



BETWEEN

**KDS DIRECT (PTY) LTD**

Reg No: 2014/096298/07

(Hereinafter referred to as the "Service Provider")

AND

Company Name: \_\_\_\_\_

Reg No.: \_\_\_\_\_

(Hereafter called the "Customer")

# SERVICE AGREEMENT SCHEDULE



Date: \_\_\_\_\_ Installation Date: \_\_\_\_\_

Company: \_\_\_\_\_

Existing Contract     New Contract

Physical Address of Installation		Postal Address	
Address		Address	
City		City	
Phone	Code	Contact meter billing	
Contact Name	Fax	Contact e-mail address	

The Equipment							
Model	Serial Number	Minimum Billing per month	Free Images per month	Cost per Image thereafter	Toner Yield	Maximum rated volume per month	Start Reading

## Service Level Options

- Option 1 – Covers all call out, labour, parts and toner
- Option 2 – Covers call out, labour and parts, excludes toner
- Option 3 – Covers call out, labour, excludes parts and toner
- Option 4 – Covers call out, labour, and toner, excludes parts

Customer	Service Provider
I hereby have read the terms and conditions and am authorised on behalf of the company to proceed with this SLA.  Name: _____ Signature: _____  Capacity: _____ Date: _____	This agreement is not valid unless signed by an authorised manager of Page Automation.  Name: _____ Signature: _____  Capacity: _____ Date: _____
Witness: _____ Signature: _____	

# SERVICE AGREEMENT SCHEDULE



## DEBIT ORDER AUTHORISATION

I / We the undersigned hereby agree to or its cessionary or Agent to draw against my/ our bank account, wheresoever same may be situated, the SLA charge and any other amounts due to or its Cessionary in terms of this agreement.

Bank: \_\_\_\_\_ Branch: \_\_\_\_\_ Account No: \_\_\_\_\_

Branch Code: \_\_\_\_\_ ACCOUNT Name (Print): \_\_\_\_\_

Name (Print): \_\_\_\_\_ Signature: \_\_\_\_\_

## CONSUMER PROTECTION ACT

I hereby confirm on behalf of the customer to the Service provider that the annual turnover of the customer is under 2 million Rand per year.

(Delete if not applicable) Signature: \_\_\_\_\_

## TERMS AND CONDITIONS

In terms of section 49 of the Consumer Protection Act 68 of 2008 the Customer's attention is drawn to the following clauses in this agreement that contain a limitation of the risk or liability of the Service Provider; or constitute an assumption of risk or liability by the Customer; or is an acknowledgement of fact by the Customer;

1. That the Customer assumes liability for;
  - 1.1 Paying the Service Provider its costs to move the equipment or repair such if it was moved by a third party in terms of clause 4.16.
  - 1.2 An annual escalation of the costs of images/service charges/fees on the anniversary of the date of installation by up to an amount of CPIX plus 3% or an escalation in costs should the fuel price increase by more than 15% over a quarter or an escalation in costs should the toner prices increase from a supplier in terms of clauses 5.1, 5.3 and 5.4

# SERVICE AGREEMENT SCHEDULE

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|-----|---|
| 1.3 | To be invoiced at 100% of the meter billing rate should the maximum rated billing be exceeded in any month / quarter in terms of clause 5.2 or to pay the Service provider its publish rate for toner where the customer toner usage is excessive or toner is used in equipment that is not covered by this agreement in terms of clause 4.7.   |
| 1.4 | To be charged for service calls outside of the 50km radius or for work done outside normal working hours or for a repairing the equipment if such is a result of misuse or negligence in operation, unauthorized repairs or adjustments or as a result of damage caused by riots, fire, floods or an acts of God or carelessness in the handling of the equipment in terms of clauses 5.6, 5.7 and 5.8.                       |
| 2.  | The limitation of the Customer's right to claim for any loss or delay in performance by the Customer in terms of clause 6.1 and the Service Providers liability for any indirect, special or consequential damages arising out of this Agreement or the use of any equipment and services provided under this Agreement in terms of clause 6.3.   |
| 3.  | The limitation that the Service Provider will not need to perform services in terms of this agreement if the spare parts and consumables are not available from its suppliers for the Customer's equipment or where a shop reconditioning is necessary or the manufacturers life expectancy of the equipment has been exceeded or if the equipment is moved outside of the service area in terms of clauses 6.2, 6.5 and 6.6. |
| 4.  | That the customer will be liable for replacement or repair of the Digital controller after 12 months and that the Network Printer board and the Fax board replacement or repair is excluded from this agreement in terms of clauses 5.8 and 6.4.  |
| 5.  | The non-variation clause requiring all amendments of the agreement to be in writing in terms of clause 10.1.  |
| 6.  | The acknowledgment by the signatory to this agreement that he has authority to sign , endorse and execute all documents for and on behalf of the customer in terms of clause 10.2.  |

