

THIRD PARTY MAINTENANCE AGREEMENT TERMS AND CONDITIONS

1. SCOPE OF COVERAGE

These Terms and Conditions ("Agreement") constitute a legally binding agreement between Atlas and Dealer sometimes referred to herein as Third Party Dealer. For purposes of this Agreement "Equipment" includes both the equipment and accessories listed on Page 1 hereof. This Maintenance Agreement ("Agreement") covers Supplies and labor associated with Supplies. "Supplies" includes but is not limited to toner, developer, drums, and imaging unit(s) for the Equipment. "Supplies" do not include staples or paper. This Agreement covers labor and material for adjustments, repairs and replacement of parts as necessitated by normal use of the Equipment. This Agreement does not cover standard key operator responsibilities. This Agreement does not cover damage to the Equipment and or any parts thereof arising from misuse, abuse, negligence or causes beyond the control of Atlas BUSINESS SOLUTIONS ("Atlas"), including electrical surges, acts of God and natural disasters. If the Equipment is modified, damaged, altered or serviced by anyone not employed or authorized by Atlas, or if parts, accessories or components not authorized by Atlas are fitted to the Equipment, Atlas reserves the right to assess additional charges and/or terminate this Agreement. Atlas reserves the right at any time to change any of the terms and conditions herein, and will communicate material changes to Dealer. Dealer's continued use of Atlas' services thereafter will be deemed acceptance thereof.

2. METER READING INFORMATION

Dealer or Customer shall provide Atlas an accurate count from the copy meter during the last three (3) business days of each monthly/quarterly billing period, or within 2 business days of any request from Atlas. Such reading may be provided by fax, email, or telephone as noted on Page 1, or through our website, <http://www.atlashelps.com>. If Dealer or Customer fails to provide such reading, Atlas may: (i) send a representative to the Equipment Location to retrieve such reading, in which event Dealer or Customer will incur an additional service charge; and/or (ii) charge the Dealer and/or the Customer an average based on prior months' usage; and/or (iii) charge the Dealer and/or the Customer based on previous service history records, in which event the Dealer and/or the Customer will incur an additional convenience charge.

3. SERVICE CALLS

Service calls under this Agreement will normally be performed between the hours of 8:00 A.M. to 5:00 P.M. Central Standard Time Monday-Friday ("Normal Hours") at the address listed herein for Customer.

4. TWILIGHT SERVICE (24 hrs/day; 7 days/week)

Service after Normal Hours, or on weekends or holidays is available on selected products at special after-hours rates ("Twilight Service") which will incur an additional fee.

5. LABOR & REPAIR SERVICES, REPLACEMENT PARTS, AND SUPPLIES

Labor performed during a service call, including lubrication and cleaning of the Equipment and adjustments will be covered by the Base Rate provided for herein. This Agreement does not cover repair or replacement of manufacturer defects or damage caused by third parties, services associated with application software updates on equipment not sold in conjunction with the connected Equipment. This Agreement does not cover computer hardware or software reconfiguration of network settings, modification to files, or programs, networks and network expansions. The Dealer and/or the Customer will be invoiced on a per-call basis at Atlas' current published rates for computer and/or network services. Customer is responsible for periodic cleaning to keep the Equipment in good operating condition between regularly scheduled maintenance calls. Title and ownership of all property delivered to the Dealer and/or the Customer under the terms herein is and shall remain vested in Atlas, notwithstanding delivery and possession, until the entire invoiced amount is paid in full, and Dealer hereby grants Atlas a security interest in said property, as well as the right to take all steps necessary to protect such security interest, including but not limited to the right to file a UCC financing statement. In the event the Equipment is leased at the time of delivery, then the security interest granted herein shall be a second in line to such lease on only the Equipment and first in line in other respects. It is Atlas' intent to work with the Dealer and/or the Customer to ensure the Dealer and/or the Customer has adequate, but not excessive supply inventory at the Equipment location. Atlas reserves the right to determine the appropriate inventory level and to collect excessive inventory.

