

## Technology Leases Over \$100,000 Checklist

District: Williamstown Independent Schools

District Point of Contact for Lease Questions:

Name: Tamara Steele

Phone: (859) 463-4407

Email: tamara.steele@williamstown.ky.schools.us  
approved 4/8/13 - lease begins 6/4/13

Date Received: \_\_\_\_\_ Date lease option expires: 6/3/18

Total Amount of Lease: \$193,607.00

Cost of Financing - Interest Rate: \_\_\_\_\_ Interest Amount: \_\_\_\_\_

Source of Funding: (ED/TECH money cannot be used for interest)

General Fund -- local funds ( ) Other: \_\_\_\_\_

Items to be included:

1. Cover letter requesting lease from District Superintendent

2. Proposed Lease

3. Contract ( ) or Bid ( )

- o If Contract see #4 and list contract number(s) here. 500-0365832-000
- o If Bid attach copy of Bid and Board approved contract.

4. List of Equipment and/or Services (as provided on Invoice)

- o Reference the contract number. Leases for technology items should use a KETS contract. If items are not on a current KETS contract, identify the legal procurement method to be used to lease equipment.
- o Reference cost for each item.
- o KETS contract link:  
<http://www.education.ky.gov/KDE/Administrative+Resources/Technology/Purchasing/KETS+Contract+Information+and+Order+Forms/>

5. Lease Term not to exceed life of the equipment.

- o Warranty coverage must meet or exceed term of lease.

6. Local Lawyer approval letter

Please email all documents to Pari Ziebart, at [pari.ziebart@education.ky.gov](mailto:pari.ziebart@education.ky.gov), and copy Denise Hartsfield at [denise.hartsfield@education.ky.gov](mailto:denise.hartsfield@education.ky.gov).

# WILLIAMSTOWN INDEPENDENT SCHOOLS

## BOARD OF EDUCATION

Chris Lawrence  
Chairperson  
Donna Cheesman  
Vice-Chairperson  
Connie Lawrence  
Roy Osborne  
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300 Helton Street  
Williamstown, Kentucky 41097  
Sally Skinner, Superintendent  
Phone (859) 824-7144 • Fax (859) 824-3237

## ADMINISTRATION

Misty Middleton  
Assistant Superintendent  
David Poer  
DPP  
Traci Albert  
Special Ed Director / Fed Programs  
LeAnn Collins  
Finance Officer  
Meleasa Sherman  
Payroll / Benefits Coordinator

*Over 100 Years of Excellence in Education*

To Whom It May Concern,

I am writing this letter to request permission to lease copiers and copier maintenance agreements from Modern Office Methods at a cost of \$3,226.70 per month for 60 months, starting June 4, 2013 and totaling \$193,602.00. I am now aware this permission should have been approved prior to the district entering into the contract. Unfortunately, I was unaware of the necessity for state department approval of leases beyond the cost of \$100,000.00 and for that I am deeply apologetic. I greatly appreciate your consideration of my permission for post-approval.

Sincerely,



Sally Skinner, Superintendent



APPLICATION NO.

CONTRACT NO.

**DOCUMENT MANAGEMENT PROGRAM**

The words you and your refer to the customer. The words Owner, we, us and our refer to Modern Office Methods, Inc. Every attempt has been made to eliminate confusing language and create a simple, easy-to-read document.

**CUSTOMER INFORMATION**

FULL LEGAL NAME Williamstown Independent Schools			STREET ADDRESS 300 Helton St.		
CITY Williamstown	STATE KY	ZIP 41097	PHONE 859-824-7144	FAX	
BILLING NAME (IF DIFFERENT FROM ABOVE)			BILLING STREET ADDRESS		
CITY	STATE	ZIP	E-MAIL		
EQUIPMENT LOCATION (IF DIFFERENT FROM ABOVE)					

**EQUIPMENT WITH INDEPENDENT MINIMUMS**

Make/Model/Accessories	Serial #	Monthly Payment*	No. of Monthly Copies - B&W	No. of Monthly Copies - Color	Overages - B&W*	Overages - Color*	Starting Meter - B&W	Starting Meter - Color
1								
2								
3								

OR

**EQUIPMENT WITH CONSOLIDATED MINIMUMS**

Make/Model/Accessories	Serial #	Starting Meter - B&W	Starting Meter - Color
1 Lanier Pro907EX: Elementary School			
2 Lanier Pro907EX: High/Middle School			
3 Lanier MP6002SPF: Head Start			
4 Lanier MPC4502: Board Of Education			
5 Lanier MP2352: Williamstown Schools			
6 2 Lanier LD220's: Williamstown Schools			

Monthly Payment\* \$ 3,226.79 Number of Monthly B&W Copies 215,000 B&W Overages billed at\* \$ .00428

\*plus applicable taxes Number of Monthly Color Copies 1,500 Color Overages billed at\* \$ .0577

See Attached separate Schedule "A" if necessary  See Attached separate Pool Billing Schedule if necessary  
by initialing here, you agree that service and supplies are not included in this Agreement.

**TERM AND PAYMENT SCHEDULE**

Number of Months 60 Advance Payment\* \$ \_\_\_\_\_ Please check one:  Overages/Monthly  Overages/Quarterly  
You authorize us to increase or decrease your payment not more than fifteen percent (15%) to reflect changes in the payment of taxes.