# SERVICE AGREEMENT SCHEDULE

## TERMS AND CONDITIONS

### 1. Applicability

The Service provider agrees to provide a service to the Customer as set out in the terms and conditions below. This service does not include the purchase of, the delivery to/from or the installation charges of the equipment, software support, optional accessories or major modifications to the equipment as listed in the service agreement schedule.

### 2. Duration of the Agreement

2.1 This Agreement shall commence on installation of the equipment and continue for an initial period of sixty (60) months. Thereafter, the Agreement will remain in force for further 12 month period unless terminated by either party giving to the other not less than ninety (90) days written notice by registered post prior to the expiry of the initial period.

2.2 In the event of the customer terminating the Agreement during the initial period, and at the election of the Service Provider the Customer agrees to pay the Average Service charge that was charged for the last six months multiplied by the number of months remaining to complete the initial period to the Service Provider.

2.3 The Customer acknowledges that the payment referred to in paragraph 2.2 above shall constitute the agreed penalty which will be payable to the Service Provider in the event of termination by the customer prior to the completion of the initial period.

### 3. Obligations of the Service Provider

3.1 The Service provider shall provide a maintenance service (excluding software support) in accordance with the option chosen for the equipment listed in the Service Agreement Schedule for the period of this agreement in accordance with the following provisions should it be applicable to the option chosen;

3.1.1 Keep the equipment in good working order for the duration of the Agreement by replacing without charge parts which the Service Provider or its authorized Agent deem to be broken or worn through use.

3.1.2 Not charge for any routine maintenance, repair work or for replacement parts as a result of fair wear and tear.

3.1.3 Provide service free of any traveling charges within a 50km radius of the Service Providers or authorised Agents service centre.

3.1.4 Respond to service calls within eight (8) working hours for service calls within a 50km radius of a service centre or (24) working hours for service calls beyond the 50km radius, from the time the call is placed with the Service Providers help desk subject to clause 5.6.

3.1.5 Provide a maintenance service for a period of twelve (12) months in respect of Digital Controllers installed as part of the equipment listed on the service agreement schedule.

### 4. Obligations of the Customer

4.1 Provide to the Service Provider true and accurate image counter readings before the 7<sup>th</sup> of every month or when requested to do so by the Service Provider for the purpose of maintenance and billing. After at least three (3) monthly service readings, the Service Provider may elect to invoice the Customer on actual meter readings every third month with the intervening months charges being based on minimum billing if any, or the average image volumes of the preceding months. The next sequential billing will be adjusted for actual excess billing for the previous and current billing period. The Service Provider reserves the right to check the readings from time to time.

4.2 Pay to the Service Provider the total monthly minimum charge if any, and the additional image charges if any, calculated at the rate specified in the service agreement schedule, monthly in arrears upon presentation of invoice.

4.3 To pay invoices within 30 days of date of statement.

4.4 To immediately cease using the equipment and to notify the Service Provider should there be any loss, or damage to, the equipment or part thereof.

4.5 To only use toner in the equipment listed in the schedule on toner inclusive Agreements.

4.6 To not exceed the recommended toner yields as specified by the Service Provider.

4.7 To pay to the Service Provider its published rate for toner, where the Service Provider deems toner usage to be excessive or the customer uses toner in equipment not covered by this agreement.

