



Staff Report

Date: April 26, 2016

To: City Council

From: Valerie J. Barone, City Manager

Reviewed by: Jeff Lewis, Director of Information Technology

Prepared by: Tim Stuart, IT Applications and PMO Manager
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(925) 671-5955

Subject: **Approve a four-year lease and professional services agreement with an option to extend the support agreement for one additional year with KBA Docusys for copier equipment, and equipment support and maintenance, in the amount of \$210,162.44 including copying overage charges, if any, annually; and authorize the City Manager to execute the agreement (General Fund)**

Report in Brief

The Information Technology Department is charged with maintaining and replacing all technology employed by the City in accordance with the 10-Year Plan for Technology Replacement Plan, which is adopted with each annual budget.

The City's multi-function device copier fleet (the copy machines) are at a point where they need replacing. Consequently, the City issued a Request for Proposal (RFP). The City established a team with representatives from all of the Departments to evaluate the responses. This team is recommending to the Council the selection of KBA Docusys, Inc. to provide the City with new multi-function printers through a lease agreement and maintenance contract.

The lease agreement with KBA Docusys would consolidate all of the City's copier equipment into one umbrella lease (4 leases would be incorporated into 1 lease). Due to economies of scale, the new lease would provide cost savings of approximately \$136,000 over the life of the 4 year contract and would allow the City to manage its equipment more efficiently, saving staff time.

Recommended Action

Approve a four-year lease and professional services agreement with an option to extend the support agreement for one additional year with KBA Docusys for copier equipment, support and maintenance, in the amount of \$210,162.44 annually; and authorize the City Manager to execute the agreement.

Background

In 2009, the City began leasing its copier machines as a cost-savings measure. Leasing reduces costs in three ways. First, leasing captures the residual value of the equipment for the City's benefit, when it comes time to replace the equipment. Second, equipment disposal effort and costs are the responsibility of the lessor, and do not fall on the City. Third, annual maintenance fees are "locked in" at the date of acquisition avoiding annual maintenance service cost increases.

In 2009, the City chose to begin leasing multi-function devices on a 5 year lease cycle. This is one year beyond the expected life of this type of equipment, and was done as an additional cost cutting measure. The extension beyond the equipment life cycle has led to problems with equipment maintenance and support, resulting in significant downtime with the equipment. This in turn frustrates staff and can make it difficult to complete work in a reasonable time period. In 2015, the City's Department of Information Technology conducted an RFP soliciting bids for replacement and maintenance of multi-function devices and printers. IT Department staff worked closely with a selection committee that incorporated representatives from all departments. This team not only evaluated the RFP responses but also attempted to identify consolidation opportunities to reduce the total number of multi-function printers being provided to the City. Through this process one existing copier has been eliminated.

Analysis

The proposed agreement will allow the City to replace 40 of 41 existing end-of-life color and black & white multi-function copiers with color hybrid multi-function copiers. The copier being eliminated is in Wing A and is not needed.

The existing lease costs of \$134,936 for the existing 41 multi-function devices will be replaced with an annual lease payment of \$126,841 for 40 multi-function devices. The new equipment will improve productivity in departments due to enhanced functionality and reliability. Per-copy charges are projected to be reduced from approximately \$59,213 to approximately \$33,321 with the recommended vendor. The combined annual cost of the lease and support contracts is \$160,162, for a total savings over the four-year life of the contract of approximately \$136,000.

Annual support and service charges will cover "per copy" charges at the proposed average utilization. Monthly usage may be above or below projected utilization rates. The costs for overages would be borne by each year's Council approved operating

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budget. The contract allows the City to incorporate additional devices via an amendment so long as the total in any one fiscal year does not exceed \$50,000 for purchases, lease additions or print overages.

The \$210,162 includes \$160,162 for the lease and support agreements, plus the \$50,000 authorized for purchases, lease additions, or print overages from council approved operating budget. This additional \$50,000 may not be spent in any given year, but it allows for flexibility within the contract in case of minor changes in needs within the City.

The proposed lease allows the City to terminate the agreement without financial penalty should the Council not appropriate future years' funding in any budget year. However, the equipment must be returned at the City's expense to the lessor in the event of non-appropriation of funds.

Procurement Process

On June 23, 2015, in accordance with the City of Concord Procurement Policy, the City issued a Request for Proposal (RFP#2325) Multi-Function Printer-Copier Network System. This request for Proposal resulted in a total of 12 submissions. An external vendor provided an initial review of the submitted RFP's and presented it to a multi-departmental team who narrowed it down to 4 vendors. These 4 vendors were once again evaluated by the multi departmental team which narrowed the short list down to two vendors. These two vendors were invited to demonstrate their products to City staff on site. The final vendor selection was determined by comparing the following over the performance period:

- Customer service of the vendor
- Performance of vendor
- Hardware performance
- Features of the products
- Usability of the products
- Integration of the product within the City's IT framework

Financial Impact

Funding for the first year of the lease and per copy charges is included in the adopted budget for FY 2015-16. Future years' funding remains at Council discretion through the annual budget process. Annual savings on the lease will be \$8,094.00, and savings on per copy charges are projected to be approximately \$26,000 annually for a total annual savings of approximately \$34,000 over the term of the lease this new agreement is projected to save the City \$136,000.

Public Contact

The City Council Agenda was posted.

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Approve a four-year lease and professional services agreement with KBA Docusys for multi-function copier equipment, support and maintenance

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Attachments

- A. Lease Agreement and Amendments
- B. Maintenance Agreement
- C. DocuPrint Plus Printer Agreement and Amendments
- D. Maintenance Agreement Guarantees



Lease Agreement

APPLICATION NO.

AGREEMENT NO.

32950 Alvarado-Niles Road, Suite 505 • Union City, CA 94587 • Phone: 510.214.4040 • Fax: 510.675.9272

The words Lessee, you and your refer to Customer. The words Lessor, we, us and our refer to KBA Docusys, Inc.

CUSTOMER INFORMATION					
FULL LEGAL NAME Concord, City of			EQUIPMENT LOCATION (IF DIFFERENT)		
STREET ADDRESS 1950 Parkside Dr.		PHONE 925-603-5955	CITY	STATE	ZIP
CITY Concord	STATE Ca.	ZIP 94520	FAX	FEDERAL TAX I.D. #	

EQUIPMENT DESCRIPTION	
MAKE/MODEL/ACCESSORIES 14 Kyocera TA6551ci	SERIAL NO.
11 Kyocera TA4551ci	
5 Kyocera TA3051ci	
10 Kyocera M6535cidn	
40 Machines Software	

CHECK HERE FOR MULTIPLE PLACEMENTS - SEE ATTACHED SCHEDULE "A"

TERM AND PAYMENT SCHEDULE		
Months 48	Monthly Payment* \$ 10,570.00	(The lease contract payment ("Payment") period is monthly unless otherwise stated.) *plus applicable taxes
INSURANCE & TAXES	You are required to provide and maintain insurance related to the Equipment, and to pay any property, use, and other taxes related to this Agreement or the Equipment (see paragraphs 2 and 4 on page 2 of this Agreement). If you are tax-exempt, you agree to furnish us with satisfactory evidence of your exemption.	
UCC & MISCELLANEOUS	You agree that we will file Uniform Commercial Code ("UCC") documents and obtain credit bureau reports. You authorize us to sign any documents in connection with the Uniform Commercial Code on your behalf. You agree to pay a one-time fee, not to exceed \$159.00 for the purpose of filing the UCC documents.	

