

# Toner Exchange Leasing

A Program of De Lage Landen Financial Services

# Lease Agreement (With Service)

LESSEE	Full Legal Name Brunswick, County of Health and Human Services				Purchase Order Requisition Number	Phone Number (910) 253-2077
	Billing Address 60 Government Center Drive NE Bldg B		City Bolivia	State NC	Zip 28422	County Brunswick
EQUIPMENT	Make	Model Number	Serial Number	Quantity	Description (Attach Separate Schedule A If Necessary)	
	See Schedule A					
PAYMENT INFORMATION	Number of Lease Payments	Lease Payment*	Plus Applicable Taxes		Term of Lease in Months	Payment Frequency: <input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input checked="" type="checkbox"/> Other Annual
	3	\$76,761.00 *	Plus Applicable Taxes		38	End of Lease Option: <input checked="" type="checkbox"/> FMV <input type="checkbox"/> 10% <input type="checkbox"/> \$1 <input type="checkbox"/> Other
				End of Lease Purchase Option shall be FMV unless another option is selected.		
Payment includes service/supplies				Security Deposit	(PLUS) First Period Payment	(PLUS) Other (EQUALS) Total Payment Enclosed
				\$0.00	+	\$0.00 + \$0.00 = \$0.00

\* Lease payment may be adjusted for up front sales tax.

### TERMS AND CONDITIONS

**1. Lease:** You (the "Lessee") agree to lease from us (the "Lessor") the Equipment listed above and on any attached schedule (the "Lease"). You authorize us to adjust the Lease payments by up to 15% if the cost of the Equipment or taxes differs from the supplier's estimate. This Lease is effective on the date that it is accepted and signed by us, and the term of this Lease begins on that date or any later date that we designate (the "Commencement Date") and continues thereafter for the number of months indicated above. Lease payments are due as invoiced by us. As you will have possession of the Equipment from the date of its delivery, if we accept and sign this Lease you will pay us interim rent for the period from the date the Equipment is delivered to you until the Commencement Date as reasonably calculated by us based on the Lease payment, the number of days in that period, and a month of 30 days. Your Lease obligations are absolute, unconditional, and are not subject to cancellation, reduction, setoff or counterclaim. You agree to pay us a fee of \$75.00 to reimburse our expenses for preparing financing statements, other documentation costs and all ongoing administration costs during the term of this Lease. We may increase the Lease Payment on an annual basis, in an amount not to exceed ten percent (10%) of the Lease Payment in effect at the end of the prior annual period. Security deposits are non-interest-bearing and may be applied to cure a Lease default. If you are not in default, we will return the deposit to you when the Lease is terminated. If a payment is not made when due, you will pay us a late charge of 5% of the payment or \$10.00, whichever is greater. We will charge you a fee of \$25.00 for any check that is returned. ONLY WE ARE AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THE LEASE.

**2. Title:** Unless you have a \$1.00 purchase option, we will have title to the Equipment. If you have a \$1.00 purchase option and/or the Lease is deemed to be a security agreement, you grant us a security interest in the Equipment and all proceeds thereof. You authorize us to file Uniform Commercial Code ("UCC") financing statements on the Equipment.

**3. Equipment Use, Maintenance and Warranties:** We are leasing the Equipment to you "AS-IS" AND MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. We transfer to you any manufacturer warranties. You are required at your cost to keep the Equipment in good working condition and to pay for all supplies and repairs. The Lease payments set forth above include the cost of maintenance and/or service, which is provided pursuant to the agreement you entered into with the maintenance and/or service provider. You agree that we are not responsible for providing such maintenance and/or service for the Equipment and you will make all claims related to maintenance and/or service to such service provider. No service provider may alter the terms of this Lease or make any promises or arrangements that alter our rights or your obligations under this Lease. You agree that you are expressly assuming any risks arising from such service provider's inability to deliver such maintenance and/or service, under any circumstance, including, without limitation, such service provider's financial condition or its inability to repair or service the Equipment. You agree that any claims related to maintenance or service will not impact your obligation to pay all Lease payments when due.

**4. Assignment:** You agree not to transfer, sell, sublease, assign, pledge or encumber either the Equipment or any rights under this Lease without our prior written consent. You agree that we may sell, assign, or transfer the Lease and the new owner will have the same rights and benefits we now have and will not have to perform any of our obligations and the rights of the new owner will not be subject to any claims, defenses, or setoffs that you may have against us or any supplier.