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

**OWNER ACCEPTANCE**

Modern Office Methods, Inc.			
DATED	OWNER	SIGNATURE	TITLE

**CUSTOMER ACCEPTANCE**

By providing a telephone number for a cellular phone or other wireless device, you are expressly consenting to receiving communications (for NON-marketing or solicitation purposes) at that number, including, but not limited to, prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system from Owner and its affiliates and agents. This Express Consent applies to each such telephone number that you provide to us now or in the future and permits such calls. These calls and messages may incur access fees from your cellular provider.

<u>4/8/13</u>	<u>Williamstown Ind. Schools</u>	<u>X Sally Skinner</u>	<u>Superintendent</u>
DATED	CUSTOMER	SIGNATURE	TITLE
<u>61-600137</u>		<u>Sally Skinner</u>	
FEDERAL TAX I.D. #		PRINT NAME	

**CONTINUING GUARANTY**

As additional inducement for us to enter into the Agreement, the undersigned ("you") unconditionally, jointly and severally, personally guarantees that the customer will make all payments and meet all obligations required under this Agreement and any supplements fully and promptly. You agree that we may make other arrangements including compromise or settlement with the customer and you waive all defenses and notice of those changes and will remain responsible for the payment and obligations of this Agreement. We do not have to notify you if the customer is in default. If the customer defaults, you will immediately pay in accordance with the default provision of the Agreement all sums due under the terms of the Agreement and will perform all the obligations of the Agreement. If it is necessary for us to proceed legally to enforce this guaranty, you expressly consent to the jurisdiction of the court set out in paragraph 14 and agree to pay all costs, including attorneys fees incurred in enforcement of this guaranty. It is not necessary for us to proceed first against customer before enforcing this guaranty. By signing this guaranty, you authorize us to obtain credit bureau reports for credit and collection purposes.

<u>X</u>		
PRINT NAME OF GUARANTOR	SIGNATURE	DATED

1. AGREEMENT: You agree to rent from us the personal property described under "MAKE/MODEL/ACCESSORIES" and as modified by supplements to this Master Agreement from time to time signed by you and us (such property and any upgrades, replacements, repairs and additions referred to as "Equipment") for business purposes only. You agree to all of the terms and conditions contained in this Agreement and any supplement, which together are a complete statement of our Agreement regarding the listed equipment ("Agreement") and supersede any purchase order or outstanding invoice. This Agreement may be modified only by written agreement and not by course of performance. This Agreement becomes valid upon execution by us and will begin on the rental commencement date and will continue from the first day of the following month for the number of consecutive months shown. The term will be extended automatically for successive 12 month terms unless you send us written notice between thirty (30) and ninety (90) days before the end of any term of your intent to return the equipment AND complete the return within 30 days of the end of term. 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. You authorize us to insert or correct missing information on this Agreement including your proper legal name, serial numbers and any other numbers describing the Equipment. You agree to provide updated annual and/or quarterly financial statements to us upon request.

2. RENT: Rent will be payable in installments, each in the amount of the basic rental payment shown plus any applicable sales tax, use tax, or property tax. 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. In the event this Agreement is not commenced, the security deposit will be retained by us to compensate us for our documentation, processing and other expenses. If for any reason, your check is returned for nonpayment, a \$35.00 bad check charge will be assessed.

3. OWNERSHIP OF EQUIPMENT: We are the Owner of the Equipment and have sole title to the Equipment (excluding software). You agree to keep the Equipment free and clear of all liens and claims.

4. WARRANTY DISCLAIMER: WE MAKE NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE EQUIPMENT IS MERCHANTABILITY. YOU AGREE THAT YOU HAVE SELECTED EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. Notwithstanding any other terms and conditions of the Agreement, you agree that as to software only: a) We have not had, do not have, nor will have any title to such software, b) You have executed or will execute a separate software license agreement and we are not a party to and have no responsibilities whatsoever in regard to such license agreement, c) You have selected such software and WE MAKE NO WARRANTIES OF MERCHANTABILITY, DATA ACCURACY, SYSTEM INTEGRATION OR FITNESS FOR USE AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR THE FUNCTION OR NATURE OF SUCH SOFTWARE.

5. LOCATION OF EQUIPMENT: You will keep and use the Equipment only at the address shown above and you agree not to move it unless we agree to it. At the end of the Agreement's term, you will return the Equipment to a location we specify at your expense, in retail resalable condition, full working order, and in complete repair. Upon returning the Equipment for any reason, you are solely responsible for securely removing any data that may reside in the Equipment. This includes but is not limited to: hard drives, disk drives or any other form of memory. Failure to securely remove this data could subject you to possible liability.

6. LOSS OR DAMAGE: You are responsible for the risk of loss or for any destruction of or damage to the Equipment. No such loss or damage relieves you from the payment obligations under this Agreement. You agree to promptly notify us in writing of any loss or damage and you will then pay to us the present value of the total of all unpaid rental payments for the full rental term plus the estimated fair market value of the Equipment at the end of the originally scheduled term, all discounted at four percent (4%) per year. 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 execute in your name any insurance drafts or checks issued due to loss or damage to the Equipment.

