

APPROVED  
8/31/20

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# MEMO

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DATE: August 24, 2020  
FROM: Matney M. Ellis  
Procurement Director  
TO: Board of County Commissioners  
SUBJECT: Agreement – ImageNet Consulting

A handwritten signature in black ink, appearing to read "Matney M. Ellis", with a long horizontal flourish extending to the right.

Submitted for your approval and execution is the attached Equipment Lease and Service Agreement between the Board of County Commissioners on behalf of the Tulsa County Administrative Services Office and ImageNet Consulting for Konica Minolta equipment model #C450i located at LaFortune Community Center, 5202 S. Hudson, Tulsa, Oklahoma 74135.

This agreement is respectfully submitted for your approval and execution.

MME / arh

SUBMITTED FOR: The August 31, 2020 BOCC meeting agenda.

CMF# 20202181

**Lessee Information**

Lessee Legal Name Board of County Commissioners Tulsa County, OK				
Street Address Tulsa County Administrative Services Carol Crowson Annex Bldg. 633 West 3rd				
City Tulsa	County Tulsa	State Oklahoma	Zip 74127	Phone Number 918-596-5881



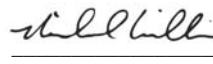
**Equipment Description**

Make and Type	Quantity	Model	Attachments	Serial Number
Konica Minolta	1	C450i	External Staple, CFU, Fax, Side Table	

<b>Location</b>	Address: LaFortune Community Center: 5202 S Hudson	City: Tulsa	County: Tulsa	State: OK	Zip: 74135
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**Terms and Payment Schedule**

<b>Term in Months</b> 60	<b>Lease Payment</b> \$170.20
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Lessee (Full Legal Name) Board of County Commissioners Tulsa County, OK  By <b>X</b>  Chairman Authorized Signature Title	<b>Tulsa County Approval:</b>    Attest:   Approved as to form: <b>James G. Rea</b> Digitally signed by James G. Rea Date: 2020.08.28 12:49:57 -05'00' Assistant District Attorney
<b>Certificate of Acceptance of Leased Equipment</b> We hereby acknowledge that on the date indicated below we received delivery of all the equipment described in the lease numbered above. The equipment is accepted by us as the Equipment described in the Lease and is satisfactory in all respects for the purposes of said Lease.	
Lessee <b>X</b> Authorized Signature Date	

**Terms and Conditions**

The words YOU and YOUR mean the Lessee. The words WE, US, and OUR refer to the Lessor.

