

Maintenance Agreement



Customer: Print4Pay Hotel
166 State Highway
Highlands, NJ, 07732

Supplier: Stewart Business Systems
6000 Irwin Road
Suite A
Mt. Laurel, NJ, 8054

Contact: Art Post **Phone:** 732-977-1211 **Email:** apost@p4photel.com

TERMS AND CONDITIONS:

1. **PRODUCTS SUPPLIED BY SUPPLIER.** Throughout this Maintenance Agreement, "Supplier" shall mean the supplier identified above and on the Lease Agreement executed contemporaneously between Customer and Xerox Financial Services LLC ("XFS"). "Products" means the Xerox-brand equipment ("Equipment"), Xerox-brand software ("Software") and supplies identified in this Agreement.
2. **CONSUMABLE SUPPLIES.** Consumable Supplies vary depending upon the Equipment model. Consumable Supplies include: (i) for black and white Equipment, standard black toner and/or dry ink, black developer, Copy Cartridges, and, if applicable, fuser agent required to make impressions; (ii) for full color Equipment, the items in (i) plus standard cyan, magenta, and yellow toners and dry inks (and their associated developers); and, (iii) for Equipment identified as "Phaser", only, if applicable, black solid ink, color solid ink, imaging units, waste cartridges, transfer rolls, transfer belts, transfer units, belt cleaner, maintenance kits, print Cartridges, drum Cartridges, waste trays and cleaning kits. Unless otherwise set forth herein, Consumable Supplies exclude paper and staples. Consumable Supplies are Supplier's property until used by you, and you will use them only with the Equipment for which Supplier is providing Maintenance Services hereunder. If Consumables Supplies are furnished with recycling information, Customer will return the used item to Supplier for remanufacturing. Shipping information is available upon request. Upon expiration of this Agreement, Customer will include any unused Consumable Supplies with the Equipment for return to Supplier at the time of removal. Supplier may request you to provide current meter reads and/or an inventory of Consumable Supplies in your possession.
3. **CARTRIDGES.** If Supplier is providing Maintenance Services for Equipment utilizing cartridges designated by Supplier as customer replaceable units, including copy/print cartridges and xerographic modules or fuser modules ("Cartridges"), you agree to use only unmodified Cartridges shipped directly from Supplier or Xerox and/or Xerox's authorized resellers in the U.S. Cartridges packed with Equipment and replacement Cartridges may be new, remanufactured or reprocessed. Remanufactured and reprocessed Cartridges meet Xerox's new Cartridge performance standards and contain new or reprocessed components. To enhance print quality, Cartridge(s) for many models of Equipment have been designed to cease functioning at a predetermined point. In addition, many Equipment models are designed to function only with Cartridges that are newly manufactured original Xerox Cartridges or with Cartridges intended for use in the U.S.
4. **MAINTENANCE SERVICES.** Supplier (or a designated servicer) will keep the Equipment in good working order ("Maintenance Services"). The provision of Maintenance Services is contingent upon Customer facilitating timely and efficient resolution of Equipment issues by: (a) utilizing Customer-implemented remedies provided by Supplier; (b) replacing Cartridges; and (c) providing information to and implementing recommendations provided by Supplier support personnel via Remote Data Access (defined below), telephone, online support via live chat or virtual agent, or the virtual agent app. If an Equipment issue is not resolved after completion of (a) through (c) above, Supplier will provide on-site support as provided herein. Maintenance Services will be provided during Supplier's standard working hours in areas open for repair service for the Equipment. Alternatively, or in addition to on-site support, Supplier, in its sole discretion, may choose to replace the Equipment with an identical model or similar model with comparable features and capabilities. There will be no additional charge to Customer for the replacement Equipment during the initial Term. Maintenance Services excludes repairs or replacements due to Customer's (or its personnel's): (i) misuse, neglect or abuse (including, without limitation, improper voltage); (ii) failure of the installation site or the PC or workstation used with the Equipment to comply with Xerox's published specifications; (iii) use of options, accessories or products not serviced by Supplier; (iv) non-Supplier alterations, relocation, service or supplies; (v) failure to perform operator maintenance procedures identified in operator manuals, (vi) failure to adhere to Supplier instructions for replacement/exchange of Equipment; (vii) relocation; and (viii) loss or damage resulting from accidents, fire, water, or theft ("Excluded Causes"). For Maintenance Services due to Excluded Causes, Supplier will not repair or replace the Equipment except (x) subject to Supplier's sole discretion, and (b) at Customer's expense at Supplier's then-current prevailing time and material rates plus any applicable freight costs. Replacement parts may be new, reprocessed or recovered and all replaced parts become Supplier's property.