END OF LEASE OPTIONS
You will have the following option at the end of the original term, provided that no event of default under the Agreement has occurred and is continuing. To the extent that any purchase option indicates that the purchase price will be the "Fair Market Value" (or "FMV"), such term means the value of the Equipment in continued use. 1) Purchase all but not less than all the Equipment for the Fair Market Value per paragraph 1, 2) Renew the Agreement per paragraph 1, or 3) Return the Equipment per paragraph 3.

THIS IS A NONCANCELABLE / IRREVOCABLE AGREEMENT; THIS AGREEMENT CANNOT BE CANCELED OR TERMINATED.

CUSTOMER ACCEPTANCE			
By signing below, you certify that you have reviewed and do agree to all terms and conditions of this Agreement on this page and on page 2 attached hereto.			
	X		
CUSTOMER (as referenced above)	SIGNATURE	TITLE	DATED
	PRINT NAME		

ACCEPTANCE OF DELIVERY			
You certify that all the Equipment listed above has been furnished, that delivery and installation has been fully completed and is satisfactory. Upon you signing below, your promises herein will be irrevocable and unconditional in all respects. You understand that we have purchased the Equipment from the Supplier, and you may contact the Supplier for a full description of any warranty rights under the supply contract, which we hereby assign to you for the term of this Agreement (or until you default). Your approval as indicated below of our purchase of the Equipment from the Supplier is a condition precedent to the effectiveness of this Agreement.			
	X		
CUSTOMER (as referenced above)	SIGNATURE	TITLE	DATE OF DELIVERY

LESSOR ACCEPTANCE			
KBA Docusys, Inc.			
LESSOR	SIGNATURE	TITLE	DATED

1. AGREEMENT: For business purposes only, you agree to lease from us the goods, together with all replacements, parts, repairs, additions, and accessions incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries (the "Equipment") and/or to finance certain licensed software and services ("Financed Items", which are included in the word "Equipment" unless separately stated), all as described on page 1 of this Agreement, excluding equipment marked as not financed under this Agreement, as it may be supplemented from time to time. You agree to all of the terms and conditions contained in this Agreement and any supplement, which (with the acceptance certification) is the entire agreement regarding the Equipment ("Agreement") and which supersedes any purchase order or invoice. You authorize us to correct or insert missing Equipment identification information and to make corrections to your proper legal name and address. This Agreement becomes valid upon execution by us and will start on the date we pay the supplier. Interim rent/due date adjustments will be in an amount equal to 1/30th of the Payment, multiplied by the number of days between the Agreement start date and the first Payment due date. Unless otherwise stated in an addendum hereto, this Agreement will renew for 3-month term(s) unless you send us written notice at least 90 days (before the end of any term) that you want to purchase or return the Equipment. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others.

2. RENT, TAXES AND FEES: You will pay the monthly Payment (as adjusted) when due, plus any applicable sales, use and property taxes. The base Payment will be adjusted proportionately upward or downward: (1) by up to 10% to accommodate changes in the actual Equipment cost; (2) if the shipping charges or taxes differ from the estimate given to you; and (3) to comply with the tax laws of the state in which the Equipment is located. If we pay any taxes, insurance or other expenses that you owe hereunder, you agree to reimburse us when we request and to pay us a processing fee for each expense or charge we pay on your behalf. We may charge you for any filing fees required by the Uniform Commercial Code (UCC) or other laws, which fees vary state-to-state. By the date the first Payment is due, you agree to pay us an origination fee, as shown on our invoice or addendum, to cover us for all closing costs. We will have the right to apply all sums, received from you, to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for nonpayment, you will pay us a bad check charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement.

3. MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST: You agree to keep the Equipment: (1) in good repair, condition and working order, in compliance with applicable manufacturers' and regulatory standards; (2) free and clear of all liens and claims; and (3) only at your address shown on page 1, and you agree not to move it unless we agree. As long as you have given us the written notice as required in paragraph 1 prior to the expiration or termination of this Agreement's term, if you do not purchase the Equipment, you will return all but not less than all of the Equipment and all related manuals and use and maintenance records to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. You are solely responsible for removing any data that may reside in the Equipment you return, including but not limited to hard drives, disk drives or any other form of memory. You grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us, and you authorize us to file a financing statement (UCC-1). You will not change your state of organization, headquarters or residence without providing prior written notice to us so that we may amend or file a new UCC-1. You will notify us within 30 days if your state of organization revokes or terminates your existence.

4. COLLATERAL PROTECTION; INSURANCE; INDEMNITY; LOSS OR DAMAGE: You agree to keep the Equipment fully insured against risk and loss, with us as lender's loss payee, in an amount not less than the original cost until this Agreement is terminated. You also agree to obtain a general public liability insurance policy with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. Your insurance policy(s) will provide for 10 days advance written notice to us of any modification or cancellation. You agree to provide us certificates or other evidence of insurance acceptable to us. If you fail to comply with this requirement within 30 days after the start of this Agreement, you agree to one of the following options, the selection of which is at our sole discretion: (1) we may obtain insurance covering our interest (and only our interest) in the Equipment for the Agreement term and renewals. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled by us at any time. You may be required to pay us an additional amount each month for the insurance premium and an administrative fee. The cost may be more than the cost of obtaining your own insurance; or (2) we may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT. We are not responsible for, and you agree to hold us harmless and reimburse us for and to defend on our behalf against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, use, condition, inspection, removal, return or storage of the Equipment. You are responsible for the risk of loss or for any destruction of or damage to the Equipment. You agree to promptly notify us in writing of any loss or damage. If the Equipment is destroyed and we have not otherwise agreed in writing, you will pay to us the unpaid balance of this Agreement, including any future rent to the end of the term plus the anticipated purchase price of the Equipment (both discounted at 3%). Any proceeds of insurance will be paid to us and credited, at our option, against any loss or damage. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment. All indemnities will survive the expiration or termination of this Agreement.