7. INSURANCE/COLLATERAL PROTECTION: You agree (a) to keep the Equipment fully insured through a carrier acceptable to us against loss at its replacement cost, with us named as loss payee; (b) to maintain comprehensive public liability insurance acceptable to us; (c) to provide proof of insurance satisfactory to us no later than thirty (30) days following the commencement of this Agreement (or at commencement if we so elect), and thereafter upon our written request; (d) if you fail to obtain and maintain property loss insurance satisfactory to us and/or you fail to provide proof of such insurance to us within thirty (30) days of the commencement of the Agreement (or at commencement if we so elect), we have the option, but not the obligation, to do as provided in either (A) or (B) as follows, of the following paragraphs as determined in our discretion: (A) We may secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we place insurance on the Equipment, we will not name you as an insured and your interests may not be fully protected. If we secure insurance on the Equipment, you will pay us an amount for the premium which may be higher than the premium that you would pay if you placed the insurance independently and may result in a profit to us through an investment in reinsurance. Any insurance proceeds received will be applied, at our option, (i) to repair, restore or replace the Equipment, or (ii) to pay us the remaining balance of the Agreement plus our estimated residual value, both discounted at 6% per year, provided we elect to apply this Subsection A. (B) We may bill you and you shall pay us a property damage surcharge of up to .0035 of the total stream of payments as a result of our administrative costs, credit risk or other costs. We may make a profit on this program. Provided you are current in paying the monthly property damage surcharge and all other obligations under this Agreement at the time of a loss (intentional acts are not included), the remaining balance owed on this Agreement will be forgiven, provided we elected to apply this subparagraph B. You must be current in all your obligations to benefit from this program. NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF YOUR OBLIGATION TO MAINTAIN LIABILITY INSURANCE COVERING THE EQUIPMENT.

8. INDEMNITY: We are not responsible for any loss or injuries caused by the installation or use of the Equipment. You agree to hold us harmless and reimburse us for loss and to defend us against any claim for losses or injury caused by the Equipment.

9. TAXES AND FEES: You agree to pay when due all taxes (including personal property tax, fines and penalties) and fees relating to this Agreement or the Equipment. If we pay any of the above for you, you agree to reimburse us and to pay us a processing fee for each payment we make on your behalf. We reserve the right to charge a fee upon termination of this Agreement either by trade-up, buy-out or default. Any fee charged under this Agreement may include a profit and is subject to applicable taxes.

10. ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBRENT THE EQUIPMENT OR THIS AGREEMENT. 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 rights of the new Owner will not be subject to any claims, defenses, or set offs that you may have against us.

11. DEFAULT AND REMEDIES: If you do not pay any rental payment or other sum due to us or other party when due or if you break any of your promises in the Agreement or any other Agreement with us, you will be in default. If any part of a payment is late, you agree to pay a late charge of 15% of the payment which is late or if less, the maximum charge allowed by law. If you are ever in default, we can terminate or cancel this Agreement and require that you pay (1) the unpaid balance of this Agreement (discounted at 4%); (2) the amount of any purchase option and if none is specified, 20% of the original Equipment cost which represents our anticipated residual value in the Equipment; (3) and return the Equipment to us a location designated by us. We may recover interest on any unpaid balance at the rate of 8% per annum. We may also use any of the remedies available to us under Article 2A of the Uniform Commercial Code as enacted in the State of Owner or its Assignee or any other law. If we refer this Agreement to an attorney for collection, you agree to pay our reasonable attorney's fees and actual court costs. If we have to take possession of the Equipment, you agree to pay the cost of repossession. The net proceeds of the sale of any repossessed 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 OR INCIDENTAL DAMAGES FOR ANY DEFAULT BY US UNDER THIS AGREEMENT. You agree that any delay or failure to enforce our rights under this Agreement does not prevent us from enforcing any rights at a later time. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive customer's rights under Article 2A (508-522) of the UCC.

12. UCC FILINGS: You grant us a security interest in the Equipment if this Agreement is deemed a secured transaction and you authorize us to record a UCC-1 financing statement or similar instrument, in order to show our interest in the Equipment.

13. CONSENT TO LAW, JURISDICTION, AND VENUE: This Agreement shall be governed by the Internal laws for the state in which Owner or Owner's assignee's principal corporate offices are located. IF THIS AGREEMENT IS ASSIGNED, YOU AGREE THAT ANY DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT WILL BE ADJUDICATED IN THE FEDERAL OR STATE COURT WHERE THE ASSIGNEE'S CORPORATE HEADQUARTERS IS LOCATED AND WILL BE GOVERNED BY THE LAW OF THAT STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN THAT COURT AND WAIVE ANY RIGHT TO TRANSFER VENUE. EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY.

14. DELIVERY OF ORIGINALS: You agree to submit the original master rental documents with the security deposit to the Owner via overnight courier the same day of the facsimile transmission of the rental documents. Should we fail to receive these originals, you agree to be bound by the faxed copy of this Agreement with appropriate signatures. Customer waives the right to challenge in court the authenticity of a faxed copy of this Agreement and the faxed copy shall be considered the original and shall be the binding Agreement for the purposes of any enforcement action under paragraph 11.