6. ALLOWANCE AND OVERAGE

As used herein, "Allowance" shall mean the number of copies included in Customer's monthly Base Rate. "Overage" shall mean the number of copies over and above the Dealer and/or the Customer's monthly Allowance.

7. TERM

The effective date of this Agreement is the date of Third Party Dealer's ("Dealer") signature. The Agreement shall continue for 365 days Atlas reserves the right to inspect all Equipment to be covered by this Agreement to determine that it is in good mechanical condition throughout the term of this Agreement. In the event the Equipment requires repair or reconditioning prior to the Start Date of this Agreement, then such services will be charged at Atlas' current published rates. This Agreement may be automatically renewed for successive similar periods, provided that Dealer is not in Default. At each automatic renewal Atlas reserves the right to modify the terms of this Agreement.

8. CHARGES

The initial monthly maintenance charge under this Agreement (the "Base Rate") is set forth on Page 1 hereof. The Base Rate is billed one month in advance. Quarterly Base Rates are invoiced in advance of each quarter. Unless Dealer and/or Customer provides Atlas with a state sales tax certificate exempting such tax, all State or local taxes will be added and included on each invoice. Any renewal term will include Atlas' published rates in effect within ninety (90) days prior to, or thirty (30) days after the Renewal Date. Dealer agrees to pay to Atlas the total amount of such charges within fifteen (15) days of the Atlas Invoice Date for such charges. Dealer understands that alterations, attachments, specification changes or cost of parts, supplies or services may require an increase in maintenance charges and agrees to pay such charges promptly when due. Atlas reserves the right to bill surcharges to Dealer for excessive costs incurred in providing service under this Agreement, which may include but are not limited to, excessive fuel cost, excessive freight-in or freight-out costs, and excessive parts and/or supplies costs affected by unusual market conditions. If the Agreement includes consumable operating supplies, such as toner, developer, drums, and/or feed rollers, Atlas reserves the right to bill a surcharge if average toner coverage exceeds five percent (5%) fill per page. Dealer will be invoiced on the basis selected on Page 1: monthly or quarterly. Any invoice not disputed in writing by Customer or Dealer within fifteen (15) days of the Atlas Invoice Date shall be deemed accepted and properly payable. **A Trip Charge will be incurred for all service calls to any Equipment location that exceeds 50 miles round-trip from Atlas' Midland, Lubbock, Abilene, or Dallas offices, whichever is closer. Each mile in excess of the 50-mile round-trip radius will be charged at \$1.60 per mile.**

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9. OUTDATED MACHINES

"Outdated Machine" means any Equipment that has been out of production for five (5) or more years or at such time as the manufacturer discontinues making the Equipment, whichever is earlier. When servicing an Outdated Machine, Atlas can only provide labor for repair, and Atlas parts and supplies which are reasonably available. If it is determined that parts are not available from any reasonable source, Dealer or Atlas may terminate this agreement in accordance with the terms hereof.

10. RECONDITIONING

When Atlas, in its sole discretion, determines that a shop reconditioning is necessary to keep the Equipment within manufacturer's written specifications, Atlas will give Dealer a written Reconditioning Estimate, itemizing the needed repairs and their cost. Reconditioning charges are not covered by this Agreement. If Dealer does not authorize such reconditioning, Atlas may discontinue service of the Equipment under this Agreement, and/or may refuse to renew this Agreement at the Renewal Date. Any service provided thereafter will be on a "per call" basis at Atlas' current published rates.

11. TERMINATION

Dealer may terminate this Agreement by giving written notice to Atlas at least thirty (30) days prior to the Renewal Date. If Dealer terminates this Agreement without the required 30-day written notice, Dealer agrees to pay Atlas the following amounts as reasonable liquidation (and not as a penalty) for breach hereof. If Dealer terminates the Agreement during the first six (6) months after the Start/Anniversary Date, Dealer will pay HOS a fee equal to the greater of either: (A) six times the Customer's monthly Base Charge or (B) the total of the invoices presented to Dealer over the previous 6 months. If Dealer terminates the Agreement at any time thereafter, Dealer will pay Atlas a fee equal to four (4) times Customer's monthly Base Charge or the monthly average of the previous 6 months invoices to Dealer, whichever is greater. To the extent that any dispute arises out of the termination of the Agreement, the prevailing party will be entitled to seek recovery of its reasonable and necessary expenses and attorney's fees. In accordance with Paragraph 5 above, Atlas reserves the right to collect Customer's remaining Supplies after termination of this Agreement. Atlas may terminate this Agreement by giving Dealer written notice at least thirty (30) days written notice.