- 1. RENTAL ("AGREEMENT"):** We agree to rent to you and you agree to rent from us the equipment listed above (Equipment). You promise to pay us the rental payment according to the payment schedule shown above. The parties intend this Agreement to be a finance lease under Article 2A of the Uniform Commercial Code and equipment will be quoted at fair market values at the end of the rental term unless otherwise specified in this Agreement. This Agreement is non-cancelable.
- 2. TERM AND RENT:** The initial term shall commence on the day that any of the Equipment is delivered to you (the Commencement Date). The installments of rent shall be payable in advance, at the time and in the amounts provided above, commencing on the Commencement Date and subsequent payments shall be due on the same date of each successive period thereafter until all rent and any additional rent or expenses chargeable under this Agreement shall have been paid in full. Lessee obligation to pay the rent and other obligations hereunder shall be absolute and unconditional and are not subject to any abatement, set-off, defense or counter-claim for any reason whatsoever.
- 3. NO WARRANTIES:** We are renting the Equipment to you "AS IS". WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE IN CONNECTION WITH THIS AGREEMENT. We transfer to you for the term of this Agreement any warranties made by manufacturer or supplier to us. NEITHER SUPPLIER NOR ANY AGENT OF SUPPLIER IS AN AGENT OF LESSOR OR IS AUTHORIZED TO WAIVE OR MODIFY ANY TERM OR CONDITION OF THE AGREEMENT.
- 4. OWNERSHIP:** We are the owner of the Equipment and have title to the Equipment. To protect our rights in the Equipment, in the event this Agreement is determined to be a security agreement, you hereby grant to us a security interest in the Equipment and all proceeds, products, rents or profits therefrom. In state where permissible, you hereby authorize us to cause this Agreement or any statement or other instrument in respect to this Agreement showing our interest in the Equipment, including Uniform Commercial Code Financing Statements, to be filed or recorded and re-filed and re-recorded and grant us the right to execute your name thereto. You agree to execute and deliver any statement or instrument requested by us for such purpose. You agree to pay or reimburse us for any searches, filings, recordings, stamp fees or taxes related to the filing or recording of any such instrument or statement.
- 5. MAINTENANCE, RISK OF LOSS AND INSURANCE:** You are responsible for installing and keeping the Equipment in good working order. Except for ordinary wear and tear, you are responsible for protecting the Equipment from damage and loss of any kind. If the equipment is damaged or lost you agree to continue to pay rent. You agree during the term of this Agreement, to keep the Equipment fully insured against damage and loss, naming us as the loss payee, to obtain a general public liability insurance policy from a company acceptable to us, including us as an additional insured on the policy. You agree to provide us certificates or other evidence of insurance. If you do not, you agree that we have the right but not the obligation to obtain such insurance, in which event you agree to pay us for all costs thereof.
- 7. TAXES AND FEES:** You agree to pay when due or reimburse us for all taxes (including, but not limited to, any property taxes), fees, fines and penalties relating to use or ownership of the Equipment or to this Agreement, now or hereafter imposed, levied or assessed by any state, federal or local government or agency.
- 8. LOCATION OF EQUIPMENT:** You will keep and use the Equipment only at your address shown above. You agree that the Equipment will not be removed from that address unless you get our written permission in advance to move it.
- 9. RENEWAL TERM: THIS LEASE IS IRREVOCABLE UNTIL TERMINATED AS PROVIDED HEREIN** and Lessee's obligations hereunder shall not abate by reason of Lessor's taking of possession of the equipment or for any other reason. The term of this Lease shall be effective upon the delivery of the equipment to Lessee, shall continue for the number of months specified above (the term) following the delivery of the equipment to Lessee and may be renewed annually upon mutual agreement of both parties. All of the terms and conditions of this Lease remain in full force and effect until this Lease is terminated as provided herein.
- 10. RETURN:** Unless this Agreement renews or you purchase the Equipment as provided in this Agreement, you shall, at the termination of this Agreement, return the Equipment at its sole cost and expense in good operating condition, ordinary wear and tear resulting from proper use excepted, to a location specified by us.
- 11. DEFAULT AND REMEDIES:** If you (a) fail to pay rent or any other payment hereunder when due; or (b) fail to perform any of the other terms, covenants or conditions of this Agreement after ten (10) days written notice; or (c) become insolvent or make an assignment for the benefit of creditors; or (d) a receiver, trustee, conservator or liquidator is appointed with or without your consent, you shall be in default under the Agreement and, we may, to extent permitted by applicable law, exercise any one or more of the following remedies: (i) declare due, sue for and receive from you the sum of all rental payments for the unpaid term of this Agreement or any schedule hereto discounted at the rate of 6% per annum and (y) the anticipated value of the Equipment at the end of the initial term or applicable renewal term of the Agreement (but in no event less than 15% of the original cost of the Equipment) discounted at the rate of 6% per annum and upon recovery of the same in full, the Equipment shall become your property; (iii) to take immediate possession of the Equipment, and to lease or sell the Equipment or any portion thereof, upon such terms as we may elect, and to apply the net proceeds, less reasonable selling and administrative expenses, on account of your obligations hereunder; (iv) require you to return all Equipment at your expense to place reasonably designated by us. Such an addition to any other remedies provided for by law and may, to the extent permitted by law, be exercised either concurrently or separately. Exercise of any one remedy shall not be deemed an election of such remedy or to preclude the exercise of any other remedy. No failure on our part to exercise any right or remedy or no delay in exercising any right or remedy shall operate as a waiver of any right or remedy or to modify the terms of this Agreement. A waiver of default shall not be construed as a waiver of any other subsequent default. We shall retain the sum set forth above as a Security Deposit, if applicable, for your performance of your obligations hereunder. Upon lawful termination of this Agreement, provided you are not in default, the Security Deposit, if applicable, shall be returned to you. No interest shall be paid upon said Security Deposit. In the event of default we may apply said Security Deposit to cure any default.
- 12. ASSIGNMENT:** YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN THIS AGREEMENT OR SUBLEASE THE EQUIPMENT. We may sell, assign or transfer this Agreement, without notice. You agree that if we sell, assign or transfer this Agreement, the new owner will have the same rights and benefits that we have now and will not have to perform any of our obligations. You agree that the right of the new owner will not be subject to any claims, defenses, or set offs that you may have against us. In the event of a sale, assignment or transfer, we agree to remain responsible for our obligations hereunder.
- 13. CONSENT TO JURISDICTION AND GOVERNING LAW:** YOU CONSENT TO THE PERSONAL JURISDICTION OF THE COURTS OF THE STATE OF OKLAHOMA WITH RESPECT TO ANY ACTION ARISING OUT OF THIS AGREEMENT OR THE EQUIPMENT. THIS MEANS THAT ANY LEGAL ACTION FILED AGAINST YOU MAY BE FILED IN OKLAHOMA AND THAT YOU MAY BE REQUIRED TO DEFEND AND LITIGATE ANY SUCH ACTION IN OKLAHOMA. You agree that service of process by certified mail, return receipt requested, shall be deemed the equivalent of personal service in any such action. However, nothing in the paragraph shall be construed to limit the jurisdictions in which suit may be filed by any party to this Agreement or the means of obtaining service of process in any such suit. This Agreement shall be governed by and construed according to the laws of the State of Oklahoma. TO THE EXTENT PERMITTED BY LAW, YOU WAIVE TRIAL BY JURY IN ANY ACTION AGAINST US. YOU HEREBY WAIVE ANY AND ALL RIGHTS AND REMEDIES GRANTED YOU BY SECTION 2A-508 THROUGH 2A-522 OF THE UNIFORM COMMERCIAL CODE.
- 14. CUSTOMER P.O.:** You agree that any Purchase Order issued to us covering the rental of this Equipment, is issued for purposes of authorization and your internal use only, and none of its terms and conditions shall modify terms of this Agreement.
- 15. ENTIRE AGREEMENT:** This Agreement contains the entire arrangement between you and us and no modifications of this Agreement shall be effective unless in writing and signed by the parties.