15. MAINTENANCE AND SUPPLIES: This Total Care Agreement includes Full Service, Parts and Labor, Drum, Developer, Toner, Toner Waste Bag, (Paper, transparency film, staples, labels and any item not specifically listed are not included in the plan, but may be purchased through us.) You shall be responsible for ordering and maintaining an adequate inventory of consumable supplies. No more than sixty days' average usage should be kept on hand at any one time. A meter read and serial number will be requested at time of order. You agree to use consumable supplies ordered hereunder only in connection with equipment subject to this Agreement. We shall review, from time to time, consumable supplies ordered and shipped to you and the actual copy volume made on equipment covered by this Agreement. In the event of a significant variance between the amount and/or type of consumable supplies ordered and the type of and/or copy volume made on such equipment we shall have the right to charge you for any variance in excess of 20% (twenty percent). Variance will be calculated using manufacturer's recommended yield. All supplies in your possession belong to Modern Office Methods and will be made available to us if this Agreement is canceled for any reason including non-payment. Such returned consumable supplies will not be credited to your account. If this Agreement expires or is terminated, we shall be permitted to pick-up that quantity of unused consumable supplies which are in your inventory for use in connection with the unit(s) of equipment subject to such expired or terminated Agreement. A scope of coverage: This Agreement covers all labor and materials for adjustment (excluding densitometer), repair and/or replacement of parts necessitated by the normal use of the equipment except as provided herein. Damage to the equipment or its parts arising from misuse, abuse, negligence, or cause beyond our control, such as use beyond Buyers' Lab recommended volume or Acts of God, are not covered and will be charged to you at the then current per call MOM service rate. In addition, we may terminate this Agreement in the event the equipment is modified, damaged, altered or served by personnel other than those authorized by us, or the parts or supplies used are not authorized by us. b. Service Calls: Service Calls under this Agreement will be made during normal business hours (Monday through Friday, 8:00 a.m. - 5:00 p.m.) by the authorized service center in the area of the installation address shown on the face of this Agreement. Travel and labor time for calls made outside of normal business hours, on weekends, or holidays if available, will be charged at the overtime rates in effect at the time the calls is made. All toner included in the Agreement is based off HP Stated yields, at 6% coverage. We may charge you a supply Freight Fee to cover our costs of shipping supplies to you. All 11" x 17" copies or prints will count as two meter clicks per side.

16. OVERAGES AND COST ADJUSTMENTS: You agree to comply with any billing procedures designated by us, including notifying us of the meter reading at the end of each month. ~~At the end of the first year of this Agreement and once each successive year on a month period, we may increase your payment, and the per copy charge over the copies included (Overage) by a maximum of 15% of the existing charge.~~ Rate is fixed for the term 1/4 S.S.

17. UPGRADE/DOWNGRADE PROVISION: AFTER INCEPTION OF THE AGREEMENT AND UPON YOUR REQUEST, WE MAY REVIEW YOUR COPY VOLUME AND PROPOSE OPTIONS FOR UPGRADING OR DOWNGRADING TO ACCOMMODATE YOUR NEEDS.

18. METER READING: You agree to comply with any billing procedures designated by us, including notifying us of the meter reading at the end of each month. If after two notices, through no fault of Modern Office Methods, we are unable to get a meter reading, we may estimate the reading and bill you accordingly. You will pay the invoice based on the estimated read. An adjustment will be made on a future invoice to reflect any difference between the estimated and actual read.

19. TRANSITION BILLING: In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the "Effective Date" of this Agreement will be at our discretion within 30 days of installation. This payment for the 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 invoice.

**FOR MUNICIPALITIES ONLY**

20-A. CUSTOMER COVENANTS: You covenant and warrant that (1) it has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the payments scheduled to come due and to meet its other obligations under the Agreement and such funds have not been expended for other purposes; and

(2) that there is no action, suit, proceeding or investigation pending, or threatened in any court or other tribunal or competent jurisdiction, state or federal or before any public board or body, which in any way would (a) restrain or enjoin the delivery of the Agreement or the ability of you to make its Base Payments (as set out above); (b) contest or affect the authority for the execution or delivery of, or the validity of, the Agreement; or (c) contest the existence and powers of you; nor is there any basis for any such action, suit, proceeding or investigation; and

(3) That 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 the Agreement.

(4) You have not previously terminated a rental for non-appropriation, except as specifically described in a letter appended hereto.

20-B. SIGNATURES: Each signor (two if monthly payment exceeds \$1,200) warrants that he/she is fully conversant with the governing relevant legal and regulatory provisions and has full power and authorization to bind you. Signor(s) for you further warrant(s) its governing body has 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 the governing body of you authorizing execution of the Agreement has been duly adopted and remains in full force and effect.

20-C. NON APPROPRIATION: In the event you are in default under the Agreement because:  
1. Funds are not appropriated for a fiscal period subsequent to the one in which the Agreement was entered into which are sufficient to satisfy all of your obligations under the Agreement during said fiscal period;  
2. Such non-appropriation did not result from any act or failure to act of you;  
3. You have exhausted all funds legally available for all payment due under the Agreement; and  
4. There is no other legal procedure by which payment can be made to Owner.

