

# MASTER LEASE AGREEMENT WITH MAINTENANCE

**TOSHIBA**

FINANCIAL SERVICES

This document is written in "Plain English." The words **Lessee, you, and your** refer to the customer. The words **Lessor, we, us, and our** refer to Toshiba Financial Services. Every attempt has been made to eliminate confusing language to create a simple, easy-to-read document.

APPLICATION NUMBER

AGREEMENT NUMBER

## LESSEE CONTACT INFORMATION

Legal Company Name:		Fed. Tax ID #:	
Contact Person:	Bill-To Phone:	Bill-To Fax:	
Billing Address:	City:	State:	Zip:
Equipment Location (if different from above):	City:	State:	Zip:

## DEALER INFORMATION

Originating Dealer Name:		Dealer Contact:	
Phone:	Fax:	Email:	
Address:	City:	State:	Zip:

- Lease Agreement:** You agree to lease from us the equipment described under "ITEM DESCRIPTION" and on any attached Schedule (hereinafter, with all replacement parts, repairs, additions and accessories, referred to as the "Equipment") and as modified by Supplements to this Lease from time to time signed by you and us. You authorize us to insert or correct missing information on this Lease, including your accurate legal name, serial numbers and any other information describing the Equipment. You authorize us to change the amount of each lease payment by not more than 15% due to changes in the equipment configuration which may occur prior to our acceptance of this lease. We will send you copies of any changes.
- Toshiba Quality Commitment:** The Equipment is covered by the terms of the Toshiba Quality Commitment, a copy of which may be obtained from your Toshiba America Business Solutions provider.
- Title to Equipment:** We own the Equipment and you have the right to use it under the terms of this Lease.
- Lease Commencement:** Each Lease will commence upon your acceptance of the applicable Equipment. When you receive the Equipment, you agree to inspect it and verify your acceptance by telephone or, at our request, by delivery of written evidence of acceptance satisfactory to us. Upon acceptance, your obligations under the applicable Lease will become absolute and unconditional, and are not subject to cancellation, reduction or setoff for any reason whatsoever. All payments will be made to us in accordance with the applicable Schedule at our address or at such other place as we may designate in writing. For any payment that is not received by its due date, you agree to pay a late charge equal to the higher of 10% of the amount due or \$22 (not to exceed the maximum allowed by law) as reasonable collection costs.
- Security Deposit:** The security deposit is non interest bearing and is to secure your performance under this Agreement. Any security deposit made may be applied by us to satisfy any amount owed by you, in which event you will promptly restore the security deposit to its full amount as set forth above. If all conditions are fully completed with and provided you have not ever been in default of this Agreement per the Default section, the security deposit will be refunded to you after the return of the equipment in accordance with the Return of Equipment section.
- Image Charges:** Each month during the Term of this Agreement, you agree to remit to us the Lease Payment and all other sums when due and payable to the address we provide

to you from time to time. In return for the Lease Payment, you are entitled to produce the Minimum Number of Images for each applicable Image Type each month. You also agree to pay us the Excess Per Image Charge for each metered image that exceeds the applicable Minimum Number of Images. We reserve the right to estimate the number of images used if you do not provide us with meter readings within seven (7) days of request. We will adjust the estimated charge for excess images upon receipt of actual meter readings. Notwithstanding any adjustments, you will never remit to us less than the Lease Payment each month. You agree that we may increase the Lease Payment and/or the Excess Per Image Charge each year during the Term of the Schedule by an amount not to exceed ten percent (10%) of the Lease Payment and/or the Excess Per Image Charge in effect at the end of the prior annual period. At our option, you will (a) provide us by telephone or facsimile the actual meter readings when requested by us, (b) allow us (or our agent) access to the Equipment to obtain meter readings, or (c) allow us (or our agent) to attach an automatic meter reading device to the Equipment. We may audit the automatic meter reading device periodically. If you have a dispute with the Dealer, you continue to pay us all Lease Payments and Excess Per Image Charges without deductions or withholding any amounts.

