the applicable Canon Party's tax invoice in accordance with the GST Law.

29 Confidentiality

- 29.1 Subject to clause 29.2, each party will hold the other parties' Confidential Information in confidence and not use or disclose it other than in connection with this Agreement.
- 29.2 The Canon Parties may use Your organisation's name and logo in customer reference lists for internal purposes and in confidential presentations to customers and prospective customers. The Canon parties will seek Your written permission prior to using your organisation's name in any external advertising or publicity material.

30 Privacy

- 30.1 A party must not do any act or thing that causes either party to be in breach of the Privacy Act 1993. The Canon Parties' Privacy Policy may be viewed at canon.co.nz/privacy-policy.
- 30.2 Subject to the relevant regulations, the Canon Parties may send You marketing materials.

31 Liability and Indemnity

- 31.1 Each party (**Indemnifying Party**) must indemnify and keep the other party (**Indemnified Party**) indemnified from and against any direct loss, damage, costs and expenses (including reasonable legal expenses) or liability reasonably suffered or incurred by the Indemnified Party, in connection with:
- (a) bodily injury to or death of any person; or
 - (b) physical damage to tangible property (excluding corruption of magnetic media and loss of data);
- to the extent caused by the negligence or wilful misconduct of the Indemnifying Party or its personnel, in connection with this Agreement.
- 31.2 Subject to clause 31.1, the Canon Parties have no liability in relation to Your Customer Environment.
- 31.3 Any liability the Canon Parties may have for any failure to comply with a consumer guarantee imposed by the Consumer Guarantees Act 1993 or any condition or warranty implied into this Agreement by legislation that cannot be excluded is not excluded, but to the extent the law permits is limited to (at the Canon Parties' option):
- (a) in the case of the Products, any one or more of:
 - (i) replacing the Products or supplying equivalent Products;
 - (ii) repairing the Products;
 - (iii) paying the cost of replacing the Products or of acquiring equivalent Products;
 - (iv) paying the cost of repairing the Products; or
 - (b) in the case of the Services:
 - (i) re-supplying the Services;
 - (ii) paying the cost of re-supplying the Services.

- 31.4 To the extent the law permits, no party is liable for any of the other parties':
- (a) lost management or other staff time;
 - (b) loss of actual or anticipated profit, revenue, savings, use, production, opportunity, customers, contracts, interest, or goodwill; or
 - (c) any consequential, indirect, incidental, or special loss, damage or expense, even if it has been advised of their possible existence and even if such loss, damage or expense is caused by the negligence of the other party, its employees, agents or contractors.
- 31.5 To the extent the law permits, the Canon Parties are not liable for loss or damage due to fair wear and tear or Your negligent or improper use of the Products.
- 31.6 Except for an indemnity under clauses 31.1(a) and liability under clause 29, to the full extent permitted by law, each party's liability, and a party's remedies under this Agreement, whether in contract, tort (including negligence), under statute or otherwise is restricted in aggregate to the equivalent of the total Charges payable by You under this Agreement.
- 31.7 The Canon Parties may place GPS locator tags on the Rented Products and Products for the purpose of enforcing their rights under this Agreement.

32 Termination and Default Events

32.1 Either party may terminate this Agreement by giving written notice to the other party if:

- (a) the other party materially breaches this Agreement and:
 - (i) the other party cannot remedy the breach; or
 - (ii) if the breach can be remedied, the other party fails or refuses to do within 30 days after receiving a notice specifying the breach and demanding it be remedied;
- (b) the other party suffers an Insolvency Event; or
- (c) there is a change in control or ownership of a party where 'control' includes the ability to determine the outcome of financial or operating policies of that party and the other party is not reasonably satisfied the new controller can meet the obligations under this Agreement.

32.2 A party may terminate this Agreement in a Subsequent Term with at least 60 days written notice to the other parties.