Then, provided that (a) you have given Owner written notice of the occurrence of paragraph 1 above thirty (30) days prior to such occurrence; (b) Owner has received a written opinion from your counsel verifying the same within ten (10) days thereafter upon receipt of the Equipment delivered to a location designated by Owner, at your expense, Owners remedies for such default shall be to terminate the Agreement at the end of the fiscal period during which notice is given; retain the advance payments, if any; and/or sell, dispose of, hold, use or rent the Equipment as Owner in its sole discretion may desire, without any duty to account to you.

4/8/13 DATED Williamstown Ind. Schools CUSTOMER X Sally Skinner SIGNATURE Superintendent TITLE

1. AGREEMENT: You agree to rent from us the personal property described under "MAKE/MODEL/ACCESSORIES" and as modified by supplements to this Master Agreement from time to time signed by you and us (such property and any upgrades, replacements, repairs and additions referred to as "Equipment") for business purposes only. You agree to all of the terms and conditions contained in this Agreement and any supplement, which together are a complete statement of our Agreement regarding the listed equipment ("Agreement") and supersedes any purchase order or outstanding invoice. This Agreement may be modified only by written agreement and not by course of performance. This Agreement becomes valid upon execution by you and will begin on the rent commencement date and will continue from the first day of the following month for the number of consecutive months shown. The term will be extended automatically for successive 12 month terms unless you send us written notice between thirty (30) and ninety (90) days before the end of any term of your intent to return the equipment AND complete the return within 30 days of the end of term. 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. You authorize us to insert or correct missing information on this Agreement including your proper legal name, serial numbers and any other numbers describing the Equipment. You agree to provide updated annual and/or quarterly financial statements to us upon request.

2. RENT: Rent will be payable in installments, each in the amount of the basic rental payment shown plus any applicable sales tax, use tax, or property tax. 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. In the event this Agreement is not commenced, the security deposit will be retained by us to compensate us for our documentation, processing and other expenses. If for any reason, your check is returned for nonpayment, a \$35.00 bad check charge will be assessed.

3. OWNERSHIP OF EQUIPMENT: We are the Owner of the Equipment and have sole title to the Equipment (excluding software). You agree to keep the Equipment free and clear of all liens and claims.

4. WARRANTY DISCLAIMER: WE MAKE NO WARRANTY EXPRESS OR IMPLIED, INCLUDING THAT THE EQUIPMENT IS FIT FOR A PARTICULAR PURPOSE OR THAT THE EQUIPMENT IS MERCHANTABLE. YOU AGREE THAT YOU HAVE SELECTED EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. Notwithstanding any other terms and conditions of the Agreement, you agree that as to software only: a) We have not had, do not have, nor will have any title to such software, b) You have executed or will execute a separate software license agreement and we are not a party to and have no responsibilities whatsoever in regard to such license agreement, c) You have selected such software and WE MAKE NO WARRANTIES OF MERCHANTABILITY, DATA ACCURACY, SYSTEM INTEGRATION OR FITNESS FOR USE AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR THE FUNCTION OR NATURE OF SUCH SOFTWARE.

5. LOCATION OF EQUIPMENT: You will keep and use the Equipment only at your address shown above and you agree not to move it unless we agree to it. At the end of the Agreement's term, you will return the Equipment to a location we specify at your expense, in retail resalable condition, full working order, and in complete repair. Upon returning the Equipment for any reason, you are solely responsible for securely removing any data that may reside in the Equipment. This includes but is not limited to; hard drives, disk drives or any other form of memory. Failure to securely remove this data could subject you to possible liability.

6. LOSS OR DAMAGE: You are responsible for the risk of loss or for any destruction of or damage to the Equipment. No such loss or damage relieves you from the payment obligations under this Agreement. You agree to promptly notify us in writing of any loss or damage and you will then pay to us the present value of the total of all unpaid rental payments for the full rental term plus the estimated fair market value of the Equipment at the end of the originally scheduled term, all discounted at four percent (4%) per year. 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 execute in your name any insurance drafts or checks issued due to loss or damage to the Equipment.

7. INSURANCE/COLLATERAL PROTECTION: You agree (a) to keep the Equipment fully insured through a carrier acceptable to us against loss at its replacement cost, with us named as loss payee; (b) to maintain comprehensive public liability insurance acceptable to us; (c) to provide proof of insurance satisfactory to us no later than thirty (30) days following the commencement of this Agreement (or at commencement if we so elect), and thereafter upon our written request; (d) if you fail to obtain and maintain property loss insurance satisfactory to us and/or you fail to provide proof of such insurance to us within thirty (30) days of the commencement of the Agreement (or at commencement if we so elect), we have the option, but not the obligation, to do as provided in either (A) or (B) as follows, of the following paragraphs as determined in our discretion: (A) We may secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we place insurance on the Equipment, we will not name you as an insured and your interests may not be fully protected. If we secure insurance on the Equipment, you will pay us an amount for the premium which may be higher than the premium that you would pay if you placed the insurance independently and may result in a profit to us through an investment in reinsurance. Any insurance proceeds received will be applied, at our option, (i) to repair, restore or replace the Equipment, or (ii) to pay us the remaining balance of the Agreement plus our estimated residual value, both discounted at 6% per year, provided we elect to apply this Subsection A. (B) We may bill you and you shall pay us a property damage surcharge of up to .0035 of the total stream of payments as a result of our administrative costs, credit risk or other costs. We may make a profit on this program. Provided you are current in paying the monthly property damage surcharge and all other obligations under this Agreement at the time of a loss (intentional acts are not included), the remaining balance owed on this Agreement will be forgiven, provided we elect to apply this subparagraph B. You must be current in all your obligations to benefit from this program. NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF YOUR OBLIGATION TO MAINTAIN LIABILITY INSURANCE COVERING THE EQUIPMENT.