4.8 To pay the Service Providers prevailing rates where the customer is obliged to pay for any work,

# SERVICE AGREEMENT SCHEDULE

- traveling or replacement parts not covered by the Service Agreement.
- 4.9 To use the equipment with care and to take reasonable precautions to avoid loss or damage and excessive wear and tear.
- 4.10 To not repair the equipment nor have it repaired by any other party other than the Service Provider or their authorized Agent.
- 4.11 Not to use any part or component for the equipment, including toner if applicable that has not been supplied or approved by the Service Provider.
- 4.12 Allow the Service provider or their authorized representative to inspect the equipment and the image counting device at all reasonable times.
- 4.13 To use the equipment only for which it has been designed and in accordance with the Service Providers instructions.
- 4.14 To identify a person to be trained by the Service Provider as the key operator of the equipment.
- 4.15 To identify a suitable area for placement of the equipment and approved by the Service Provider. Once installed the equipment cannot be moved without the approval of the Service Provider.
- 4.16 To contact the Service Provider should the equipment need to be moved to a new location. The Service Provider may bill the Customer the cost of moving the equipment. Should the customer not use the Service Provider the Customer will be liable for the cost of any repairs or damages caused by the moving of the equipment.
- 4.17 To allow the Service Provider to inspect all equipment to be covered under this agreement to determine if it is in good mechanical condition on the effective date of the Agreement. Should the equipment require repair for acceptance, such repairs if accepted by the Customer will be done at the Service Providers then current rate for labour and parts.
- 4.18 To pay the service provider the increased costs or the costs incurred in respect of paragraphs 5.1-5.9.
- 5. Variation in costs charged**
- 5.1 The Service provider reserves the right to increase image/service charge/fees on an annual basis on the anniversary of the date of installation by up to an amount of CPIX plus 3% of the existing image/service charge/fees.
- 5.2 Where the maximum rated billing is exceeded in any month / quarter as set out in the service agreement schedule the Service Provider reserves the right to bill the excess volume at 150% of the meter billing rate.
- 5.3 The Service Provider reserves the right to amend the fuel portion (17.5%) of the Service Charge should the price of fuel increase by more than 15% over a quarter. The increase will be in proportion to the percentage increase in the price of fuel.
- 5.4 The Service Provider reserves the right to amend the Service Charge for toner inclusive agreements without notice if toner prices increase for whatever reason.
- 5.5 The transfer of equipment to a different service area subjects the equipment to the rate applicable to that service area.
- 5.6 For service calls outside of the 50km radius, a traveling charge per kilometer as then currently charged by the AA (Automobile Association of South Africa) or its successors in title will be charged and failing that the Service Providers then prevailing rates will be charged.
- 5.7 The Service Provider may levy a charge at its then current prevailing rates if a repair is a result of misuse and negligence in operation, unauthorized repairs or adjustments made by any other person other than the Service Provider or its authorized Agent, damage caused by riots, fire, floods or an act of God or carelessness in the handling of the equipment.
- 5.8 The cost of repair and replacement of the Digital controller will be for the customer's account after a period of twelve months from date of signature of this agreement by the customer.
- 5.9 Both parties agree that the Service provider shall be entitled to charge for service provided at the Customers request should the work have to be done outside of the Service Providers normal working hours.
- 5.10 A minimum service administration fee of R100.00 (One hundred Rand) will come into effect as soon as the monthly billing is below R100.00 per device.
- 6. Limitation of liability**
- 6.1 The Service Provider shall not be liable for any loss or delay in performance by the Customer due in whole or in part to any cause beyond the Service Providers control.