**5. Risk of Loss and Insurance:** You are responsible for all risks of loss or damage to the Equipment and if any loss occurs you are required to satisfy all of your Lease obligations. You will keep the Equipment insured against all risks of loss or damage for an amount equal to its replacement cost. You will list us as the sole loss payee for the insurance and give us written proof of the insurance. If you do not provide such insurance, you agree that we have the right, but not the obligation,

to obtain such insurance, and add an insurance fee to the amount due from you, on which we may make a profit. We are not responsible for any losses or injuries caused by the Equipment and you will reimburse us and defend us against any such claims. This indemnity will continue after the termination of this Lease. You will obtain and maintain comprehensive public liability insurance naming us as an additional insured with coverages and amounts acceptable to us.

**6. Taxes:** You agree to pay when due, either directly or as reimbursement to us, all sales, use and personal property taxes and charges in connection with ownership and use of the Equipment. We may charge you a processing fee for administering property tax filings. You will indemnify us on an after-tax basis against the loss of any tax benefits anticipated at the Commencement Date arising out of your acts or omissions.

**7. End of Lease:** You will give us at least 60 days but not more than 120 days written notice (to our address below) before the expiration of the initial lease term (or any renewal term) of your intention to purchase or return the Equipment. With proper notice you may: a) purchase all the Equipment as indicated above under "End of Lease Option" (fair market value purchase option amounts will be determined by us based on the Equipment's in place value); or b) return all the Equipment in good working condition at your cost in a timely manner, and to a location we designate. If you fail to notify us, or if you do not (i) purchase or (ii) return the Equipment as provided herein, this Lease will automatically renew at the same payment amount for consecutive 60-day periods.

**8. Default and Remedies:** You are in default on this Lease if: a) you fail to pay a Lease payment or any other amount when due; or b) you breach any other obligation under the Lease or any other Lease with us. If you are in default on the Lease we may: (i) declare the entire balance of unpaid Lease payments for the full Lease term immediately due and payable to us; (ii) sue you for and receive the total amount due on the Lease plus the Equipment's anticipated end of Lease fair market value or fixed price purchase option (the "Residual") with future Lease payments and the Residual discounted to the date of default at the lesser of (A) a per annum interest rate equivalent to that of a U.S. Treasury constant maturity obligation (as reported by the U.S. Treasury Department) that would have a repayment term equal to the remaining Lease term, all as reasonably determined by Lessor, or (B) 3% per annum, plus reasonable collection and legal costs; (iii) charge you interest on all monies due at the rate of 18% per year or the highest rate permitted by law from the date of default; and (iv) require that you immediately return the Equipment to us or we may peaceably repossess it. Any return or repossession will not be considered a termination or cancellation of the Lease. If the Equipment is returned or repossessed we will sell or re-rent the Equipment at terms we determine, at one or more public or private sales, with or without notice to you, and apply the net proceeds (after deducting any related expenses) to your obligations. You remain liable for any deficiency with any excess being retained by us.

**9. Miscellaneous:** You agree the Lease is a Finance Lease as defined in Article 2A of the UCC. You acknowledge we have given you the name of the Equipment supplier and that you may have rights under the contract with the supplier and may contact the supplier for a description of these rights. If requested, you will sign a separate Equipment acceptance certificate. **This Lease was made in Pennsylvania ("PA"), is to be performed in PA and shall be governed and construed in accordance with the laws of PA. You consent to jurisdiction, personal or otherwise, in any state or federal court in PA and irrevocably waive a trial by jury.** You agree to waive any and all rights and remedies granted to you under Sections 2A-508 through 2A-522 of the UCC. You agree that the Equipment will only be used for business purposes and not for personal, family or household use, and will not be moved from the above location without our consent. You agree that a facsimile copy of the Lease with facsimile signatures may be treated as an original and will be admissible as evidence of the Lease. We may inspect the Equipment during the Lease term.

LESSEE SIGNATURE	You agree that this is a non-cancelable lease. The Equipment is: <input checked="" type="checkbox"/> NEW <input type="checkbox"/> USED	
	Signature	Date
ACCEPTANCE	The Equipment has been received, put in use, is in good working order and is satisfactory and acceptable.	
	Signature	Date
GUARANTY	I unconditionally guaranty prompt payment of all the Lessee's obligations under the Lease. The Lessor is not required to proceed against the Lessee or the Equipment or enforce other remedies before proceeding against me. I waive notice of acceptance and all other notices or demands of any kind to which I may be entitled. I consent to any extensions or modification granted to the Lessee and the release and/or compromise of any obligations of the Lessee or any other guarantors without releasing me from my obligations. This is a continuing guaranty and will remain in effect in the event of my death and may be enforced by or for the benefit of any assignee or successor of the Lessor. <b>This guaranty is governed by and constituted in accordance with the laws of the Commonwealth of PA and I consent to non-exclusive jurisdiction of any state or federal court in PA and waive trial by jury.</b>	
	Signature	Date