32.3 It is a fundamental and essential term that You do not permit a Default Event to occur and if a Default Event occurs, You are deemed to have repudiated this Agreement and this clause 32 applies. A 'Default Event' occurs if:

- (a) You fail to pay any amount due to a Canon Party within 7 days of the due date, whether or not a Canon Party formally demands it;
- (b) in respect of the Rented Products, You:
 - (i) do not comply with any of Your obligations under clause 7 (Insurance);
 - (ii) purport to assign or in any way deal with the Rented Products or any of Your rights under this Agreement in breach of clause 41.1;
 - (iii) allow anything to occur that prejudices or jeopardises CFNZ's rights to or interest in the Rented Products or the Canon Parties' ability to recover the Rented Products;
 - (iv) lose, damage or destroy the Rented Products or allow them to be seized or appropriated, or the Canon Parties reasonably determine they are so damaged that their repair would be uneconomical;
- (c) if the Canon Parties reasonably believe a material adverse change has occurred in Your business or financial position that is likely to affect Your ability to meet Your obligations under this Agreement;
- (d) an Insolvency Event occurs in relation to any Guarantor, or if the Guarantor is an individual, it becomes, or becomes liable to be declared, bankrupt; or
- (e) You give a false warranty in relation to this Agreement.

33 Effect of Termination or Default Event

33.1 On termination or expiry of this Agreement:

- (a) Canon will stop supplying the Services;
- (b) You must do all things necessary to assist the Canon Parties to remove the Rented Products and, subject to clause 21, the Products, from Your locations;
- (c) If You do not provide the assistance required under clause 33.1(b), the Canon Parties may enter locations You own, occupy, possess or control to recover or attempt to recover the Rented Products and subject to clause 21, the Products. The Canon Parties and any person acting on their behalf are irrevocably licensed to enter such locations to recover the Rented Products and Products without incurring liability for any loss You or any person claiming through You suffers as a result of any action taken by the Canon Parties or on their behalf under this clause 33.1(c);
- (d) if the Rented Products and, subject to clause 21, the Products are damaged or in a state of disrepair (except for fair wear and tear), You must pay all repair costs incurred by the Canon Parties;
- (e) where applicable and subject to any licence terms, You must stop using the Software;

(f) the Canon Parties are entitled to receive from You:

- (i) all outstanding amounts due under this Agreement but not paid including any Rental Instalments and Charges;
- (ii) the Canon Parties' reasonable administration costs incurred in recovering or attempting to recover any outstanding amounts, including legal or debt collection costs, and commissions; and
- (iii) the Canon Parties' reasonable costs of recovery, repossessing or attempting to repossess, and recycling of the Products; and

(g) the Canon Parties may set-off any outstanding amounts You owe under this Agreement against any amounts a Canon Party owes You (whether such amounts are owed to You under this Agreement or any other agreement between You and the Canon Parties), with such set-off effective immediately on the Canon Parties providing You with written notice of the set-off.

33.2 Despite any other clause in this Agreement, termination of this Agreement by a Canon Party before the end of the Minimum Term entitles the relevant Canon Party to recover from You the following amounts as a genuine pre-estimate of a Canon Parties loss:

- (a) where Part A applies, the balance of all future Rental Instalments;
- (b) where Part B applies, 25% of Your actual average monthly Click Charges over the preceding 12 months multiplied by the number of months remaining to the end of the Minimum Term.

33.3 If You retain possession of the Rented Products and, subject to clause 21, the Products in any Subsequent Term:

- (a) You must continue to comply with the applicable terms of this Agreement until the Canon Parties recover the Rented Products and, subject to clause 21, the Products; and
- (b) where applicable, Canon will continue to provide the Services.

33.4 If the Canon Parties are unable to re-possess the Rented Products and (subject to clause 21) Products within a reasonable time or the Canon Parties terminate this Agreement because You have lost, destroyed or damaged the Rented Products or Products, the Canon Parties may declare them lost and You must pay the Canon Parties the Replacement Value at that time, as well as any other amounts owed to the Canon Parties.

33.5 A Canon Party's accepting any payment after the Canon Parties become aware of any default or breach of this Agreement is without prejudice to the Canon Parties' rights under this Agreement.