<b>Accepted By</b>			
Lessor: ImageNet Consulting, LLC	By: 	Title: Manager	Accepted On: 08/20/2020

CMF# 20202181

# Non-Appropriations Rider

Agreement No. 327700

between "Lessor" ImageNet Consulting, LLC  
and "Lessee" Board of County Commissioners Tulsa County, OK

THIS RIDER to the above-mentioned service agreement, lease, loan or financing agreement (collectively the "Agreement") between the Lessor, acting solely as an independent funding source, and the Lessee, a government entity, is intended to be effective as of the same date as the Agreement. This Rider is hereby incorporated into the Agreement as a supplement thereto and amends the Agreement to the extent expressly provided below.

**THE AGREEMENT IS HEREBY AMENDED AS FOLLOWS:**

1. **NON-APPROPRIATION OF FUNDS.** In the event no, or insufficient, funds are appropriated and budgeted, in any fiscal period for payments due under the Agreement, Lessee will immediately notify Lessor, or its assignee, in writing of such occurrence, and the Agreement shall terminate, without penalty to Lessee, on the last day of the fiscal period for which appropriations have been received or made, except: (a) as to the portions of payments for which funds have been appropriated and budgeted, or are otherwise available, and (b) as to the Lessee's other obligations and liabilities under the Agreement, accruing or arising prior to or in connection with such termination. In the event of such termination, Lessee agrees to peaceably surrender possession of all Equipment to Lessor, or its assignee, on the date of such termination in the manner set forth in the Agreement. Lessor will have all legal and equitable rights and remedies under the Agreement in addition to the right to possession and control of the Equipment.

2. **CONTINUATION OF LEASE BY LESSEE.** Lessee intends to continue making the payments under the Agreement. Lessee reasonably believes that legally available funds in an amount sufficient to make all payments during the term of the Agreement can be obtained. Lessee agrees that, during the budgeting process for each budget year, the Lessee's staff will provide to the appropriate governing body proper notification of any payments due under the Agreement during the applicable budget year. Notwithstanding this covenant, if Lessee fails to appropriate funds sufficient for the payments under the Agreement, the Agreement shall terminate as provided above.

3. **PAYMENTS To BE UNCONDITIONAL. SUBJECT To THE TERMS OF THIS RIDER, THE OBLIGATIONS OF LESSEE To PAY THE PAYMENTS DUE UNDER THE AGREEMENT AND To PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED THEREIN SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS, CLAIMS OR ACTIONS AGAINST ANY EQUIPMENT VENDOR, DEALER OR MANUFACTURER.**

4. **CONTROLLING TERMS; MISCELLANEOUS.** If there are any inconsistencies between the provisions of this Rider and the provisions of the Agreement, the express provisions of this Rider shall control. Except as expressly set forth in this Rider, all of the terms and conditions of the Agreement remain binding and in full force and effect as set forth in the Agreement. Lessee confirms that to date both Lessor and Lessee have fully and properly performed under the Agreement and that Lessee remains bound to Lessor by said Agreement. To the extent not otherwise defined in this Rider, the terms used herein shall have the same meaning herein as in the Agreement.