8. INDEMNITY: We are not responsible for any loss or injuries caused by the installation or use of the Equipment. You agree to hold us harmless and reimburse us for loss and to defend us against any claim for losses or injury caused by the Equipment.

9. TAXES AND FEES: You agree to pay when due all taxes (including personal property tax, fines and penalties) and fees relating to this Agreement or the Equipment. If we pay any of the above for you, you agree to reimburse us and to pay us a processing fee for each payment we make on your behalf. We reserve the right to charge a fee upon termination of this Agreement either by trade-up, buy-out or default. Any fee charged under this Agreement may include a profit and is subject to applicable taxes.

10. ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBRENT THE EQUIPMENT OR THIS AGREEMENT. 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 rights of the new Owner will not be subject to any claims, defenses, or set offs that you may have against us.

11. DEFAULT AND REMEDIES: If you do not pay any rental payment or other sum due to us or other party when due or if you break any of your promises in the Agreement or any other Agreement with us, you will be in default. If any part of a payment is late, you agree to pay a late charge of 15% of the payment which is late or if less, the maximum charge allowed by law. If you are ever in default, we can terminate or cancel this Agreement and require that you pay (1) the unpaid balance of this Agreement (discounted at 4%); (2) the amount of any purchase option if none is specified, 20% of the original Equipment cost which represents our anticipated residual value in the Equipment; (3) and return the Equipment to us to a location designated by us. We may recover interest on any unpaid balance at the rate of 8% per annum. We may also use any of the remedies available to us under Article 2A of the Uniform Commercial Code as enacted in the State of Owner or its Assignee or any other law. If we refer this Agreement to an attorney for collection, you agree to pay our reasonable attorney's fees and actual court costs. If we have to take possession of the Equipment, you agree to pay the cost of repossession. The net proceeds of the sale of any repossessed 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 OR INCIDENTAL DAMAGES FOR ANY DEFAULT BY US UNDER THIS AGREEMENT. You agree that any delay or failure to enforce our rights under this Agreement does not prevent us from enforcing any rights at a later time. It is further agreed that your rights and remedies are governed exclusively by this Agreement and you waive customer's rights under Article 2A (508-522) of the UCC.

12. UCC FILINGS: You grant us a security interest in the Equipment if this Agreement is deemed a secured transaction and you authorize us to record a UCC-1 financing statement or similar instrument, in order to show our interest in the Equipment.

13. CONSENT TO LAW, JURISDICTION, AND VENUE: This Agreement shall be governed by the internal laws for the state in which Owner or Owner's assignee's principal corporate offices are located. IF THIS AGREEMENT IS ASSIGNED, YOU AGREE THAT ANY DISPUTE ARISING UNDER OR RELATED TO THIS AGREEMENT WILL BE ADJUDICATED IN THE FEDERAL OR STATE COURT WHERE THE ASSIGNEE'S CORPORATE HEADQUARTERS IS LOCATED AND WILL BE GOVERNED BY THE LAW OF THAT STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN THAT COURT AND WAIVE ANY RIGHT TO TRANSFER VENUE. EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY.

14. DELIVERY OF ORIGINALS: You agree to submit the original master rental documents with the security deposit to the Owner via overnight courier the same day of the facsimile transmission of the rental documents. Should we fail to receive these originals, you agree to be bound by the faxed copy of this Agreement with appropriate signatures. Customer waives the right to challenge in court the authenticity of a faxed copy of this Agreement and the faxed copy shall be considered the original and shall be the binding Agreement for the purposes of any enforcement action under paragraph 11.