5. ASSIGNMENT: WE ARE THE OWNER OF THE EQUIPMENT. YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent. Without our prior written consent, you shall not reorganize or merge with any other entity or transfer all or a substantial part of your ownership interests or assets. You agree that we may sell or assign the Agreement without notice and the new Lessor will have the same rights that we have now and will not have to perform any of our obligations. You agree that the new Lessor will not be subject to any claims, defenses, or offsets that you may have against us.

6. DEFAULT AND REMEDIES: You will be in default if: (a) you do not pay any Payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates or any material agreement with any other lender, (b) you make or have made any false statement or misrepresentation to us, (c) you or any guarantor dies, dissolves or terminates existence, (d) there has been a material adverse change in your or any guarantor's financial, business or operating condition, or (e) any guarantor defaults under any guaranty for this Agreement. If any part of a Payment is more than 5 days late, you agree to pay a late charge of 10% of the Payment which is late or if less, the maximum charge allowed by law. If you are ever in default, at our option, we can terminate this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of the term plus the anticipated purchase price of the Equipment (both discounted at 3%). We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any or all of the remedies available to us under Articles 2A and 9 of the UCC and any other law, including requiring that you: (1) return the Equipment to us to a location we specify; and (2) immediately stop using any Financed Items. In addition, we will have the right, immediately and without notice or other action, to set-off against any of your liabilities to us any money, including depository account balances, owed by us to you, whether or not due. In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay our reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. If we have to take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE. Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will not be subject to any penalties.

7. FAXED OR SCANNED DOCUMENTS, OR E-SIGNATURE, MISC.: You agree to submit the original duly-signed documents to us via overnight courier the same day of the facsimile or scanned transmission, or e-signature of the documents. The parties agree that the original of this Agreement for enforcement and perfection purposes shall be that copy which bears your faxed, scanned or original signature, and which bears our original signature and such original shall constitute "Tangible Chattel Paper" under the UCC. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time. By providing any telephone number, now or in the future, for a cell phone or other wireless device, you are expressly consenting to receiving communications, regardless of their purpose, at that number, including, but not limited to, prerecorded or artificial voice message calls, text messages, and calls made by an automatic dialing system from us and our affiliates and agents. These calls and messages may incur access fees from your provider.

8. WARRANTY DISCLAIMERS: YOU AGREE THAT YOU HAVE SELECTED THE SUPPLIER AND EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND YOU DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. WE DO NOT TAKE RESPONSIBILITY FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT. THE SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF THE SUPPLIER, AND NOTHING THE SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATION UNDER THIS AGREEMENT. YOU WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. THIS AGREEMENT IS A NET AGREEMENT, YOU HAVE AN UNCONDITIONAL OBLIGATION TO MAKE ALL PAYMENTS AND YOU CANNOT WITHHOLD, SET OFF OR REDUCE SUCH PAYMENTS FOR ANY REASON. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS.

9. LAW, JURY WAIVER: Agreements, promises and commitments made by Lessor, concerning loans and other credit extensions must be in writing, express consideration and be signed by Lessor to be enforceable. This Agreement may be modified only by written agreement and not by course of performance. This Agreement will be governed by and construed in accordance with the law of the state of the principal place of business of Lessor or its assignee. You consent to jurisdiction and venue of any state or federal court in the state the Lessor or its assignee has its principal place of business and waive the defense of inconvenient forum. For any action arising out of or relating to this Agreement or the Equipment, **YOU AND WE WAIVE ALL RIGHTS TO A TRIAL BY JURY.**

AMENDMENT TO LEASE AGREEMENT

Please fax completed and signed to 1-866-329-8795
Questions or need assistance? Call 1-866-550-8795

RE LEASE AGREEMENT NUMBER: 41237049 BY AND BETWEEN

CUSTOMER: CITY OF CONCORD, CALIFORNIA

LESSOR: KBA DOCUSYS, INC.

The above referenced Lease Agreement (the "Agreement") is hereby amended as follows:

Section 1. AGREEMENT:

In the sixth sentence is hereby deleted in its entirety and restated as follows: "Unless otherwise stated in an addendum hereto, this Agreement will renew on a month-to-month term unless you send us written notice at least 30 days (before the end of any term) that you want to purchase or return the Equipment.

Section 2. RENT, TAXES and FEES:

The second sentence is hereby deleted in its entirety

The third sentence is hereby deleted in its entirety and restated as follows: "If we pay any property taxes, you agree, when we request, to pay a fee of fifteen dollars (\$15) per asset."

The fourth sentence is hereby deleted in its entirety.

The fifth sentence is hereby deleted in its entirety.

Section 3. MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST:

The second sentence is hereby deleted in its entirety and restated as follows: "As long as you have given us the written notice as required in paragraph 1 prior to the expiration termination of this Agreement's term, you will make available all but not less than all of the Equipment and all related manuals and use and maintenance records to KBA Docusys, Inc., who will incur all of the costs associated, with returning the Equipment in re-saleable condition, full working order and complete repair."

The third sentence is hereby deleted in its entirety.

Section 4. INSURANCE:

This section is hereby deleted in its entirety, please see attached Addendum.

Section 5. ASSIGNMENT:

The following sentence is added to the end of this section: "For the avoidance of doubt, nothing contained herein shall preclude you from pursuing a claim against KBA."

Section 6. DEFAULT AND REMEDIES:

In subsection (a) of this section, "when due" is hereby deleted and replaced with "within 90 days from due date."

The following language is hereby added after subsection (a): "It is understood, however, that Customer is not in default if Customer questions manifest errors appearing in invoices or billing statements submitted by Lessor or charges therein that are extrinsic to this Agreement. For example, rent, overages, taxes, and late fees, are covered herein and cannot be questioned absent manifest error."

The second sentence is hereby deleted and restated as follows: "If any part of a Payment is more than 15 days late, you agree to pay a late charge of 3% of the Payment which is late or if less, the maximum charge allowed by law."

The seventh sentence of this section is hereby deleted in its entirety and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, the prevailing party shall be entitled to recover reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

The eighth sentence is hereby deleted in its entirety and restated as follows: "If we have to take possession of the Equipment, KBA Docusys, Inc. agrees to pay the costs of repossession, moving, storage, repair and sale."

The following language is here by inserted after the tenth sentence of this section: "THE FOREGOING LIMITATION OF LIABILITY WILL NOT APPLY TO ANY CLAIMS THAT LESSOR HAS CAUSED PERSONAL INJURY, DEATH OR DAMAGE TO TANGIBLE PERSONAL PROPERTY."

Section 7. FAXED OR SCANNED DOCUMENTS, OR E-SIGNATURE, MISC.:

This section is hereby deleted in its entirety, as all original documents will be required for Commencement.

Section 8. WARRANTY DISCLAIMERS:

The following sentence is added to the end of this section: "For the avoidance of doubt, nothing contained herein shall preclude you from pursuing a claim against KBA."