33.6 Notwithstanding any other clause in this Agreement, if Canon terminates this Agreement under clause 32.2 and You have pre-paid any Charges for the applicable Subsequent Term, Canon will reimburse You on a pro-rated basis for any Services You do not receive.

34 Appropriation of Payments

34.1 The Canon Parties may apply any money received from You, or anyone else on Your behalf, to any money You owe whether in connection with this Agreement or otherwise and may disregard any directions You give as to how any monies are to be applied.

35 Guarantee and Guarantor's Indemnity

35.1 This clause only applies if Guarantors are stated in the Schedule.

35.2 In consideration of CFNZ renting the Rented Products and Services to You, the Guarantors unconditionally and irrevocably guarantee to the Canon Parties the due and punctual performance by You of Your obligations under this Agreement, including Your payment of all monies You owe the Canon Parties under this Agreement (**Guaranteed Monies**).

35.3 If You default in payment of the Guaranteed Monies, the Guarantors must pay them to the Canon Parties on demand by the Canon Parties.

35.4 The Guarantors indemnify the Canon Parties against all loss the Canon Parties suffer if You do not pay the Guaranteed Monies including all legal and other costs of enforcing this Agreement on a full indemnity basis.

35.5 The Guarantors' obligations are principal obligations and are continuing, and are not affected by anything which might otherwise