15. MAINTENANCE AND SUPPLIES: This Total Care Agreement includes Full Service, Parts and Labor, Drum, Developer, Toner, Toner Waste Bag, (Paper, transparency film, Staples, labels and any item not specifically listed are not included in the plan, but may be purchased through us.) You shall be responsible for ordering and maintaining an adequate inventory of consumable supplies. No more than sixty days' average usage should be kept on hand at any one time. A meter read and serial number will be requested at time of order. You agree to use consumable supplies ordered hereunder only in connection with equipment subject to this Agreement. We shall review, from time to time, consumable supplies ordered by and shipped to you and the actual copy volume made on equipment covered by this Agreement. In the event of a significant variance between the amount and/or type of consumable supplies ordered and the type of and/or copy volume made on such equipment we shall have the right to charge you for any variance in excess of 20% (twenty percent). Variance will be calculated using manufacturer's recommended yield. All supplies in your possession belong to Modern Office Methods and will be made available to us if this Agreement is canceled for any reason including non-payment. Such returned consumable supplies will not be credited to your account. If this Agreement expires or is terminated, we shall be permitted to pick-up that quantity of unused consumable supplies which are in your inventory for use in connection with the unit(s) of equipment subject to such expired or terminated Agreement. a. Scope of Coverage: This Agreement covers all labor and materials for adjustment (excluding densitometer), repair and/or replacement of parts necessitated by the normal use of the equipment except as provided herein. Damage to the equipment or its parts arising from misuse, abuse, negligence, or cause beyond our control, such as use beyond Buyers' Lab recommended volume or Acts of God, are not covered and will be charged to you at the then current per call MOM service rate. In addition, we may terminate this Agreement in the event the equipment is modified, damaged, altered or serviced by personnel other than those authorized by us, or the parts or supplies used are not authorized by us. b. Service Calls: Service Calls under this Agreement will be made during normal business hours (Monday through Friday, 8:00am. - 5:00 pm.) by the authorized service center in the area of the installation address shown on the face of this Agreement. Travel and labor time for calls made outside of normal business hours, on weekends, or holidays if available, will be charged at the overtime rates in effect at the time the call is made. All toner included in the Agreement is based off HP Stated yields, at 6% coverage. We may charge you a supply Freight Fee to cover our costs of shipping supplies to you. All 11"x 17" copies or prints will count as two meter clicks per side.

16. OVERAGES AND COST ADJUSTMENTS: You agree to comply with any billing procedures designated by us, including notifying us of the meter reading at the end of each month. ~~At the end of the first year of this Agreement and once each successive twelve-month period, we may increase your payment, and the per-copy charge over the copies included (Coverage) by a maximum of 15% of the existing charge.~~ Rate is fixed for the term 1/4 5.5.

17. UPGRADE/DOWNGRADE PROVISION: AFTER INCEPTION OF THE AGREEMENT AND UPON YOUR REQUEST, WE MAY REVIEW YOUR COPY VOLUME AND PROPOSE OPTIONS FOR UPGRADING OR DOWNGRADING TO ACCOMMODATE YOUR NEEDS.

18. METER READING: You agree to comply with any billing procedures designated by us, including notifying us of the meter reading at the end of each month. If after two notices, through no fault of Modern Office Methods, we are unable to get a meter reading, we may estimate the reading and bill you accordingly. You will pay the invoice based on the estimated read. An adjustment will be made on a future invoice to reflect any difference between the estimated and actual read.

19. TRANSITION BILLING: In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the "Effective Date" of this Agreement will be at our discretion within 30 days of installation. This payment for the 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 invoice.

**FOR MUNICIPALITIES ONLY**

20-A. CUSTOMER COVENANTS: You covenant and warrant that (1) It has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the payments scheduled to come due and to meet its other obligations under the Agreement and such funds have not been expended for other purposes; and (2) that there is no action, suit, proceeding or investigation pending, or threatened in any court or other tribunal or competent jurisdiction, state or federal or before any public board or body, which in any way would (a) restrain or enjoin the delivery of the Agreement or the ability of you to make its Base Payments (as set out above); (b) contest or affect the authority for the execution or delivery of, or the validity of, the Agreement; or (c) contest the existence and powers of you; nor is there any basis for any such action, suit, proceeding or investigation; and (3) That 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 the Agreement.

20-B. SIGNATURES: Each signor (two if monthly payment exceeds \$1,200) warrants that he/she is fully conversant with the governing relevant legal and regulatory provisions and has full power and authorization to bind you. Signor(s) for you further warrant(s) its governing body has 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 the governing body of you authorizing execution of the Agreement has been duly adopted and remains in full force and effect.

20-C. NON APPROPRIATION: In the event you are in default under the Agreement because: 1. Funds are not appropriated for a fiscal period subsequent to the one in which the Agreement was entered into which are sufficient to satisfy all of your obligations under the Agreement during said fiscal period; 2. Such non-appropriation did not result from any act or failure to act of you; 3. You have exhausted all funds legally available for all payment due under the Agreement; and 4. There is no other legal procedure by which payment can be made to Owner. Then, provided that (a) you have given Owner written notice of the occurrence of paragraph 1 above thirty (30) days prior to such occurrence; (b) Owner has received a written opinion from your counsel verifying the same within ten (10) days thereafter upon receipt of the Equipment delivered to a location designated by Owner, at your expense, Owners remedies for such default shall be to terminate the Agreement at the end of the fiscal period during which notice is given; retain the advance payments, if any; and/or sell, dispose of, hold, use or rent the Equipment as Owner in its sole discretion may desire, without any duty to account to you.