Section 9. LAW, JURY WAIVER:

The third and fourth sentences are hereby deleted in their entirety and restated as follows: "This Agreement will be governed by and construed in accordance with the law of California. You consent to the jurisdiction of Contra Costa County and venue of California or Federal Court in California and waive the defense of inconvenient forum."

Section 10. INDEMNIFICATION:

The following section is hereby inserted into this Agreement: "Lessor shall indemnify, defend, and hold harmless the Lessee, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries and/or liability (including reasonable attorney's fees and other litigation expenses) arising out of the negligent actions or omissions of Lessor in the performance of this agreement. Lessee shall indemnify, defend, and hold harmless the Lessor, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries and/or liability (including reasonable attorney's fees and other litigation expenses) arising out of the negligent actions or omissions of Lessee in the performance of this agreement."

All other terms and conditions in the Agreement shall remain in full force and effect.

KBA DOCUSYS, INC.

Lessor

X

Authorized Signature

Print Name and Title

Date

CITY OF CONCORD, CALIFORINA

Customer

X

Authorized Signature

Print Name and Title

Date

ADDENDUM TO LEASE AGREEMENT

Please fax this signed Addendum to 1-866-329-8795

Lease Number: 41237049

Lessee Name and Address: City of Concord, California

This Addendum is made part of the Lease Agreement referenced above ("**Lease**") between KBA Docusys ("**We**" "**Us**" and "**Our**") and City of Concord, California ("**You**" and "**Your**"). Capitalized terms used but not defined herein are stated them in the Lease.

We agree to permit You to fulfill Your obligations with respect to property insurance covering the Equipment via self-insurance for so long as no material adverse change in Your financial condition occurs after the date hereof and provided that You are not otherwise in default of Your obligations to Us under the Lease. You agree that such insurance will be maintained in the same manner and for the same amounts as Your insurance against such risks with respect to equipment You own and that such self-insurance is consistent with prudent business practices for insuring such risks. If You cease to be self-insured, You agree to inform Us promptly and to immediately obtain property insurance on the Equipment in accordance with Section 6 of the Lease. You will furnish Us with evidence of such insurance upon Our request and You agree that nothing herein will be deemed to relieve You of Your obligation to maintain public liability and third party property insurance naming Us as an additional insured.

This Addendum supplements and amends the Lease only to the extent and in the manner set forth, and in all other respects, the Lease will remain in full force and effect. **If You transmit this Addendum to Us by fax, the fax version of this Addendum as received by Us will be binding on You as if it were manually signed by You. However, no fax version of this Addendum will become effective and binding against Us unless and until it is signed by Us. We may in Our sole discretion require You to deliver to Us a copy of this Addendum with Your original signature. You agree that the version of this Addendum manually signed by Us shall constitute the original of this Addendum for all purposes.**

KBA Docusys

City of Concord, California

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ADDENDUM TO LEASE, RENTAL, OR OTHER FINANCE AGREEMENT

Please fax completed and signed Addendum to 1-866-329-8795

Questions or need assistance? Call 1-866-550-8795

AGREEMENT NUMBER: 41237049

LESSEE/CUSTOMER NAME: City of Concord, California

LESSEE/CUSTOMER ADDRESS: 1950 Parkside Drive, Concord, CA 94519

This Addendum supplements the provisions of the Lease Agreement identified above ("Agreement"). You and We make this Addendum an integral part of the Agreement. Capitalized terms used in this Addendum that are not defined will have the meanings specified in the Agreement. If there is any conflict between the Agreement and this Addendum, then this Addendum will control and prevail.

1. **Funding Intent.** You reasonably believe that sufficient funds can be obtained to make all Lease or Rental Payments and other payments during the term of this Agreement. You affirm that funds to pay Lease or Rental Payments and other payments under this Agreement are available for Your current fiscal year. You and We agree that Your obligation to make Lease or Rental Payments under this Agreement will be Your current expense and will not be interpreted to be a debt in violation of applicable law or constitutional limitations or requirements. Nothing contained in this Agreement will be interpreted as a pledge of Your general tax revenues, funds or moneys.
2. **Use of Equipment.** The Equipment will be operated and controlled by You and will be used for essential government purposes and will be essential for the term of this Agreement.
3. **Signatures.** You warrant You have taken the necessary steps; including any legal bid requirements under applicable law to arrange for acquisition of the Equipment; the approval and execution has been in accordance with all applicable open meeting laws; and that a resolution of Your governing body authorizing execution of the Agreement has been duly adopted and remains in full force and effect.
4. **Non-Appropriation of Funds.** If sufficient funds are not appropriated and budgeted by Your governing body in any fiscal year for Lease or Rental Payments or other payments due under this Agreement, this Agreement will terminate as of the last day of Your fiscal year for which funds for Lease or Rental Payments are available. You will give Us written notice within fifteen (15) days of the occurrence of such non-appropriation. Such termination is without any expense or penalty, except for the portions of the Lease or Rental Payments and those expenses associated with Your return of the Equipment in accordance with Section 3 of this Agreement for which funds have been budgeted and appropriated or are otherwise legally available. You agree that, to the extent permitted by law, (x) You will not terminate this Agreement if any funds are appropriated by You or to You for the acquisition or use of equipment or services performing similar functions to the Equipment during Your fiscal year in which such termination would occur and (y) You will not spend or commit funds for the acquisition or use of equipment or services performing functions similar to the Equipment until the fiscal year following the fiscal year for which funds were first not available for the Lease or Rental Payments.

All other terms and conditions of the Agreement shall remain in full force and effect.

Lessor/Owner	Lessee/Customer
X	X
Authorized Signature	Authorized Signature
Print Name and Title	Print Name and Title
Date	Date



Maintenance Agreement

Effective Date:		Sales Rep. Name:	Bobby Ament
Purchase Order Number:		Term:	Annual Year(s) 1 Month(s)
Customer Name:	City of Concord	Customer Name:	
Billing Address:	1950 Parkside Dr.	Equipment Address:	
	Concord, Ca. 94519		
Contact Name:	Tim Stuart	Contact Name:	
Email:		Email:	
Phone Number:	925-603-5955	Phone Number:	-
Facsimile Number:	-	Facsimile Number:	-

CONTRACT COVERAGE		<small>KBA will supply to the Customer all parts, labor and cost of travel required in the operation of the Customer's imaging system, printer or facsimile for the duration of the contractual period. In consideration thereof, the Customer promises to pay KBA copy-print charges at the indicated billing cycle, below.</small>
EVG=Evergreen	N/A	Renews when copies covered has been reached or when contract term ends, whichever comes first.
REG=Regular	N/A	Renews when contract term ends. Overage in excess of the copies covered will be based according to the billing cycle.