# SERVICE AGREEMENT SCHEDULE

- 6.2 This Agreement is applicable to the services area's in which the Service provider operates. If the equipment is moved outside of the service area, the Customer agrees that the Agreement shall be deemed terminated by the customer.
  - 6.3 The Service Provider will not be liable for any indirect, special or consequential damages arising out of this Agreement or the use of any equipment and services provided under this Agreement.
  - 6.4 The Network Printer board and the Fax board are excluded from the Service Agreement, and the client is liable for replacement / repair to these boards.
  - 6.5 Where a shop reconditioning is necessary or the manufacturers life expectancy of the equipment has been exceeded, and normal repairs and replacement parts cannot keep the equipment in satisfactory condition the Service Provider will submit a cost estimate of needed repairs which will be in addition to the Service charges. If the Customer does not authorize such repair, the Service Provider may attend to cancel this agreement and furnish service on a per call basis.
  - 6.6 Where the equipment installed is a refurbished or second hand machine, the on-going supply of spare parts and consumables is dependent on them being available from our suppliers.
- 7. Breach**
- 7.1 Should the customer breach any term of this agreement the Service provider may immediately;
    - 7.1.1 Be entitled to charge interest on all overdue accounts at the rate of 15.5% per annum as allowed by the Prescribed Rate of Interest Act and;
    - 7.1.2 Cease providing any services in terms of this agreement and recover any toner or parts supplied under this agreement and;
    - 7.1.3 Cancel this agreement and;
    - 7.1.4 Claim any outstanding amounts due in terms of this agreement as well as the agreed penalty as set out in clauses 2.2 and 2.3.
  - 7.2 The parties agree that the Service provider may also cancel this agreement if;
    - 7.2.1 The customer, commits any act of insolvency, is sequestrated provisionally or finally, or enters into judicial management or liquidation.
    - 7.2.2 Is not using the equipment in accordance with its intended purpose
  - 7.2.3 Where a shop reconditioning is necessary or the manufacturer's life expectancy of the equipment has been exceeded.
  - 7.3 Further should the Customer be in breach of this agreement and the Service Provider institutes legal proceedings the Customer agrees to pay all costs of such legal action on attorney and own client scale.
- 8 Domicilia and notices**
- 8.1 The parties choose as their *domicilium citandi et exekutandi* the addresses as set out hereunder, provided that such *domicilium* of either party may be changed by written notice from such party to the other party with effect from the date of receipt or deemed receipt by the latter of such notice.
    - 8.1.1 The Service provider:
 

Address:

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Email:

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Fax:

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    - 8.1.2 The Customer -
 

Address: The address as set out in the service agreement schedule

Email : The address as set out in the service agreement schedule

Fax : The address as set out in the service agreement schedule
  - 8.2 Any notice given in terms of this Agreement shall be in writing and shall –
    - 8.2.1 If sent by prepaid registered post to latter's *domicilium* shall be deemed to be received by the other party on the second business day following the date of posting thereof
    - 8.2.2 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;
    - 8.2.3 if transmitted by telex or facsimile or email be deemed to have been received by the addressee 1 (one) Business Day after dispatch.

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- 8.3 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by one of the Parties from another including by way of telex or facsimile transmission or email shall be adequate written notice or communication to such Party
9. **Jurisdiction**
- The parties agree that in terms of section 45 of the Magistrates' Court Act (No.32 of 1944 as amended) to the Jurisdiction of the Magistrates' Court having Jurisdiction over both parties for the determination of a legal action which monetary value otherwise exceeds the Jurisdiction of the Magistrates' Court.
10. **General**
- 10.1 This agreement represents the entire agreement between the Service Provider and the Customer and supersedes all other written or oral agreements, proposals or communication and cannot be altered or amended unless agreed in writing by both parties.
- 10.2 By signing this Agreement, the signatory confirms that they have the authority (ex-officio or by board resolution) to sign, endorse and execute all documents for and on behalf of the customer.
- 10.3 The Customer shall not be entitled to cede or transfer any of its rights under this agreement without the Service Providers prior written consent, which shall not be unreasonably withheld.
- 10.4 This Agreement shall be governed and construed in accordance with the Laws of the Republic of South Africa.
- 10.5 Toner on toner inclusive Agreements will only be provided where the Customer's account is up to date.