This Rider is executed below to be effective as of the date of the Agreement first given above.

Lessor:

ImageNet Consulting, LLC

Signature ▶



Print Name: Rocky Frost

Print Title: VP - Contracts

Date: 08/20/2020

Lessee:

Board of County Commissioners Tulsa County, OK

Signature ▶



Print Name: Ron Peters

Print Title: Chairman

Date: 8/31/20

Attest: James G. Rea

Approved as to form:

**James G. Rea** Digitally signed by James G. Rea  
Date: 2020.08.28 12:49:40 -05'00'

Assistant District Attorney



**Customer Information**

**Service Agreement # 327700**

Legal Name:	Board of County Commissioners Tulsa County, OK						
Billing Address:	Tulsa County Administrative Services Carol Crowson Annex Bldg. 633 West 3rd						
City:	Tulsa	State:	OK	Zip:	74127	Main Phone #:	918-596-5881
Equipment Address:	LaFortune Community Center: 5202 S Hudson						
City:	Tulsa	State:	OK	Zip:	74135	Phone #:	918-596-5901
Main Contact:	Victoria Wilson	E-Mail:	vwilson@tulsacounty.org		Phone:	918-596-5881	Ext:
Meter Contact:	Kimberly Light	E-Mail:	klight@tulsacounty.org		Phone:	918-496-6220	Ext:
A/P Contact:	Victoria Wilson	E-Mail:	vwilson@tulsacounty.org		Phone:	918-596-5881	Ext:

**Equipment Description**

Make	Model	Serial #	Make	Model	Serial #
Konica Minolta	C450i				

**Agreement Terms**

<b>Term in Months</b>	<b>Base to be billed in advance:</b>	<b>Overages/Images to be billed:</b>
<b>60</b>	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly	<input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Quarterly

**Service Plan**

**Base Payment & Overage / Cost per Image Terms**

- = Parts, Drums & Labor
- = Parts, Drums, Labor & Toner
- = Parts, Drums, Labor, Toner & Staples
- = OEM Supplies  = Compatible Supplies

Monthly Base Charge: \$.0

BW images included:	0	images/overages billed @:	.008	per image
Color images included:	0	images/overages billed @:	.048	per image

**Standard Services**

- Implementation:** ImageNet Consulting, LLC will inspect any existing equipment currently located at Customer's site and is to be covered under this Agreement to determine that it is in good mechanical condition prior to this Agreement's Effective Date. Should the equipment require significant repair or overhaul, such repairs may be charged to the Customer at current ImageNet Consulting, LLC rates. Such repairs will be performed and charged only upon agreement of both parties. Any new equipment to be installed by ImageNet Consulting, LLC as part of this agreement will be covered upon installation and execution of this agreement.
- Quick-Response Technical Service:** In accordance with the selected "Service Plan" listed above ImageNet Consulting, LLC will provide service and all maintenance, including unlimited service calls, parts (as classified by the manufacturers) and consumable supplies including: maintenance kits, transfer kits, fuser kits, process kits, developer and imaging drums and toner on the equipment listed above or attached schedule(s) for the term of the Agreement with the following stipulations and exceptions.
- Quality Assurance:** ImageNet Consulting, LLC will ensure reasonable equipment uptime through ImageNet Consulting, LLC performance management and reporting tools. Performance reviews may be scheduled at Customer's request.
- Web-Based Support Services:** ImageNet Consulting, LLC will provide its standard web-based support services including but not limited to: service call dispatch, supply orders, and meter-read input available at [www.imagenetconsulting.com](http://www.imagenetconsulting.com).
- Meter Reading:** Customer may report meters either by phone, email, facsimile, or ImageNet Consulting, LLC on-line web-reporting tool. ImageNet Consulting, LLC may activate and use monitoring software to provide meter readings as well as report service issues and provide supply levels for networked equipment. A key Customer contact will be responsible for providing access to allow ImageNet Consulting, LLC to collect meters when needed. If no meter is received, ImageNet Consulting, LLC reserves the right to utilize past meters to estimate any required meter in order to process billing.
- Correspondence:** All correspondence relating to the notifications within this agreement are to be sent via registered letter to the Contracts Department at: 913 N. Broadway, Oklahoma City, OK 73102 attention Contracts.