OPTIONAL CONTRACT TYPE	DESCRIPTION (excludes freight or shipping charges.)	
Premium	<input checked="" type="checkbox"/>	Includes all service, parts, labor and supplies. Excludes paper and staples.
Standard	<input type="checkbox"/>	Includes all service, parts and labor. Excludes supplies, paper and staples.
Additional Provisions		

THREE TIER COPY CONTRACT	KYOCERA THREE TIER CONTRACT (excludes freight or shipping charges.)	
Tier One	N/A	1 cents <small>up to 6% CMY (R)</small>
Tier Two	N/A	3 cents <small>6.1 to 20% CMY (R)</small>
Tier Three	N/A	5 cents <small>over 20% CMY (R)</small>

BILLING CYCLE	GROUP BILLING	BASE/OVERAGE TO BE BILLED:				
Base (in advance)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Quarterly				
Overage (in arrears)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Quarterly				

If KBA Docusys is unable to obtain meter readings from the Customer upon request, KBA reserves the right to estimate usage by any other method.

MFR	Model	Serial / Machine ID	BW/Color	Base Charge	Allowance	Overage Rate
40 Kyocera	Multiple		B/W	\$507.00	130,000	\$.0039
			Color	\$1,320.00	60,000	\$.01/\$.03/\$.05
			Color	Tier 1-S.01	Tier2 -\$.03	Tier 3-S.05
Contract Start Date				Total Billing	\$1,827.00	

Customer Acceptance	
SIGNATURE:	
NAME:	X
TITLE:	X
DATE:	X

KBA Acceptance	
SIGNATURE:	
NAME:	X
TITLE:	X
DATE:	X

32950 Alvarado Niles Road #505 Union City, CA 94587

(510) 214-4040

TERMS & CONDITIONS

This contract constitutes the service agreement between the Customer and KBA Docusys, hereinafter called "KBA", with respect to KBA Docusys service. The provisions included shall represent the intent of the parties, notwithstanding any variance with the terms and conditions of any other submitted by the Customer in replace to KBA Docusys service.

CONSUMABLES: Toner, developer, drums, masters, fuser rollers, fuser oil, cleaning rollers, staples, toner waste containers, preventive maintenance kits, paper and imaging units are considered consumable supply items. If applicable, these supplies will be billed to the Customer at KBA's effective rate plus shipping charges.

PARTS: Parts that are broken or worn through normal use and are necessary for servicing and maintenance adjustments are covered under this contract.

EXCLUSIONS: This agreement shall not apply to services or repairs made necessary by an act of nature, misuse, abuse, neglect, theft, vandalism, electrical power failure, fire, water or other casualty to or repairs made necessary as a result of service by personnel other than KBA's employees, or use of non authorized supplies. In addition, any damage caused by the Customer will not be covered by this maintenance agreement and repairs will be billed at KBA's then effective date. This agreement can be terminated by KBA if, in KBA's option, the equipment is subject to excessive Customer abuse.

CONNECTING/NETWORKING: If your equipment is connected by KBA anytime during the contract, KBA will cover and support all print and scan functions and connecting accessories installed by KBA. Your network system, software, servers, cabling, and software/installation are not covered under this contract. Any additional service or installation concerning your network administration will be charged at prevailing rates. In addition KBA offers connective contracts (call for additional information) to address additional networking needs.

METERS: Customer is responsible for submitting timely monthly meter reads. Meters not received will be billed at the previous 3 month average. Three months of non-meter reporting may result in a service hold on the account.

RECONDITIONING: When, in the option of KBA, shop reconditioning or work beyond the scope of the agreement is required, KBA will submit a cost estimate for such work. The cost of the work will be in addition to the maintenance agreement charge. If such work is not authorized by the Customer, KBA has the right to either not renew or cancel this agreement. Any unused portion of the agreement will apply to the Customer's open account. KBA will, however, continue to service said machine on a time and material basis.

UPGRADING: This agreement is non-refundable. Should this equipment be upgraded with KBA prior to the expiration date, KBA will apply any unused portion of this agreement toward the purchase of the maintenance agreement for the new machine.

CONTRACT SUPPORT FEES:

A monthly fee of \$3.25 will be charged per system per month to cover shipping of supplies and parts. Support fees of 2.95% include unlimited networking & technical help desk, CA state fuel surcharges and approved environmental recycling programs.

TONER - EXCESS USAGE

This maintenance agreement includes toner based on the manufacturers specifications. Customers who use excess toner may be charged an additional usage fee.

RENEWAL: Unless terminated by either party with 30 day written notice, this contract will be renewed on a monthly basis on the anniversary date.

BUSINESS HOURS: All service calls on equipment covered by this agreement will be made by KBA during our normal business hours which are between 8:00 a.m. to 5:00 p.m. Any service requested by the Customer outside of our normal business hours will be performed if available at the rate not less than twice KBA's published hourly service rate.

EQUIPMENT MOVEMENTS: Should the equipment be moved beyond the service area of KBA, this contract is considered void. Copier movements within KBA servicing territory should be done by a reputable mover. Deinstallations, moves and connectivity are not covered under this agreement. Please contact KBA for a quote on moving your copier.

TAXES: This agreement does not include applicable taxes. All taxes levied or imposed, now and hereafter, by any governmental authority shall be paid by the Customer in accordance with the law.

ASSIGNMENT: This agreement may not be assigned by the Customer. KBA may refuse to honor the contract if the equipment is sold, traded or in any way transferred to a third party.

DELINQUENCY: Should your account become delinquent during the term of this agreement, KBA reserves the right to cancel this agreement and apply the remaining portion towards the balance on your account. All accounts which go beyond 30 days will be charged 1% per month until the account is brought current. Accounts beyond 60 days will be placed on service hold.

FY2012v5



Customer Initial _____

1. **AGREEMENT:** For business purposes only, you agree to rent from us the goods, together with all replacements, parts, repairs, additions, and accessions incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries (the "Equipment") and/or to finance certain licensed software and services ("Financed Items", which are included in the word "Equipment" unless separately stated), all as described on page 1 of this Agreement, excluding equipment marked as not financed under this Agreement, as it may be supplemented from time to time. You agree to all of the terms and conditions contained in this Agreement and any supplement, which (with the acceptance certification) is the entire agreement regarding the Equipment ("Agreement") and which supersedes any purchase order or invoice. You authorize us to correct or insert missing Equipment identification information and to make corrections to your proper legal name and address. This Agreement becomes valid upon execution by us. Unless otherwise stated in an addendum hereto, this Agreement will renew for 3-month term(s) unless you send us written notice at least 90 days (before the end of any term) that you want to return the Equipment. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others.