- operate to relieve the Guarantors of them, including:
- (a) any arrangement increasing the Guaranteed Monies or otherwise varying the terms of this Agreement;
 - (b) any waiver, release or extension of time given by the Canon Parties;
 - (c) an Insolvency Event of You or Your Guarantor; and
 - (d) any failure by the Canon Parties to give any notice, or any other omission, delay or error on the Canon Parties' part.
- 35.6 Until the Guaranteed Monies are paid in full, the Guarantor must not exercise any right of subrogation to the Canon Parties or in competition with the Canon Parties.
- 35.7 Each Guarantor represents this guarantee and indemnity is given for its benefit and each Guarantor acknowledges the Canon Parties enter into this Agreement at the Guarantors' request and in reliance on and in consideration for the Guarantors' guarantee and indemnity.
- 36 Dispute Resolution**
- 36.1 The parties agree to use reasonable commercial efforts to resolve by negotiation any problem arising between them under this Agreement. If, after 20 Business Days, the matter remains unresolved then an appropriate representative from each of the parties' senior management will meet to discuss and attempt to resolve the disputed matter. If the dispute is not resolved by the end of a further 20 Business Days, a Party may require the dispute be submitted to mediation and conducted in terms of the Resolution Institute standard mediation agreement (NZ version). The mediation must be conducted by a mediator and at a fee agreed by the parties. Failing agreement by the parties as to appointment of a mediator within seven days of reference to mediation, the mediator will be selected and their fee determined by the Chair for the time being of Resolution Institute (or any suitable replacement organisation). You must not commence any court proceedings or other similar actions relating to a dispute unless You have complied with the dispute resolution procedure set out in this clause.
- 37 Force Majeure**
- 37.1 Notwithstanding any other term of this Agreement, the Canon Parties are not liable for any delay or failure to perform the Canon Parties' obligations under this Agreement (except in relation to delivery of the Products) if that failure or delay is due to a Force Majeure Event.
- 37.2 If the delay or failure to perform referred to in clause 37.1 exceeds 60 days, You may terminate this Agreement by written notice to Canon. If this occurs, clauses 33.1, 33.3, 33.4 and 33.5 apply but clause 33.2 will not.
- 37.3 Clause 37.2 does not relieve or suspend Your obligation to pay the Minimum Term Rental Instalments and any other amounts payable to the Canon Parties up until the date of termination of this Agreement.
- 38 Notices**
- 38.1 Any notice given under this Agreement must be in writing. A notice is taken to have been given if:
- (a) delivered by hand, on the date it is delivered;
 - (b) sent by post to either the last known trading or registered address, on the third day after the date of posting; or
 - (c) transmitted by email, only in the event that the other party acknowledges receipt by any means.
- 39 Counterparts and electronic signature**
- 39.1 The parties (including the Guarantors) may execute this Agreement in counterparts. An exchange of scanned and emailed executed copies or electronic signatures is acceptable. In the event of such an exchange, this Agreement becomes binding and any scanned and emailed signed copies or electronic signatures constitute admissible evidence of the existence of this Agreement.
- 39.2 If the parties (including the Guarantors) sign and submit this Agreement electronically, they each agree to be bound by this Agreement for the purposes of Part 4 of the Contract and Commercial Law Act 2017.
- 40 Information sharing**
- 40.1 You and the Guarantors must and also authorise:
- (a) any person or company, to provide the Canon Parties with such information as they may require in respect of this Agreement, including the Canon Parties credit enquiries. Such information may include personal information about You and or the Guarantor if You and or the Guarantor are natural persons; and
 - (b) the Canon Parties to provide to third parties details of this Agreement and any subsequent dealings the Canon Parties have with You and the Guarantors (including where You and the Guarantors are natural persons) as a result of this Agreement.
- 40.2 You and the Guarantors (including where You and the Guarantors are natural persons) authorise any person or company to provide the Canon Parties with identity verification for the purpose of Anti-Money Laundering and Countering Financing of Terrorism Act 2009 for themselves and any other beneficial owner.
- 41 General**
- 41.1 You may only assign this Agreement or any part of it if You first obtain the Canon Parties prior written consent, which will not be unreasonably withheld. The Canon Parties may assign any of their rights or obligations under this Agreement to their related bodies corporate and this Agreement applies for the benefit of the Canon Parties' successors in title, transferees and assigns.
- 41.2 The Canon Parties may sub-contract any of their obligations under this Agreement. The Canon Parties remain liable to You for their subcontractor's acts and defaults as if they were the Canon Parties' own acts and defaults.
- 41.3 This Agreement constitutes the entire agreement between You and the Canon Parties in respect of its subject matter and supersedes all previous communications, representations, understandings or agreements. No provision of this Agreement or a right conferred by it can be varied except in writing signed by the applicable parties.
- 41.4 No delay or failure to exercise any right under this Agreement constitutes a waiver and any right may be exercised in the future. Waiver of any term of this Agreement must be in writing and is only effective to the extent set out in that written waiver.
- 41.5 Every provision of this Agreement is independent of every other provision. Any provision which is prohibited or unenforceable in any jurisdiction is, to the extent of the prohibition or unenforceability, deemed removed and severable without invalidating, so far as possible, the remaining provisions.
- 41.6 The covenants, conditions and provisions of this Agreement capable of surviving after this Agreement expires remain in full force and effect after its expiry or termination.
- 41.7 The Canon Parties may pay a commission to an agent or third party for the referral of the application for this Agreement.
- 41.8 This Agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of its courts.
- 41.9 Words in the singular include the plural and vice versa. Words in one gender include all genders. Headings are for reference only and do not affect interpretation. All references to currency are in New Zealand dollars. References to any laws include all regulations, consolidations, amendments, modification and re-enactments and replacements of those laws. The term "including" means "including without limitation".
- 41.10 A discretion exercisable by the Canon Parties may be exercised in their absolute discretion unless expressly stated otherwise.
- 41.11 Any certificate signed by a manager employed by a Canon Party stating any amount, fact, circumstance or thing with respect to the Canon Parties' rights under this Agreement including the determination calculation or amount of any sum payable is sufficient evidence of the same for the purpose of any Court in any proceeding involving You or any Guarantor or both.
- 41.12 To the extent of any inconsistency between any terms of this Agreement, the order of priority (from highest to lowest) for the purpose of any interpretation is:
- (a) with respect to IPR and/or third party licensing issues, third party software licence agreement, if applicable;
 - (b) with respect to any LFP OSS, the terms referred to in clause 8.1(f);
 - (c) the terms and conditions of this Agreement;

- (d) the Schedule;
- (e) any other document attached to the Schedule or incorporated by reference.