12. BREACH OR DEFAULT

If Dealer does not pay all charges invoiced for maintenance or parts as provided hereunder, promptly when due:

- (a) Atlas may exercise all available legal rights, including, but not limited to any or all of the following: (i) refuse to service the Equipment; (ii) terminate this Agreement and re-invoice Dealer for any service calls, including parts, labor mileage and travel time at prevailing rates for any and all calls placed from the Start/Anniversary Date to the termination date; (iii) furnish any future service on a C.O.D. "per call" basis at published rates; and/or (iv) enter and retake any supplies or Equipment owned by Atlas and/or provided under this Agreement;
- (b) Dealer agrees to pay a late fee equal to the greater of 10% of the unpaid amount or \$50.00, plus interest of 1.5% per month (or the maximum rate allowed by law, whichever is greater) on the unpaid amount from the due date to the date paid; and
- (c) Dealer agrees to pay Atlas' cost and expense of collecting any amounts due and owing under this Agreement, including the maximum attorney's fees permitted by law.

13. RELOCATION OF EQUIPMENT

If, at Customer's or Dealer's request, Atlas moves the Equipment to a different location from that specified in the Agreement, Atlas will charge Dealer its current published rates for Equipment moving. If the Equipment is moved by anyone not employed or authorized by Atlas, then Atlas may, at its sole option, terminate this Agreement or inspect the Equipment before and after such move to determine whether to continue services under this Agreement. Atlas shall have the option to charge, and Dealer agrees to pay, any difference in maintenance charges between the original location and the new location. If Equipment is moved beyond Atlas' service area, Atlas reserves the right to increase its rates and fees for continued service under this Agreement, taking into account the distance to Customer's new location and Atlas' current published rates for service on a "per call" basis.

14. UNAPPROVED SUPPLIES

If Customer uses supplies other than those provided by Atlas, and such supplies are determined by Atlas to be defective and/or not acceptable and/or to cause abnormally frequent service calls or service problems, then Atlas may, at its sole option, terminate this Agreement.

15. NO WARRANTY

Other than the obligations set forth herein, ATLAS DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR USE, AND/OR FITNESS FOR A PARTICULAR PURPOSE. ATLAS SHALL NOT BE RESPONSIBLE FOR DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES ARISING OUT OF THE USE OR PERFORMANCE OR LOSS OF THE EQUIPMENT.

16. CREDIT CHECK

Dealer authorizes Atlas or its authorized representative to conduct a confidential credit inquiry on Dealer's financial responsibility and credit worthiness at any time during the term of this Agreement.

17. VENUE AND OTHER PROVISIONS

This Agreement shall be governed by and construed according to the laws of the State of Texas. The venue for all claims under this Agreement shall be Midland, Texas. This writing constitutes the entire agreement between the parties and may not be modified unless such modification is made in writing and signed by duly authorized representatives of all parties hereto. Should any provision of this Agreement be found invalid or unenforceable by any court having jurisdiction, then such provision may be severed and the remainder of the Agreement shall survive in full force and effect. This Agreement is not assignable by Dealer without the prior written consent of Atlas, and any attempt by Dealer to assign any rights, duties, or obligations which arise under this Agreement without such prior consent shall be null and void.

18. INTEGRATED AGREEMENT

This Maintenance Agreement, together with Atlas' Terms and Conditions of Sale, is intended by the Parties as a final expression of their agreement with respect to the purchase of Goods and Services, and a complete and exclusive statement of such agreement, and as such, supercedes all prior and contemporaneous agreements, representations, warranties and understandings of the Parties, whether oral, written or implied.

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