5. **PRICING.** Customer agrees to pay all amounts due in accordance with the with the terms of the Lease Agreement entered into contemporaneously by and between Customer and XFS. Customer acknowledges XFS will provide a portion of Customer's monthly payment to Supplier as the maintenance provider for the Products.
6. **SOFTWARE LICENSE & SUPPORT.**
 - a. Supplier grants (and is hereby authorized by its licensors to grant) Customer a non-exclusive, non-transferable license to use in the U.S.: (a) software and accompanying documentation provided with the Equipment ("Base Software") only with the Equipment with which it was delivered; and (b) software and accompanying documentation identified in a separate line item in this Agreement as "Application Software" for as long as Customer is current in payment, including any applicable software license fees. "Base Software" and "Application Software" are referred to collectively as "Licensed Software." Customer has no other rights and may not (1) distribute, copy, modify, create derivatives of, decompile, or reverse engineer Licensed Software; (2) activate Licensed Software delivered with the Equipment in an inactivated state; or (3) allow others to engage in same. Title to, and all intellectual property rights in, Licensed Software will reside solely with Supplier and/or its licensors (who will be considered third-party beneficiaries of this subsection (a)). Licensed Software may contain code capable of automatically disabling the Equipment. Disabling code may be activated if: (x) Supplier is denied access to periodically reset such code; (y) Customer is notified of a default; or (z) Customer's license is terminated or expires. The Base Software license will terminate: (i) if Customer no longer uses or possesses the Equipment; or (ii) upon the expiration of any lease agreement under which Customer has leased the Equipment (unless Customer has exercised an option to purchase the Equipment). Neither Supplier nor its licensors warrant that Licensed Software will be free from errors or that its operation will be uninterrupted. The foregoing terms do not apply to Diagnostic Software or to Licensed Software accompanied by a clickwrap or shrinkwrap license agreement or otherwise made subject to a separate license agreement.
 - b. Except for products designated as "No Service," Supplier (or a designated servicer) will provide the software support set forth below ("Software Support"). For Licensed Software, Software Support will be provided during the initial Term and any renewal period, but in no event longer than 5 years after Xerox stops taking customer orders for the subject model of Equipment. Supplier will maintain a web-based or toll-free hotline during Supplier's standard working hours to report Licensed Software problems and answer Licensed Software-related questions. Supplier, either directly or with its vendors, will make reasonable efforts to: (a) assure that Licensed Software performs in material conformity with its user documentation; (b) provide available workarounds or patches to resolve Licensed Software performance problems; and (c) resolve coding errors for (i) the current Release and (ii) the previous Release for a period of 6 months after the current Release is made available to you. Supplier will not be required to provide Software Support if you have modified the Licensed Software. New releases of Licensed Software that primarily incorporate compliance updates and coding error fixes are designated as "Maintenance Releases" or "Updates". Maintenance Releases or Updates that Supplier may make available will be provided at no charge and must be implemented within six months. New releases of Licensed Software that include new content or functionality ("Feature Releases") will be subject to additional license fees at Supplier's then-current pricing. Maintenance Releases, Updates and Feature Releases are collectively referred to as "Releases". Each Release will be considered Licensed Software governed by a license provided pursuant to a clickwrap or shrinkwrap license agreement or by the Supplier or its licensors and the Software Support provisions of this Agreement (unless otherwise noted). Implementation of a Release may require you to procure, at your expense, additional hardware and/or software from Supplier or another entity. Upon installation of a Release, you will return or destroy all prior Releases.
7. **DIAGNOSTIC SOFTWARE.** Software used to evaluate or maintain the Equipment ("Diagnostic Software") is included with the Equipment. Diagnostic Software is a valuable trade secret of Supplier and/or its licensors. Title to Diagnostic Software will remain with Supplier or its licensors. Supplier does not grant you any right to use Diagnostic Software, and you will not access, use, reproduce, distribute or disclose Diagnostic Software for any purpose (or allow third parties to do so). You will allow Supplier reasonable access to the Equipment to remove or

disable Diagnostic Software if you are no longer receiving Maintenance Services from Supplier, provided that any on-site access to your facility will be during your normal business hours.