- Maintenance, Service and Supplies:** The Dealer agrees to provide Full Service Maintenance during normal business hours including all toner, developer and parts necessary to produce images. You must purchase copier paper and staples separately. You acknowledge that (a) we are not responsible for any service, repair or maintenance of the Equipment and (b) we are not a party to any service maintenance agreement. You agree to pay for service maintenance outside of the Dealer's normal business hours and for service required by your negligence or misuse of the Equipment at Dealer's customary rates. We may charge you a supply freight fee to cover our cost of shipping supplies to you.
- WARRANTY DISCLAIMER: WE MAKE NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE EQUIPMENT IS MERCHANTABLE. YOU AGREE THAT YOU HAVE SELECTED EACH ITEM OF EQUIPMENT AND DEALER BASED UPON YOUR OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. YOU LEASE THE EQUIPMENT "AS IS." NO REPRESENTATION OR WARRANTY OF THE DEALER WITH RESPECT TO THE EQUIPMENT WILL BIND US, NOR WILL ANY BREACH THEREOF RELIEVE YOU OF ANY OF YOUR OBLIGATIONS HEREUNDER. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR ANY DEFAULT BY US UNDER THIS AGREEMENT.**

TERMS CONTINUE ON PAGE 2

**THIS IS A NONCANCELABLE / IRREVOCABLE AGREEMENT. THIS AGREEMENT CANNOT BE CANCELLED OR TERMINATED.**

## LESSOR ACCEPTANCE

Toshiba Financial Services	Signature: X	Title:	Date:
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## LESSEE ACCEPTANCE

First Name:	Signature: X	Title:	Date:
Second Name:	Signature: X	Title:	Date:

# TERMS AND CONDITIONS

- 9. Statutory Finance Lease:** You agree that each Lease qualifies as a statutory finance lease under Article 2A of the Uniform Commercial Code. To the extent you are permitted by applicable law, you waive all rights and remedies conferred upon a lessee by Article 2A (sections 508-522) of the Uniform Commercial Code.
- 10. Security Interest:** If a Lease is deemed to be a secured transaction, you grant us a security interest in the Equipment to secure all your obligations under that Lease.
- 11. Use, Maintenance and Repair of Equipment: YOU WILL USE THE EQUIPMENT ONLY IN THE LAWFUL CONDUCT OF YOUR BUSINESS AND NOT FOR PERSONAL, HOUSEHOLD OR FAMILY PURPOSES.** You will not move the Equipment from the equipment location listed in this agreement or on the schedule without our advance written consent. You will give us reasonable access to the Equipment so that we can check the Equipment's existence, condition and proper maintenance. At your cost, you will keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. You will not make any permanent alterations to the Equipment. You will keep the Equipment free and clear of all liens. You assign to us all of your rights, but none of your obligations, under any purchase agreement for the Equipment. We assign to you all our rights under any Dealer warranties, so long as you are not in default.
- 12. Taxes and Lease Charges:** You agree to pay all taxes, costs and expenses incurred by us as a consequence of the ownership, sale, lease or use of the Equipment, including all sales, use and documentary stamp taxes.
- 13. Indemnity:** You will indemnify and hold us harmless from any and all liability, damages or loss, including reasonable attorney's fees, arising out of the ownership, use, condition or possession of the Equipment, except to the extent directly caused by our gross negligence or willful misconduct. This indemnity will survive the termination of each Lease.
- 14. Risk of Loss; Insurance:** You are responsible for the risk of loss or for any destruction of or damage to the equipment. No such loss or damage relieves you from the payment obligations under any Lease. You will keep the Equipment insured against all risks of loss or damage for not less than the replacement cost of the Equipment naming us as additional insured and loss payee. You will also carry public liability insurance naming us as additional insured. Upon request, you will provide us a certificate or other evidence of insurance acceptable to us. Should you fail to provide proof of insurance prior to commencement of this agreement, we reserve the right to enroll you in our property damage coverage program and bill you a monthly property damage surcharge of up to .0035 of the equipment cost for your failure to provide proof of insurance as required under this agreement. This charge will cover in part our administrative costs, credit risk and other costs and may include a profit. If any of the Equipment is lost, stolen or damaged you will, at your option and cost, either (a) repair the item or replace the item with a comparable item reasonably acceptable to us or (b) pay us the sum set forth in the REMEDIES section.
- 15. Right to Perform:** If you fail to comply with any provision of a Lease, we may, at our option, perform such obligations on your behalf. Upon invoice you will reimburse us for all costs incurred by us to perform such obligations.
- 16. Representations:** (a) You represent and warrant to us that (1) you have the lawful power and authority to enter into this Agreement and each Lease, (2) the individuals signing this Agreement and each Schedule have been duly authorized to do so on your behalf, (3) you will provide us such financial information as we may reasonably request from time to time, (4) all financial information provided (or to be provided) is (or will be) accurate and complete in all material respects, (5) you will promptly notify us in writing if you move your principal place of business or there is a change in your name, state of formation, or ownership, and (6) you will take any action we reasonably request to protect our rights in the Equipment. (b) We represent and warrant to you that (1) we have the lawful power and authority to enter into this Agreement and each Lease, (2) the individuals signing this Agreement and each Schedule have been duly authorized to do so on our behalf.
- 17. Default:** You will be in default under a Lease if: (a) we do not receive any payment due under that Lease within ten (10) days after its due date, (b) you fail to meet any of your obligations in the Lease (other than payment obligations) and do not correct such default within 10 days after we send you written notice of such default, (c) you become insolvent, are liquidated or dissolved, merge, transfer a material portion of your ownership interests or assets, stop doing business, or assign rights or property for the benefit of creditors, (d) a petition is filed by or against you under any bankruptcy or insolvency law, (e) any representation made by you is false or misleading in any material respect, or (f) you default on any other agreement with us or our assigns.
- 18. Remedies:** If you are in default, we may, at our option, do any or all of the following: (a) retain your security deposit, if any, (b) terminate this Agreement, (c) require that you pay (1) all amounts due and payable by you or accrued under each Lease, plus (2) the present value of all remaining payments to become due under each Lease (discounted at 6% or the lowest rate allowed by law), and (3) (i) the amount of any purchase option and, if none is specified, 20% of the original equipment cost, which represents our anticipated residual value in the Equipment or (ii) return the Equipment to a location designated by us and pay to us the excess, if any, of the amount payable under clause 3(f) above over the Fair Market Value of the returned Equipment as determined by us in our reasonable discretion, (d) recover interest on any unpaid balance at the rate of 8% per annum, and (e) exercise any other remedies available to us at law or in equity. You agree to pay our reasonable attorney's fees and actual court costs including any cost of appeal. If we have to take possession of the Equipment, you agree to pay the cost of repossession.
- 19. Automatic Renewal:** The Lease will automatically continue on a month-to-month basis unless cancelled by either party upon 30 days' prior written notice from you, and you shall pay us the same lease payments and lease charges as applied during the Term until the Equipment is returned to us or you pay us the applicable purchase price (and taxes).
- 20. Return of Equipment:** If (a) a default occurs, or (b) you do not purchase the Equipment at the end of the Term pursuant to a stated purchase option, you will immediately return the Equipment to any location(s) we may designate in the continental United States. The Equipment must be returned in "Average Saleable Condition" and properly packed for shipment in accordance with our recommendations or specifications, freight prepaid and insured. "Average Saleable Condition" means that all of the Equipment is immediately available for use by a third party, other than you, without the need for any repair or refurbishment. All Equipment must be free of markings. You will pay us for any missing or defective parts or accessories.
- 21. Assignment:** We may, without your consent, assign or transfer any Equipment or any Lease, or any rights arising under such Lease, and in such event our assignee or transferee will have the rights, power, privileges and remedies of lessor hereunder, but none of the obligations. Upon such assignment you agree not to assert, as against our assignee, any defense, setoff, recoupment, claim or counterclaim that you may have against us. You will not assign, transfer, or sublease any Lease or any rights thereunder or any Equipment subject to any Lease without our prior written consent.
- 22. Personal Property Tax (PPT):** You agree at our discretion to (a) reimburse us annually for all personal property and similar taxes associated with the ownership, possession or use of the Equipment or (b) remit to us each billing period our estimate of the prorated equivalent of such taxes. You agree to pay us an administrative fee for the processing of such taxes.
- 23. Tax Indemnity:** You agree to indemnify us for the loss of any income tax benefit caused by your acts or omissions inconsistent with our entitlement to certain tax benefits as owner of the Equipment.
- 24. Governing Law:** Both parties agree to waive all rights to a jury trial. This Master Agreement and each schedule shall be governed by the laws of Minnesota. You consent to the jurisdiction and venue of the Federal and State Courts in Minnesota.
- 25. Miscellaneous:** Each Lease contains the entire agreement between you and us and may not be modified except as provided therein or in writing signed by you and us. If there is a conflict between the terms of a Schedule and this Agreement, the terms of the Schedule will prevail. We will not accept payment in cash. If you so request, and we permit the early termination of a Lease, you agree to pay a fee for such privilege. Notices must be in writing and will be deemed given five days after mailing to your or our mailing address. The terms and conditions of any equipment purchase order shall not alter or amend the terms and conditions of this equipment lease agreement and the terms and conditions of this equipment lease agreement shall supercede any conflicting provisions in any equipment purchase order. If a court finds any provision of a Lease to be unenforceable, all other terms of that Lease will remain in effect and enforceable. You agree that any delay or failure to enforce our rights under this Agreement does not prevent us from enforcing any rights at a later time. In no event will we charge or collect any amounts in excess of those allowed by applicable law. Time is of the essence.
- 26. Transition Billing:** In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the first Lease Payment date of this Lease will be the twenty-fifth (25th) day of the month following installation. You agree to pay a prorated amount for the period between the installation date and this date. This payment for the transition period will be based on the Lease Payment prorated on a 30-day calendar month and will be added to your first invoice.