42 Definitions and Interpretation

42.1 In this Agreement:

Acceptance Criteria means any agreed criteria for the Software stated in a SOW;

Additional Charge means a charge in accordance with Canon's Current Rate;

Additional Services means any service in addition to the Services to be provided by Canon under clause 21;

Business Day means a day that is not a Saturday, Sunday or public holiday in the place where the Products or Services are being supplied;

Business Hours means 8:30am to 5:00pm local time on a Business Day;

Canon means Canon New Zealand Limited (CN 438049) ;

Canon Materials means materials Canon uses or creates while supplying the Deliverables and for clarity includes Canon's software, hardware, documentation and methodologies;

Canon Parties means Canon New Zealand Limited and Canon Finance New Zealand Ltd;

CFNZ means Canon Finance New Zealand Limited (CN 528512) (GST Reg No. 57 481 463);

Charge means the charges and expenses payable by You for the Products or Services supplied under this Agreement (as set out in or calculated in accordance with the Schedule);

Click means a measurement of print, copy and/or fax output produced by You on an item of Hardware where A4 (or A4 equivalent) output equals 1 Click, A3 (or A3 equivalent) output equals 2 Clicks; and other, larger-than-A3-sized output will be counted as more than 2 Clicks unless otherwise agreed in writing by Canon;

Commencement Date means the date a Canon Party executes this Agreement or the first date any Deliverable is supplied to You (whichever occurs first);

Confidential Information means all confidential or proprietary information disclosed verbally or in writing by one party to another identified as confidential or whose confidential nature is reasonably apparent but excludes information that:

- (a) is or becomes a part of the public domain through no fault of the receiving party;
- (b) the receiving party lawfully possessed before the disclosure;
- (c) a third party lawfully disclosed to the receiving party without restriction on disclosure or any breach of confidence;
- (d) the receiving party independently developed; or
- (e) is required to be disclosed by law;

Current Rate means the current retail price Canon charges its retail customers when there is no negotiated contract rate;

Customer Environment means Your information technology, telecommunications, internet and other relevant infrastructure (including Wi Fi and network access) that interfaces with the Products or Services;

Deliverables means the Products, Services and documentation to be provided to You including as stated in a Schedule or SOW and any incidental and ancillary goods and documentation;

eConsumables means the eMaintenance component monitoring toner usage on MFDs;

eMaintenance means Canon's remote diagnostics system, consisting of 3 components being eMetering, eConsumables and eMonitoring;

eMetering means the eMaintenance component sending meter readings to Canon;

eMonitoring means the eMaintenance component sending fault notifications to Canon;

Force Majeure Event means anything outside a party's reasonable control, including acts of God, strikes, lockouts, industrial disputes, civil disturbances, wars, fire, storm, flood, earthquake, act of terrorism, act

of war, epidemic, pandemic, and any act or omission of any government authority;

GST Law means the Goods and Services Tax Act 1985 and any other law dealing with the imposition or administration of a goods and services tax in New Zealand. Applicable terms used in this Agreement have the meanings given in that law;

Guarantor means any person named as Guarantor in the Schedule;

Hardware means hardware to be supplied by Canon stated in the Schedule, and may include Multifunction Devices (MFDs), Laser Beam Printers (LBPs), Large Format Printers (LFPs), scanners, facsimiles, electronic whiteboards, videoconference equipment, digital signage, network video cameras, projectors or loan hardware;

Insolvency Event means:

- (a) if the applicable party is a corporation, action is taken by it or another person on the basis that it is insolvent or unable to pay its debts when they are due;
- (b) any step taken to appoint a liquidator, provisional liquidator, receiver, receiver and manager, administrator or other like person to all or part of a party's assets or business;
- (c) a party suspends payments generally or ceases to carry on its business or a substantial part of it;
- (d) if in the Canon Parties' reasonable opinion, You cease to be able to pay Your debts as they fall due;
- (e) any step taken by a party to enter into any arrangement with its creditors or any class of creditors;
- (f) if You are a partnership, the partnership is dissolved or an application is made to a Court to dissolve it; or
- (g) the holder of any security given at any time over any of Your assets becomes entitled to exercise any powers arising on default pursuant to that security or otherwise to take action to enforce the security;