LESSOR	<b>De Lage Landen Financial Services, Inc.</b>	
	Lease Processing Center, 1111 Old Eagle School Road, Wayne, PA 19087	
	PHONE: (800) 735-3273 • FAX: (800) 776-2329	
	Commencement Date	Lease Number
Accepted By:		

11TON001

**SCHEDULE A**

Equipment	SERIAL NUMBER	INSTALL METER
Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2540dw		0
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Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2540dw		0
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Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2540dw		0
Kyocera Ecosys M2040dn		0
Kyocera Ecosys M2040dn		0
Kyocera Ecosys M2040dn		0
Kyocera Ecosys M2040dn		0
Kyocera Ecosys P2040dw		0
Kyocera Ecosys P2040dw		0
Kyocera Ecosys P2040dw		0
Kyocera Ecosys P2040dw		0
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Kyocera Ecosys P2040dw		0
Kyocera Ecosys P2040dw		0
Kyocera Ecosys P2040dw		0
Kyocera Ecosys M3040idn		0
Kyocera Ecosys M3540idn		0
Kyocera TASKalfa 3252ci		0
Kyocera TASKalfa 5052ci		0
Kyocera TASKalfa 4002i		0
Kyocera TASKalfa3011i		0
Kyocera TASKalfa 5002i		

PAGE 1 OF 3 PAGES OF THIS SCHEDULE A

SIGNATURE: \_\_\_\_\_  
 PRINT NAME: \_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 LEGAL NAME OF CORPORATION: Brunswick, County of Health and Human Services





# FISCAL FUNDING ADDENDUM

<b>LESSEE</b>	Full Legal Name <u>Brunswick, County of Health and Human Services</u> DBA Name (If Any) _____
	Billing Address <u>60 Government Center Drive NE Bldg B</u> Phone Number <u>910.253.2077</u>
	City <u>Bolivia</u> County <u>Brunswick, County of</u> State <u>NC</u> Zip Code <u>28422</u>
	Lease Number _____ Lease Date _____

Lessee warrants that it has funds available to pay all rents (the "Lease Payments") payable under the above - identified Lease until the end of Lessee's current appropriation periods. If Lessee's legislative body or other funding authority does not appropriate funds for Lease Payments for any subsequent appropriation period and Lessee does not otherwise have funds available to lawfully pay the Lease Payments (a "Non-Appropriation Event") Lessee may, subject to the conditions herein and upon prior written notice to Lessor (the "Non-Appropriation Notice"), effective sixty (60) days after the later of Lessor's receipt of same or the end of the Lessee's current appropriation period (the "Non-Appropriation Date"), terminate the Lease and be released of its obligation to make all Lease Payments due Lessor coming due after the Non-Appropriation Date. As a condition to exercising its rights under the Addendum Lessee shall (1) provide in the Non-Appropriation Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (2) deliver to Lessor an opinion of Lessee's counsel (addressed to Lessor) verifying that the Non-Appropriation Event as set forth in the Non-Appropriation Notice has occurred, (3) return the equipment subject to the Lease (the "Equipment") on or before the Non-Appropriation Date to Lessor or a location designated by Lessor, in the condition required by, and in accordance with the return provisions of, the Lease and at Lessee's expense, and (4) pay Lessor all sums payable to Lessor under the Lease up to the Non-Appropriation Date.

In the event of any Non-Appropriation Event, Lessor shall retain all sums paid hereunder or under the Lease by Lessee, including the Security Deposit (if any) specified in the Lease.

Lessee further represents, warrants and covenants for the benefit of Lessor that:

- (a) Lessee is a municipal corporation and political subdivision duly organized and existing under the constitution and laws of the State.
- (b) Lessee is authorized under the constitution and laws of the State, and has been duly authorized to enter into this Lease and the transaction contemplated hereby and to perform all of its obligations hereunder.
- (c) This Lease constitutes the legal, valid and binding obligation of the Lessee enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.
- (d) Lessee has complied with such public bidding requirements as may be applicable to this Lease.
- (e) The Equipment described in this Lease is essential to the function of the Lessee or to the service Lessee provides to its citizens. The Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future.
- (f) Lessee has never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease, lease purchase, installment sale or other similar agreement.

This Addendum is not intended to permit Lessee to terminate the Lease at will or for convenience.