2. **RENT, TAXES AND FEES:** You will pay the monthly Payment (as adjusted) when due, plus any applicable sales, use and property taxes. The base Payment will be adjusted proportionately upward or downward: (1) by up to 10% to accommodate changes in the actual Equipment cost; (2) if the shipping charges or taxes differ from the estimate given to you; and (3) to comply with the tax laws of the state in which the Equipment is located. If we pay any taxes, insurance or other expenses that you owe hereunder, you agree to reimburse us when we request and to pay us a processing fee for each expense or charge we pay on your behalf. We may charge you for any filing fees required by the Uniform Commercial Code (UCC) or other laws, which fees vary state-to-state. By the date the first Payment is due, you agree to pay us an origination fee, as shown on our invoice or addendum, to cover us for all closing costs. We will have the right to apply all sums, received from you, to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for nonpayment, you will pay us a bad check charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement.

3. **MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST:** You agree to keep the Equipment: (1) in good repair, condition and working order, in compliance with applicable manufacturers' and regulatory standards; (2) free and clear of all liens and claims; and (3) only at your address shown on page 1, and you agree not to move it unless we agree. As long as you have given us the written notice as required in paragraph 1 prior to the expiration or termination of this Agreement's term, you will return all but not less than all of the Equipment and all related manuals and use and maintenance records to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. You are solely responsible for removing any data that may reside in the Equipment you return, including but not limited to hard drives, disk drives or any other form of memory. You grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us, and you authorize us to file a financing statement (UCC-1). You will not change your state of organization, headquarters or residence without providing prior written notice to us so that we may amend or file a new UCC-1. You will notify us within 30 days if your state of organization revokes or terminates your existence.

4. **COLLATERAL PROTECTION; INSURANCE; INDEMNITY; LOSS OR DAMAGE:** You agree to keep the Equipment fully insured against risk and loss, with us as lender's loss payee, in an amount not less than the original cost until this Agreement is terminated. You also agree to obtain a general public liability insurance policy with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. Your insurance policy(s) will provide for 10 days advance written notice to us of any modification or cancellation. You agree to provide us certificates or other evidence of insurance acceptable to us. If you fail to comply with this requirement within 30 days after the start of this Agreement, you agree to one of the following options, the selection of which is at our sole discretion: (1) we may obtain insurance covering our interest (and only our interest) in the Equipment for the Agreement term and renewals. Any insurance we obtain will not insure you against third party or liability claims and may be cancelled by us at any time. You may be required to pay us an additional amount each month for the insurance premium and an administrative fee. The cost may be more than the cost of obtaining your own insurance; or (2) we may charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT. We are not responsible for, and you agree to hold us harmless and reimburse us for and to defend on our behalf against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, use, condition, inspection, removal, return or storage of the Equipment. You are responsible for the risk of loss or for any destruction of or damage to the Equipment. You agree to promptly notify us in writing of any loss or damage. If the Equipment is destroyed and we have not otherwise agreed in writing, you will pay to us the unpaid balance of this Agreement, including any future rent to the end of the term plus the anticipated residual value of the Equipment (both discounted at 3%). Any proceeds of insurance will be paid to us and credited, at our option, against any loss or damage. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment. All indemnities will survive the expiration or termination of this Agreement.

5. **ASSIGNMENT: WE ARE THE OWNER OF THE EQUIPMENT. YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent.** Without our prior written consent, you shall not reorganize or merge with any other entity or transfer all or a substantial part of your ownership interests or assets. You agree that we may sell or assign the Agreement without notice and the new Owner will have the same rights that we have now and will not have to perform any of our obligations. You agree that the new Owner will not be subject to any claims, defenses, or offsets that you may have against us.

6. **DEFAULT AND REMEDIES:** You will be in default if, (a) you do not pay any Payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates or any material agreement with any other lender, (b) you make or have made any false statement or misrepresentation to us, (c) you or any guarantor dies, dissolves or terminates existence, (d) there has been a material adverse change in your or any guarantor's financial, business or operating condition, or (e) any guarantor defaults under any guaranty for this Agreement. If any part of a Payment is more than 5 days late, you agree to pay a late charge of 10% of the Payment which is late or if less, the maximum charge allowed by law. If you are ever in default, at our option, we can terminate this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of the term plus the anticipated residual value of the Equipment (both discounted at 3%). We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any or all of the remedies available to us under Articles 2A and 9 of the UCC and any other law, including requiring that you: (1) return the Equipment to us to a location we specify; and (2) immediately stop using any Financed Items. In addition, we will have the right, immediately and without notice or other action, to set-off against any of your liabilities to us any money, including depository account balances, owed by us to you, whether or not due. In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay our reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. If we have to take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE. Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-508 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will not be subject to any penalties.

7. **FAXED OR SCANNED DOCUMENTS, OR E-SIGNATURE, MISC.:** You agree to submit the original duly-signed documents to us via overnight courier the same day of the facsimile or scanned transmission, or e-signature of the documents. The parties agree that the original of this Agreement for enforcement and perfection purposes shall be that copy which bears your faxed, scanned or original signature, and which bears our original signature and such original shall constitute "Tangible Chattel Paper" under the UCC. You agree to execute any further documents that we may request to carry out the intents and purposes of this Agreement. All notices shall be mailed or delivered by facsimile transmission or overnight courier to the respective parties at the addresses shown on this Agreement or such other address as a party may provide in writing from time to time. By providing any telephone number, now or in the future, for a cell phone or other wireless device, you are expressly consenting to receiving communications, regardless of their purpose, at that number, including, but not limited to, prerecorded or artificial voice message calls, text messages, and calls made by an automatic dialing system from us and our affiliates and agents. These calls and messages may incur access fees from your provider.

8. **WARRANTY DISCLAIMERS:** YOU AGREE THAT YOU HAVE SELECTED THE SUPPLIER AND EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND YOU DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. WE DO NOT TAKE RESPONSIBILITY FOR THE INSTALLATION OR PERFORMANCE OF THE EQUIPMENT. THE SUPPLIER IS NOT AN AGENT OF OURS AND WE ARE NOT AN AGENT OF THE SUPPLIER, AND NOTHING THE SUPPLIER STATES OR DOES CAN AFFECT YOUR OBLIGATION UNDER THIS AGREEMENT. YOU WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. THIS AGREEMENT IS A NET AGREEMENT, YOU HAVE AN UNCONDITIONAL OBLIGATION TO MAKE ALL PAYMENTS AND YOU CANNOT WITHHOLD, SET OFF OR REDUCE SUCH PAYMENTS FOR ANY REASON. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS.

9. **LAW, JURY WAIVER:** Agreements, promises and commitments made by Owner, concerning loans and other credit extensions must be in writing, express consideration and be signed by Owner to be enforceable. This Agreement may be modified only by written agreement and not by course of performance. This Agreement will be governed by and construed in accordance with the law of the state of the principal place of business of Owner or its assignee. You consent to jurisdiction and venue of any state or federal court in the state the Owner or its assignee has its principal place of business and waive the defense of inconvenient forum. For any action arising out of or relating to this Agreement or the Equipment, YOU AND WE WAIVE ALL RIGHTS TO A TRIAL BY JURY.