**Key Contact:** Customer agrees to make available and designate a key contact for general administration of this Agreement. If the employment status of Customer key contact changes so as to affect the contact's availability to perform this assignment, Customer shall promptly inform ImageNet Consulting, LLC and replace with a new key contact.

**Software & Connectivity:** ImageNet Consulting, LLC will connect up to four (4) workstations during initial installation; additional workstations will be subject to additional charges. ImageNet Consulting, LLC will provide to customer a Connectivity Information Sheet ("CIS") prior to installation of any equipment that requires software or connectivity. The CIS form will cover the entire scope of work to be performed during the initial set up of the equipment. Issues relating to software and/or connectivity within the installation scope of work after ninety (90) days of the initial set up are independent of this agreement. At the Customer's request ImageNet Consulting, LLC will provide a new scope of work related to any issues that arise after ninety (90) days of the initial install. Any additional charges that may apply will not be performed unless both parties have agreed to and executed a new scope of work.

TIPS Contract #180103 Initial *JA*

Board of County Commissioners Tulsa County, OK Authorized Signature:  
Approved as to form:

ImageNet Consulting, LLC Authorized Signature:

*[Handwritten Signature]*

James G. Rea  
Assistant District Attorney  
Chairman 8/31/20

Digitally signed by James G. Rea  
Date: 2020.08.28 12:49:24 -0500

*[Handwritten Signature]*

VP-Contracts 08/20/2020

Accepted by: *[Handwritten Signature]*



Title: \_\_\_\_\_ Date: \_\_\_\_\_

Accepted by: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

Attest: *[Handwritten Signature]*

## Standard Terms & Conditions

1. **General**
  - a. Upon request ImageNet Consulting, LLC will supply the manufacturer's suggested yield and fill rates. If the supply consumption exceeds the manufacturer's suggested yield and fill rates by more than twenty percent (20%) ImageNet Consulting, LLC may assess a surcharge equal to the manufacturer's suggested retail price (MSRP) of the additional usage.
  - b. ImageNet Consulting, LLC may reset supply items (i.e. fuser and maintenance kits) in lieu of replacement so long as print quality is not affected.
  - c. ImageNet Consulting, LLC will not be obligated to provide service on Printers or Multi-Function Printers (MFP) where Customer uses (i) supplies; (ii) printer parts; or (iii) paper that does not meet manufacturer's specifications and/or Customer uses supplies or spare parts not obtained through ImageNet Consulting, LLC. ImageNet Consulting, LLC may charge its standard hourly rates to repair Printers or MFPs with service problems as a result of Customer's misuse of these items. The term supplies includes: toner, staples, developer, drums and supply modules.
  - d. If the Equipment is modified, altered, or serviced by personnel other than ImageNet Consulting, LLC representative, ImageNet Consulting, LLC may charge Customer for any damage resulting from such modification, alteration, or improper service.
  - e. ImageNet Consulting, LLC will not be responsible for delays, inability to provide service calls due to strikes, accidents, acts of God or any other event beyond its control. All Service under this agreement will be rendered during normal working hours of 8:00am to 5:00pm Monday through Friday unless otherwise agreed upon in writing by both parties.
  - f. In the event a manufacturer discontinues parts or supplies for a specific device, the unused portion of this Agreement can be transferred to a new machine purchased through ImageNet Consulting, LLC.
  - g. In the event of rising fuel costs ImageNet Consulting, LLC reserves the right to add a fuel charge to the monthly, quarterly or annual invoice.
  - h. If applicable Customer may exercise the right to reduce the "Base Charge" and "images included" by up to 10%. A reduction of a greater percentage will require that this agreement be terminated and new agreement signed with new billing rates.
2. **Coverage Excluded:** This Agreement excludes the following unless otherwise specified:
  - a.  Paper and staples;
  - b.  Any and all equipment not listed on Schedule A or on front of this agreement; external cards, hard drives or supplemental hardware; and software;
  - c. Network Connected Equipment: Network connected equipment will be covered up to the network connection of the Printer/Multi-Function Printer ("MFP"). Issues relating to software and/or connectivity after ninety (90) days of installation will require a new scope of work at the Customer's request and does not effect this Agreement.
  - d.  Items damaged by Customer, including but not limited to, doors, paper trays and covers. Replacement of these items will be charged to the Customer at current ImageNet Consulting, LLC rates.
  - e.  It is client's responsibility to insure that any connected device meets with their network security policy, included but not limited to any malware protection.