YOU AGREE THAT A FACSIMILE COPY OF THIS DOCUMENT WITH FACSIMILE SIGNATURES MAY BE TREATED AS AN ORIGINAL AND WILL BE ADMISSIBLE AS EVIDENCE IN A COURT OF LAW.

<b>LESSEE SIGNATURE</b>	Signature X _____ <small>(MUST BE SIGNED BY AUTHORIZED REPRESENTATIVE OR OFFICER OF GOVERNMENT ENTITY)</small>
	Print Name _____
	Title _____ Date _____
	Name of Government Entity <u>Brunswick, County of Health and Human Services</u>

<b>ACCEPTED BY LESSOR</b>	Signature X _____
	Print Name _____
	Title _____ Date _____
	Name of Corporation or Partnership _____

## LEASE AGREEMENT ADDENDUM

This Lease Agreement Addendum ("Addendum") is made part of and amends that certain Lease Agreement dated \_\_\_\_\_ by and between De Lage Landen Financial Services, Inc. ("Lessor") and County of Brunswick ("Lessee"). The words "you" and "your" refer to the Lessee and the words "we", "us" and "our" refer to the Lessor. Unless otherwise defined herein, capitalized terms shall have the definition set forth in the Lease Agreement ("the Agreement").

NOW, THEREFORE, for good and valuable consideration, intending to be legally bound and pursuant to the terms and conditions of the Agreement, it is hereby agreed as follows:

1. Paragraph 9. Modify the third sentence to read, "This lease was made in North Carolina ("NC"), is to be performed in NC and shall be governed and construed in accordance with the laws of NC. You consent to jurisdiction, personal or otherwise, in any state or federal court in NC."
2. Paragraph 9. Modify the end of third sentence to delete, "and irrevocably waive a trial by jury."
3. It is expressly agreed by the parties that this Addendum is supplemental to the Agreement, which is by reference made a part hereof and all the terms and conditions and provisions thereof, unless specifically modified herein, are to apply to this Addendum and are made a part of this Addendum as though they were expressly rewritten.
4. In the event of any conflict, inconsistency or incongruity between the provisions of this Addendum and any of the provisions of the Agreement, the provisions of this Addendum shall in all respects govern and control.
5. This Addendum may be executed by one or more of the parties on any number of separate counterparts, each of which counterparts shall be an original, but all of which when together shall be deemed to constitute one and the same instrument.
6. This Addendum has been executed and delivered in, and shall be construed in accordance with the laws of NC.
7. The terms hereof may not be terminated, amended, supplemented or modified orally, but only by an instrument duly authorized by each of the parties hereto.
8. Contractor agrees that the contractor and the contractor's subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. E-Verify is a program in which the employment eligibility of all newly hired employees will be confirmed after the Employment eligibility Verification form (Form I-9) has been completed.
9. By signing this agreement vendors, contractors, and/or subcontractors affirm they are not listed and will not utilize a subcontractor listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 143-6A-4, Iran Divestment Act Certification.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed on the date set forth above.

**LEASE AGREEMENT ADDENDUM**

**LESSEE**

By: \_\_\_\_\_

Print name: \_\_\_\_\_

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

**DE LAGE LANDEN FINANCIAL SERVICES, INC.**

By: \_\_\_\_\_

Print name: \_\_\_\_\_

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



**2018/2019 Budget Approval Guarantee**

The new equipment will be installed during April 2018. The old equipment will be removed at the same time and the current leases will be terminated immediately with the County of Brunswick having no further obligations. During May 2018 and June 2018 there will be no payments due. Your first annual payment on the new lease will be due after July 1, 2018. If for any reason the 2018/2019 budget is not approved for the 2018/2019 budget year, the Fiscal Funding Addendum that was included in your document package provides the County the ability to terminate this lease.

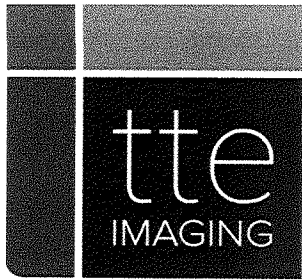
All other year's budget approvals during the term of this lease are also covered by the same Fiscal Funding Addendum.

Sincerely,

A handwritten signature in black ink, appearing to be 'RP' or similar initials, enclosed within a circular scribble.