10. **MAINTENANCE AND SUPPLIES:** The charges established by this Agreement include payment for the use of the Equipment, accessories, maintenance by supplier during normal business hours, inspection, adjustment, parts replacement, drums, cleaning material required for proper operation, black toner and developer, and color toner and developer (if applicable). Paper and staples must be separately purchased by you. If necessary, the service and supply portion of this Agreement may be assigned by us. We may charge you a supply freight fee to cover our costs of shipping supplies to you. This Agreement does not support any I.T. services and/or any third party software unless otherwise described on this Agreement.

11. **OVERAGES AND COST ADJUSTMENTS:** You agree to comply with our billing procedures including, but not limited to, providing us with periodic meter readings on the Equipment. At the end of the first 12 months after commencement of this Agreement, and once each successive 12-month period thereafter, we may increase the Payment and the "cost per image" charge that exceeds the number of images originally designated in this Agreement ("Overages") by a maximum of 10% of the existing "cost per image" charge.

12. **UPGRADE AND DOWNGRADE PROVISION:** AFTER COMMENCEMENT OF THE AGREEMENT AND UPON YOUR WRITTEN REQUEST, AT OUR SOLE DISCRETION, WE MAY REVIEW YOUR IMAGE VOLUME AND PROPOSE OPTIONS FOR UPGRADING OR DOWNGRADING THE EQUIPMENT TO ACCOMMODATE YOUR BUSINESS NEEDS.

13. **TRANSITION BILLING:** In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the start date of this Agreement (the "Effective Date") will be a date after the certification of acceptance of the Equipment, as shown on the first invoice. The payment for this transition period will be based on the base minimum usage payment, prorated on a 30-day calendar month, and will be added to your first monthly Payment.

AMENDMENT TO DOCUPRINT PLUS AGREEMENT

Please fax completed and signed to 1-866-329-8795
Questions or need assistance? Call 1-866-550-8795

RE DOCUPRINT PLUS AGREEMENT NUMBER:

BY AND BETWEEN

CUSTOMER: CITY OF CONCORD, CALIFORNIA

LESSOR: KBA DOCUSYS, INC.

The above referenced Docuprint Plus Agreement (the "Agreement") is hereby amended as follows:

Section 1. AGREEMENT:

In the sixth sentence is hereby deleted in its entirety and restated as follows: "Unless otherwise stated in an addendum hereto, this Agreement will renew on a month-to-month term unless you send us written notice at least 30 days (before the end of any term) that you want to purchase or return the Equipment.

Section 2. RENT, TAXES and FEES:

The second sentence is hereby deleted in its entirety

The third sentence is hereby deleted in its entirety and restated as follows: "If we pay any property taxes, you agree, when we request, to pay a fee of fifteen dollars (\$15) per asset."

The fourth sentence is hereby deleted in its entirety.

The fifth sentence is hereby deleted in its entirety.

Section 3. MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST:

The second sentence is hereby deleted in its entirety and restated as follows: "As long as you have given us the written notice as required in paragraph 1 prior to the expiration termination of this Agreement's term, you will make available all but not less than all of the Equipment and all related manuals and use and maintenance records to KBA Docusys, Inc., who will incur all of the costs associated, with returning the Equipment in re-saleable condition, full working order and complete repair."

The third sentence is hereby deleted in its entirety.

Section 4. INSURANCE:

This section is hereby deleted in its entirety, please see attached Addendum.

Section 5. ASSIGNMENT:

The following sentence is added to the end of this section: "For the avoidance of doubt, nothing contained herein shall preclude you from pursuing a claim against KBA."

Section 6. DEFAULT AND REMEDIES:

In subsection (a) of this section, "when due" is hereby deleted and replaced with "within 90 days from due date."

The following language is hereby added after subsection (a): "It is understood, however, that Customer is not in default if Customer questions manifest errors appearing in invoices or billing statements submitted by Lessor or charges therein that are extrinsic to this Agreement. For example, rent, overages, taxes, and late fees, are covered herein and cannot be questioned absent manifest error."

The second sentence is hereby deleted and restated as follows: "If any part of a Payment is more than 15 days late, you agree to pay a late charge of 3% of the Payment which is late or if less, the maximum charge allowed by law."

The seventh sentence of this section is hereby deleted in its entirety and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, the prevailing party shall be entitled to recover reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

The eighth sentence is hereby deleted in its entirety and restated as follows: "If we have to take possession of the Equipment, KBA Docusys, Inc. agrees to pay the costs of repossession, moving, storage, repair and sale."

The following language is here by inserted after the tenth sentence of this section: "THE FOREGOING LIMITATION OF LIABILITY WILL NOT APPLY TO ANY CLAIMS THAT LESSOR HAS CAUSED PERSONAL INJURY, DEATH OR DAMAGE TO TANGIBLE PERSONAL PROPERTY."

Section 7. FAXED OR SCANNED DOCUMENTS, OR E-SIGNATURE, MISC.:

This section is hereby deleted in its entirety, as all original documents will be required for Commencement.

Section 8. WARRANTY DISCLAIMERS:

The following sentence is added to the end of this section: "For the avoidance of doubt, nothing contained herein shall preclude you from pursuing a claim against KBA."

Section 9. LAW, JURY WAIVER:

The third and fourth sentences are hereby deleted in their entirety and restated as follows: "This Agreement will be governed by and construed in accordance with the law of California. You consent to the jurisdiction of Contra Costa County and venue of California or Federal Court in California and waive the defense of inconvenient forum."

Section 11. OVERAGES AND COSTS ADJUSTMENTS:

The second sentence is hereby deleted in its entirety.

Section 14. INDEMNIFICATION:

The following section is hereby inserted into this Agreement: "Lessor shall indemnify, defend, and hold harmless the Lessee, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries and/or liability (including reasonable attorney's fees and other litigation expenses) arising out of the negligent actions or omissions of Lessor in the performance of this agreement. Lessee shall indemnify, defend, and hold harmless the Lessor, its officers, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries and/or liability (including reasonable attorney's fees and other litigation expenses) arising out of the negligent actions or omissions of Lessee in the performance of this agreement."

All other terms and conditions in the Agreement shall remain in full force and effect.

KBA DOCUSYS, INC.

Lessor

X

Authorized Signature

Print Name and Title

Date

CITY OF CONCORD, CALIFORNIA

Customer

X

Authorized Signature

Print Name and Title

Date

ADDENDUM TO DOCUPRINT PLUS AGREEMENT

Please fax this signed Addendum to 1-866-329-8795

Lease Number:

Lessee Name and Address: City of Concord, California

This Addendum is made part of the Lease Agreement referenced above ("Lease") between KBA Docusys ("We" "Us" and "Our") and City of Concord, California ("You" and "Your"). Capitalized terms used but not defined herein are stated them in the Lease.