8. **COMMENCEMENT & TERM.** This Agreement will commence upon acceptance by Supplier and expire on the final day of the last full calendar month identified on the face of this Agreement. Unless either party provides notice at least 30 days before the end of the initial Term of its intention not to renew Maintenance Services and/or Software Support for a unit of Equipment, Maintenance Services and/or Software Support will renew automatically on a month-to-month basis on the same terms and conditions.
9. **DEFAULT & REMEDIES.** You will be in default under this Agreement if (1) Lessor does not receive any payment per the payment terms of the Lease Agreement, or (2) you breach any other obligation in this Agreement or the Lease Agreement. If you default, Supplier may, in addition to its other remedies at law or in equity, cease the Maintenance Services and Software Support and/or terminate this Agreement. You will pay all reasonable costs, including attorneys' fees, incurred by Supplier to enforce this Agreement.
10. **DATA SECURITY.** Certain models of Equipment can be configured to include a variety of data security features. There may be an additional cost associated with certain data security features. The selection, suitability and use of data security features are solely Customer's responsibility. Upon request, Supplier will provide additional information to Customer regarding the security features available for particular Equipment models.
11. **REPRESENTATION.** The individual signing this Agreement on behalf of Customer is duly authorized to do so.
12. **LIMITATION OF LIABILITY.** For claims arising out of or relating to this Agreement, whether the claim alleges tortious conduct (including negligence) or any other legal theory, but excepting liability under the indemnification obligations set forth in this Agreement, Supplier will not be liable to you for any direct damages in excess of \$10,000 or the amounts paid hereunder, whichever is greater, and neither party will be liable to the other for any special, indirect, incidental, consequential or punitive damages. Any action you take against Supplier must be commenced within 2 years after the event that caused it.
13. **FORCE MAJEURE.** Supplier will not be liable to you during any period in which its performance is delayed or prevented, in whole or in part, by a circumstance beyond its reasonable control. Supplier will notify you if such a circumstance occurs.
14. **WARRANTY DISCLAIMER.** THERE ARE NO WARRANTIES WITH RESPECT TO MAINTENANCE SERVICES AND EQUIPMENT INCLUDED IN THIS AGREEMENT EXCEPT ANY SO EXPRESSLY STATED IN THIS AGREEMENT. SUPPLIER DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE.
15. **INTELLECTUAL PROPERTY INDEMNITY.** Supplier will defend, and pay any settlement agreed to by Supplier or any final judgment for, any claim that a Xerox-brand Product infringes a third party's U.S. intellectual property rights. You will promptly notify Supplier of any alleged infringement and permit Supplier to direct the defense. Supplier is not responsible for any non-Supplier litigation expenses or settlements unless it pre-approves them in writing. To avoid infringement, Supplier may modify or substitute an equivalent Xerox-brand Product, refund the price paid for the Xerox-brand Product (less the reasonable rental value for the period it was available to you), or obtain any necessary licenses. Supplier is not liable for any infringement based upon (1) a Xerox-brand Product being modified to your specifications or being used or sold with products not provided by Supplier, or (2) third party brand products.
16. **ASSIGNMENT.** Except for assignment by Supplier to a parent, subsidiary or affiliate, or to securitize this Agreement as part of a financing transaction ("Permitted Assignment"), neither party will assign any of its rights or obligations under this Agreement without the prior written consent of the other party. In the event of a Permitted Assignment: (a) Supplier may, without your prior written consent, release to the proposed assignee information it has about you related to this Agreement; (b) the assignee will have all of the rights but none of the obligations of Supplier hereunder; (c) you will continue to look to Supplier for performance of Supplier's obligations, including the provision of Maintenance Services; (d) you waive and release the assignee from any claim relating to or arising from the performance of Supplier's obligations hereunder; (e) you shall not assert any defense, counterclaim or setoff you may have against an assignee; and (f) you will remit payments in accordance with instructions of the assignee.