Rick Puckett  
Vice President/Owner  
The Toner Exchange  
February 16, 2018





the toner exchange

**CUSTOMER SERVICE AGREEMENT**

3305 Kitty Hawk Road  
 Wilmington, NC 28405  
 910-763-9590

Bill to:			Ship to:		
Name: Brunsick, County of - Health & Human Services			Name: same as bill to		
Address: 60 Government Center Drive			Address: Noted in system per ID#		
City: Bolivia	State: NC	Zip: 28422	City:	State:	Zip:
Phone: 910.253.2077	Fax:		Phone:	Fax:	
Contact:			Contact:		

**Effective Date:** From install To 38 months

**Billing Frequency:** Overages Annually

MODEL	SERIAL # / ID#	BEGINNING METER	AGREEMENT PRICE / CPC	COPIES INCLUDED	OVERAGE RATE	B & W TONER INCLUDED	COLOR TONER INCLUDED	TOTAL
See	Schedule A	Blk and white = 0*		2,508,000/yr	\$0.0065	yes		
		Taskalfa = 0		49,800/yr	\$0.0507		yes	
		Ecosys = 0		in above	\$0.120		yes	
<b>Comments:</b> Annual Base allowance of 2,508,000 and 49,800 color pages included in annual lease payment - overages reconciled annually. Excludes paper & staples							<b>Net Price</b>	\$0.00
							<b>% Tax</b>	
							<b>Other</b>	
							<b>Total Price</b>	

**LIABILITY:**  
 We understand that tte IMAGING'S liability with respect to any property damage or injury (including death) to persons arising out of or connected with service performed under this agreement is limited to that imposed by law and that there is no contract imposing any greater degree of liability on tte IMAGING. This instrument must have the final approval of a tte IMAGING Officer and contains the entire agreement between both parties and there are no promises, representations and/or warranties, express or implied, other than set forth herein.

tte IMAGING agrees with the undersigned customer to provide service and supplies (if included) for the unit(s) listed above subject to the terms, descriptions and conditions set forth on the reverse side hereof.

**CUSTOMER ACCEPTANCE:**

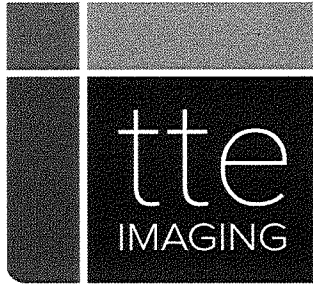
**tte IMAGING**

\_\_\_\_\_  
 Authorized Signature Title

Tammy Hinke  
 Sales Representative

\_\_\_\_\_  
 Print Name Date

Rick Puckett 3.2.2018  
 tte IMAGING Officer Date



the toner exchange

**EQUIPMENT DESCRIPTION**

All equipment is new and not refurbished or reconditioned equipment.

**PERFORMANCE GUARANTEE for Term of Contract**

The Toner Exchange guarantees that if any printer acquired from us by The County of Brunswick fails to perform within the manufacturer's specifications and cannot be repaired, we will replace it without charge with a brand new identical model or if that model is discontinued, the new model in the Kyocera product line that replaced it.

The Toner Exchange guarantees that if any copier acquired from us by The County of Brunswick fails to perform within the manufacturer's specifications and cannot be repaired, we will replace it without charge with an identical model or at our discretion, with a copier of comparable features and capabilities.

**REPETITIVE OR PERSISTENT ISSUE GUARANTEE for Term of Contract**

The Toner Exchange guarantees that if any printer acquired from us by The County of Brunswick fails three times during any consecutive thirty day period and we cannot repair the product to your satisfaction within the following thirty day period, we will replace it without charge with a brand new identical model or if that model is discontinued, the new model in the Kyocera product line that replaced it.

The Toner Exchange guarantees that if any copier acquired from us by The County of Brunswick fails three times during any consecutive thirty day period and we cannot repair the product to your satisfaction within the following thirty day period, we will replace it without charge with an identical model or at our discretion, with a copier of comparable features and capabilities.

**LOANER GUARANTEE**

The Toner Exchange guarantees that if any equipment acquired from us by The County of Brunswick is down for more than an 8 hour period (one business day), we will at your request deliver and install a loaner the next business day with comparable features and capabilities until such time as your product is fixed to your satisfaction.

**E-VERIFY**

Contractor agrees that the contractor and the contractor's subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. E-Verify is a program in which the employment eligibility of all newly hired employees will be confirmed after the Employment eligibility Verification form (Form I-9) has been completed.

**The Toner Exchange**

**County of Brunswick**

  
\_\_\_\_\_

\_\_\_\_\_  
Signature

Signature

RICK PLAKETT V.P.

\_\_\_\_\_  
Name Title

Name Title

3/5/18

\_\_\_\_\_  
Date

Date