Insurance means any insurance You are required to maintain under clause 7;

Interim Period means any period between the date on which the first Product is delivered and (if applicable) installed, and the date on which all the Rented Products are delivered and installed as determined by Canon;

Intellectual Property Rights (IPR) means all registered and unregistered intellectual property rights including:

- (a) copyright, patents, design rights, trademarks, service marks, databases, moral rights, business and trade names (including domain names) including the benefit of all registrations and applications to register any of those rights; and
- (b) all similar or equivalent rights protecting trade secrets, confidentiality, technology, know-how, expertise, methodologies or any creative, artistic or industrial words information;

LFP OSS means Onsite Service and Support for Canon-branded 'imagePROGRAF' LFPs;

Minimum Service Charge means the minimum Service Charge payable by You for the Products or Services supplied under this Agreement (as set out in the Schedule);

Minimum Term means the minimum term stated in the Schedule;

New Release means any new version of the Software containing significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product;

PPSA means the *Personal Property Securities Act 1999*;

Preventative Maintenance means services supplied by Canon unrelated to a malfunction of the Hardware;

Professional Services means services provided to help customers plan, design, and implement Software or Services or both, as stated in the SOW and/or the Schedule and may include scoping, change management, project management and producing Canon Materials such as an audit report;

Remedial Service means unscheduled maintenance required to restore Hardware so it conforms to Specifications, is safe to use and is in good working order;

Remote Diagnostic Tools (RDT) means:

- (a) any remote operator tools embedded in the MFD; and
- (b) any Software installed on the Customer Environment

to enable Canon to provide applicable Service Plan Services remotely on selected MFDs;

Rental Instalments means the GST-inclusive rental instalments payable by You as set out in or calculated in accordance with the Schedule;

Rented Products and Services means the rented Products and Services stated in the Schedule and **Rented Products** and **Rented Services** have corresponding meanings;

Replacement Value means the cost of purchasing the same or substantially equivalent model of Product assuming reasonable condition as determined by an independent person nominated by Canon as experienced in valuing similar hardware;

Scan Charge means the charge for scanning on Hardware (as set out in the Schedule);

Schedule means the Rental and Service Schedule stating the Rental Products, Products and Services to be supplied and applicable Rental Instalments and Charges;

Scope of Works (SOW) means Canon's standard document supplementing the Schedule prepared by Canon and executed by the parties specifying the scope and schedule of Deliverables to be supplied by Canon and the applicable Charge;

Service Charge means the charge payable by You for a Service Plan;

Service Levels means any service levels stated in the Schedule;

Service Plan means a parts and maintenance service plan for the Rented Products or Products made up of toner, labour, spare parts, User Replaceable Parts, installation, help desk support, Remedial Service, introductory training, eMetering, eMaintenance and eConsumables;

Software means the licenced software supplied by Canon stated in the Schedule;

Software Support means the support described in clause 17 for any Software stated in the Schedule;

Software Support Period means the initial term for Software Support stated in a Schedule that may be automatically renewed under clause 9.4;

Specifications means technical or descriptive specifications of functional, operational, performance or other characteristics required of the Products;

Subsequent Term means:

- (a) for the Rental, any period You continue to possess the Rented Products after the Minimum Term;
- (b) for the Services, each successive 12 months extension of the Minimum Term or relevant Subsequent Term under clause 9.4;

Term means the Minimum Term and any Subsequent Term;

Toner Delivery Charge means the charge for the delivery of toner (as set out in the Schedule);

Training Plan means any training plan for the Products and Services Canon provides You;

Update means a release of software that corrects faults, adds functionality or otherwise amends or updates the Software but that does not constitute a New Release;

User Replaceable Parts means items designed to be replaced by You without Canon's intervention that do not require special tools;

Warranty means any manufacturer's warranty against defects in the Products; and

You means the customer stated in the Schedule acquiring the Products or Services or both from Canon and CFNZ (as applicable).

END