17. **MISCELLANEOUS.** Notices must be in writing and will be deemed given 5 days after mailing, or 2 days after sending by nationally recognized overnight courier. Notices will be sent to you at the Customer address identified in this Agreement, and to Supplier at Supplier's address identified above, or to such other address as either party may designate by written notice. You authorize Supplier or its agents to communicate with you by any electronic means (including cellular phone, email, automatic dialing and recorded messages) using any phone number (including cellular) or electronic address you provide to Supplier. This Agreement constitutes the entire agreement as to its subject matter, supersedes all prior oral and written agreements, and will be governed by the laws of the State of in which Supplier is headquartered (without regard to conflict-of-law principles). In any action to enforce this Agreement, **the parties agree to waive their right to a jury trial.** If a court finds any term of this Agreement unenforceable, the remaining terms will remain in effect. The failure by either party to exercise any right or remedy will not constitute a waiver of such right or remedy. An electronically transmitted version of this Agreement may be considered the original and you will not have the right to challenge in court the authenticity or binding effect of any electronic copy or signature thereon. This Agreement may be signed in counterparts and all counterparts will be considered and constitute the same Agreement. Supplier may accept this Agreement by commencing performance. Administrative and contract support functions hereunder may be performed, inside or outside the U.S., by one or more of Supplier's parents, subsidiaries or affiliates, and/or third parties. Changes to this Agreement must be in writing and signed by both parties. Any terms on your ordering documents will be of no force or effect. Both parties will comply with applicable laws. Supplier has the right to modify/correct any clerical errors in this Agreement.
18. **REMOTE SERVICES.** Certain models of Equipment are supported and serviced using data that is automatically collected by Supplier or transmitted to or from Supplier by the Equipment connected to Customer's network ("Remote Data") via electronic transmission to a secure off-site location ("Remote Data Access"). Remote Data Access also enables Supplier to transmit to Customer Releases for Software and to remotely diagnose and modify Equipment to repair and correct malfunctions. Examples of Remote Data include product registration, meter read, supply level, Equipment configuration and settings, software version, and problem/fault code data. Remote Data may be used by Supplier for billing, report generation, supplies replenishment, support services, recommending additional products and services, and product improvement/development purposes. Remote Data will be transmitted to and from Customer in a secure manner specified by Supplier. Remote Data Access will not allow Supplier to read, view or download the content of any Customer documents or other information residing on or passing through the Equipment or Customer's information management systems. Customer grants the right to Supplier, without charge, to conduct Remote Data Access for the purposes described above. Upon Supplier's request, Customer will provide contact information for Equipment such as name and address of Customer contact and IP and physical addresses/locations of Equipment. Customer must enable Remote Data Access via a method prescribed by Supplier, and Customer will provide - assistance to allow Supplier to provide Remote Data Access. Unless Supplier deems Equipment incapable of Remote Data Access, Customer will ensure that Remote Data Access is maintained at all times Maintenance Services are being performed. If Remote Data Access is disrupted, Supplier will not (a) be able to receive supplies alert messaging and cannot be held responsible to its commitments to ship supplies or perform Maintenance Services, and (b) ship Consumable Supplies or Cartridges until the Remote Data Access is restored.
19. **CUSTOMER RESPONSIBILITIES.** Customer agrees to perform its responsibilities under this Agreement in support of the Maintenance Services, Software Support and Products in a timely manner. Customer agrees to:
 - a. Provide all information necessary for Supplier to deliver timely and professional remote support.
 - b. Start self-tests and install/run other diagnostic tools and programs.
 - c. Install Customer-accessible Releases.
 - d. Perform other reasonable activities to help Supplier identify or resolve problems, as requested by Supplier.

If Customer does not perform the specified customer responsibilities in this Agreement, at Supplier's discretion, Supplier or its authorized service provider will (x) not be obligated to deliver the Maintenance Services and Software Support as described, or (y) perform such Maintenance Services and Software Support at Customer's expense at Supplier's then-current time and material rates.

Print Name: Art Post

Authorized Signer X:

[YOUR SIGNATURE WILL BE EMBEDDED HERE]

Date: 03/10/2020