3. **Equipment Guidelines:** All equipment covered under this Agreement must adhere to the following guidelines:
  - a. Equipment must be placed in a normal office setting with sufficient amount of space for access, free from excessive dust, humidity, temperature and ammonia or other corrosive fumes.
  - b. Equipment must always be operated on an electrical circuit, with proper current, voltage and type of outlets as specified by the original equipment manufacturer. Moreover, if stipulated by the Scope of Services Agreement, Equipment must be operated on an isolated electrical line.
  - c. Equipment must be operated within the specified operational (including usage) specifications.
  - d. Only ImageNet Consulting, LLC furnished supplies and parts may be used on the Equipment.
  - e. ImageNet Consulting, LLC supplies and parts found in equipment not covered within this agreement will be invoiced at the manufacturer's suggested MSRP.
4. **Additional Equipment:** Customer must immediately notify ImageNet Consulting, LLC upon installation and network connection of any additional equipment at Customer's site capable of using ImageNet Consulting, LLC supplied toner cartridges. Upon installation, such equipment will automatically be included as the Equipment under this Agreement and billed accordingly to Customer.
5. **Back Orders.** Unless otherwise noted within this agreement ImageNet Consulting, LLC may provide to customer compatible supplies if unable to receive supplies from the manufacturer due to back orders.
6. **Term:** This Agreement will begin on the Effective Date and continue for a term designated in the Agreement Terms section of this Agreement (the "Initial Term"). This Agreement may renew annually upon mutual agreement of both parties; unless Customer provides written notice to ImageNet Consulting, LLC of its intent to cancel the Agreement at least thirty (30) days prior to the last day of the then current term. ImageNet Consulting, LLC may cancel this Agreement at the end of each term without written notice. ImageNet Consulting, LLC reserves the right to increase contract rates annually, not to exceed 0% of the previous Base Coverage & Excess terms.
7. **Payment:** Payment is due thirty (30) days from date of invoice. Customer will pay all federal, state and local sales, use property, excise or other taxes imposed with respect to the equipment listed on this Agreement.
8. **Assignment:** ImageNet Consulting, LLC may sell, assign or transfer this Agreement, without notice. Customer agrees that if ImageNet Consulting, LLC sells, assigns or transfers this Agreement, the new owner will have the same rights and benefits that ImageNet Consulting, LLC now has. Customer agrees that the right of the new owner will not be subject to any claims, defenses, or set offs that you may have against us. In the event of a sale, assignment or transfer, ImageNet Consulting, LLC agrees to remain responsible for our obligations hereunder. Customer may not sell, transfer and/or assign this Agreement without the prior written consent of ImageNet Consulting, LLC, such consent not to be unreasonably withheld.
9. **Miscellaneous:** This Agreement supersedes all prior discussions or understandings between the parties. This Agreement cannot be changed or terminated orally. No modification of this Agreement shall be binding unless signed by both parties. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement shall still be construed as valid and enforceable. No waiver shall be deemed to be made by any party of any of its rights hereunder unless, the same shall be in writing signed by the waiving party and any waiver shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights or obligations of any party in any respect at any other time.
10. **Breach or Default:** If the Customer does not pay all charges for services as provided hereunder, promptly when due: (1) ImageNet Consulting, LLC may (a) refuse to provide service or supplies for the Equipment or (b) furnish service and supplies on a C.O.D. (cash on deliver) "Per Call" basis at published rates **Jurisdiction:** This Agreement will be governed by and construed according to the laws of the State of Oklahoma applicable to agreements wholly negotiated, executed and performed in Oklahoma. It constitutes the entire Agreement between parties and may not be modified except in writing signed by duly authorized officers of ImageNet Consulting, LLC and the Customer.
11. OTHER THAN THE OBLIGATIONS SET FORTH HEREIN, IMAGENET CONSULTING, LLC DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OR MERCHANTABILITY FOR USE OR FITNESS FOR A PARTICULAR PURPOSE. SAVE AND EXCEPT FOR IT'S OWN NEGLIGENCE OR WILLFUL CONDUCT, IMAGENET CONSULTING, LLC WILL NOT BE RESPONSIBLE FOR DIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES ARISING OUT OF THE PERFORMANCE OF THE EQUIPMENT OR THE LOSS OF THE USE OF THE EQUIPMENT AND THE CUSTOMER HEREBY WAIVES ANY CLAIMS RELATED THERETO.

Initial