We agree to permit You to fulfill Your obligations with respect to property insurance covering the Equipment via self-insurance for so long as no material adverse change in Your financial condition occurs after the date hereof and provided that You are not otherwise in default of Your obligations to Us under the Lease. You agree that such insurance will be maintained in the same manner and for the same amounts as Your insurance against such risks with respect to equipment You own and that such self-insurance is consistent with prudent business practices for insuring such risks. If You cease to be self-insured, You agree to inform Us promptly and to immediately obtain property insurance on the Equipment in accordance with Section 6 of the Lease. You will furnish Us with evidence of such insurance upon Our request and You agree that nothing herein will be deemed to relieve You of Your obligation to maintain public liability and third party property insurance naming Us as an additional insured.

This Addendum supplements and amends the Lease only to the extent and in the manner set forth, and in all other respects, the Lease will remain in full force and effect. **If You transmit this Addendum to Us by fax, the fax version of this Addendum as received by Us will be binding on You as if it were manually signed by You. However, no fax version of this Addendum will become effective and binding against Us unless and until it is signed by Us. We may in Our sole discretion require You to deliver to Us a copy of this Addendum with Your original signature. You agree that the version of this Addendum manually signed by Us shall constitute the original of this Addendum for all purposes.**

KBA Docusys

City of Concord, California

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ADDENDUM TO LEASE, RENTAL, OR OTHER FINANCE AGREEMENT

Please fax completed and signed Addendum to 1-866-329-8795

Questions or need assistance? Call 1-866-550-8795

AGREEMENT NUMBER: _____

LESSEE/CUSTOMER NAME: City of Concord

LESSEE/CUSTOMER ADDRESS: 1950 Parkside Drive, Concord, CA 94519

This Addendum supplements the provisions of the Docuprint Plus Agreement _____ Agreement identified above ("Agreement"). You and We make this Addendum an integral part of the Agreement. Capitalized terms used in this Addendum that are not defined will have the meanings specified in the Agreement. If there is any conflict between the Agreement and this Addendum, then this Addendum will control and prevail.

1. **Funding Intent.** You reasonably believe that sufficient funds can be obtained to make all Lease or Rental Payments and other payments during the term of this Agreement. You affirm that funds to pay Lease or Rental Payments and other payments under this Agreement are available for Your current fiscal year. You and We agree that Your obligation to make Lease or Rental Payments under this Agreement will be Your current expense and will not be interpreted to be a debt in violation of applicable law or constitutional limitations or requirements. Nothing contained in this Agreement will be interpreted as a pledge of Your general tax revenues, funds or moneys.

2. **Use of Equipment.** The Equipment will be operated and controlled by You and will be used for essential government purposes and will be essential for the term of this Agreement.

3. **Signatures.** You warrant You have taken the necessary steps; including any legal bid requirements under applicable law to arrange for acquisition of the Equipment; the approval and execution has been in accordance with all applicable open meeting laws; and that a resolution of Your governing body authorizing execution of the Agreement has been duly adopted and remains in full force and effect.

4. **Non-Appropriation of Funds.** If sufficient funds are not appropriated and budgeted by Your governing body in any fiscal year for Lease or Rental Payments or other payments due under this Agreement, this Agreement will terminate as of the last day of Your fiscal year for which funds for Lease or Rental Payments are available. You will give Us written notice within fifteen (15) days of the occurrence of such non-appropriation. Such termination is without any expense or penalty, except for the portions of the Lease or Rental Payments and those expenses associated with Your return of the Equipment in accordance with Section 3 of this Agreement for which funds have been budgeted and appropriated or are otherwise legally available. You agree that, to the extent permitted by law, (x) You will not terminate this Agreement if any funds are appropriated by You or to You for the acquisition or use of equipment or services performing similar functions to the Equipment during Your fiscal year in which such termination would occur and (y) You will not spend or commit funds for the acquisition or use of equipment or services performing functions similar to the Equipment until the fiscal year following the fiscal year for which funds were first not available for the Lease or Rental Payments.

All other terms and conditions of the Agreement shall remain in full force and effect.

Lessor/Owner	Lessee/Customer
X	X
Authorized Signature	Authorized Signature
Print Name and Title	Print Name and Title
Date	Date



Here at KBA Docusys, Inc. we consider ourselves a service driven company—that also sells great products. KBA succeeds on the quality of its service and depth of its client relationships, Let us exceed your expectations with every interaction.

City of Concord Maintenance Agreement Guarantees

↓ *Best of Breed Products in the Industry*

KBA Docusys represents World Class Vendors that encompass over 43% of the global imaging market share. Our unique product line up gives us great flexibility in ensuring that we fit the right product and features to optimize your business workflow.

↓ *Excellent Service and Support by Industry Professionals*

Our mission statement is simple ~ KBA is committed to long term customer relationships that equate to Total Customer Satisfaction. Every member of our team strives to make your KBA experience professional and efficient.

↓ *Free Replacement*

We stand behind every product that we sell or lease and guarantee your complete satisfaction. If your KBA equipment does not work according to the manufacturer's specifications and we can't fix it in a timely manner, we will replace your machine with a machine of comparable or better features and functions free of charge.

↓ *Service Loaner*

If KBA equipment is down due to service for an extended period of time, a loaner of similar or upgraded features will be provided at no additional cost until your equipment is repaired. Mission Critical Copiers Exchanged in 24 hours and Non-Critical in 3 days.

↓ *95% Uptime Guarantee*

The equipment provided will be operational with an average of at least 95% uptime (excluding preventative maintenance time) or we will credit your service account with an amount equal to the down time of your system.

↓ *Response Time Guarantee*

KBA guarantees that a KBA-certified field service engineer will arrive to your emergency service calls, placed to KBA's dispatch department, within one to three hours.

↓ *Performance Guarantee*

If your equipment or its accessories do not operate within manufacturer's specifications, and if the equipment cannot be repaired to perform within specifications, you must notify us, at the address shown on your monthly invoice, in care of the Collections Supervisor, by certified mail. We will have 30 days to repair and correct non-performance. If we fail to correct the problem(s) within 30 days, KBA Docusys Inc. will replace the equipment with a like or better system at no cost to you. All payments and contractual obligations must be fulfilled by both parties during this period. The KBA Docusys Total Satisfaction Guarantee is in effect for up to five years from the date of installation. Your machine must be continuously covered by a KBA Docusys Maintenance Agreement and you must use genuine parts and supplies for your machine from the date of installation in order to be covered by the KBA Docusys Total Satisfaction Guarantee. Equipment damaged or destroyed because of customer's negligence, misuse or abuse, improper electrical power or an act of God are not covered under this program.

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