4/8/13 DATED Williamstown Ind. Schools CUSTOMER X Sally Skinner SIGNATURE Superintendent TITLE

6-28-13

INVOICE NUMBER 230357964 36970

MODERN LEASING  
1310 MADRID STREET SUITE 101  
MARSHALL, MN 56258

3444



DATE DUE  
**7/4/2013**

TOTAL DUE  
**\$3,226.79**

CHECK HERE IF ADDRESS CORRECTION IS NEEDED  
COMPLETE INFORMATION ON REVERSE SIDE

000000113 1 SP 106481154480833 P  
ACCOUNTS PAYABLE  
WILLIAMSTOWN INDEPENDENT SCHOOLS  
300 HELTON ST  
WILLIAMSTOWN, KY 41097-9505

PLEASE REFERENCE INVOICE # ON YOUR CHECK  
PLEASE RETURN THIS PORTION WITH REMITTANCE PAYABLE TO:

MODERN LEASING  
P.O. BOX 790448  
ST LOUIS, MO 63179-0448

790448 230357964 000322679

Equipment  
List as  
provided  
from  
Invoice

ope  
6/28/13

MODERN LEASING  
1310 MADRID STREET SUITE 101  
MARSHALL, MN 56258  
800-828-8246  
CUSTOMERSUPPORT@ONLINECOMMENT.COM

DATE OF INVOICE 6/10/2013  
INVOICE NUMBER 230357964  
Customer Credit Account Number 1291407

DATE DUE  
**7/4/2013**

TOTAL DUE  
**\$3,226.79**

D500PDDESAI FOR INVOICE INQUIRIES, PLEASE CONTACT US AT 800-828-8246

MESSAGES  
SAVE TIME: MAKE QUICK AND EASY ONLINE PAYMENTS BY VISITING [HTTPS://FINANCING.EPORTALDIRECT.COM](https://financing.eportal.direct.com)

CONTRACT NUMBER	DATE	DESCRIPTION	AMOUNT
GRP POOL 41179 POOL 1 BW  500-0365832-000	6/4/2013 - 7/4/2013	CONTRACT PAYMENT  WILLIAMSTOWN INDEPENDENT SCHOOLS 300 HELTON ST WILLIAMSTOWN, KY 41097  LANIER PRO907EX COPIER SERIAL NUMBER V5030300040BW ELEMENTARY SCHOOL	3,226.79

Bal 1,376.<sup>47</sup>~~48~~ 0011071 0444

HS 473.83 0402001 0434 6553

Elem 458.83 0101077 0444 9010

JH 458.83 0201077 0444 9020

SH 458.83 0301077 0444 9036

DATE OF INVOICE 6/10/2013  
 INVOICE NUMBER 230357964  
 Customer Credit Account Number 1291407



**MODERN LEASING**  
 1310 MADRID STREET SUITE 101  
 MARSHALL, MN 56258  
 800-828-8246  
 CUSTOMERSUPPORT@ONLINECOMMENT.COM

DATE DUE  
**7/4/2013**

TOTAL DUE  
**\$3,226.79**

D500PDDESAI **FOR INVOICE INQUIRIES, PLEASE CONTACT US AT 800-828-8246**

CONTRACT NUMBER	DATE	DESCRIPTION	AMOUNT
POOL 2 COLOR          500-0365832-000		LANIER PRO907EX COPIER SERIAL NUMBER V5030300069BW HIGH/MIDDLE SCHOOL	
		LANIER MP6002SPF COPIER SERIAL NUMBER W863L300327BW HEAD START	
		LANIER MPC4502 COPIER SERIAL NUMBER W513L400571BW BOARD OF EDUCATION	
		LANIER MP2352 COPIER SERIAL NUMBER W413L400073BW WILLIAMSTWON SCHOOLS	
		LANIER LD220 COPIER SERIAL NUMBER W3029604668BW WILLIAMSTWON SCHOOLS	
		LANIER LD220 COPIER SERIAL NUMBER W3029604498BW WILLIAMSTWON SCHOOLS	
		WILLIAMSTOWN INDEPENDENT SCHOOLS 300 HELTON ST WILLIAMSTOWN, KY 41097	
	LANIER MPC4502 COPIERS-CPC SERIAL NUMBER W513L400571COLOR BOARD OF EDUCATION		

**\*\*\*A LATE CHARGE WILL BE ASSESSED IF PAYMENT IS NOT RECEIVED BY DUE DATE. IF FOR ANY REASON YOUR CHECK IS RETURNED FOR NON-PAYMENT YOU WILL PAY US A \$30.00 FEE OR, IF LESS, THE MAXIMUM ALLOWED BY LAW OR THE CONTRACT.\*\*\***

## **Technology Lease over \$100,000 Checklist**

Item #5      Lease Term is for 60 months (5 years)  
                 Life of Equipment is for 120 months (10 years)



WOLNITZEK, ROWEKAMP & DeMARCUS, P.S.C.

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CRAIG M. SCHNEIDER

Of Counsel:  
DANIEL A. KRUSE, JR. •

† ADMITTED IN OHIO AND KENTUCKY  
• ADMITTED IN OHIO ONLY

July 17, 2013

VIA E-MAIL ONLY ([sally.skinner@williamstown.kyschools.us](mailto:sally.skinner@williamstown.kyschools.us))

Ms. Sally Skinner, Superintendent  
Williamstown Independent Schools  
300 Helton Street  
Williamstown, KY 41097

RE: Copier Lease

Dear Sally:

Pursuant to your request I have reviewed the lease agreement between the Williamstown Independent Schools and Modern Office Methods, Inc. dated April 8, 2013. Having reviewed this from a legal perspective, I find the same to be acceptable with the exception of paragraph 8 which I believe contains provisions which violate Section 184 of the Constitution of Kentucky.

Please note, this agreement contains a section for a personal guarantee. I see that you did not complete that portion. Your inaction in that section was appropriate.

The copy of the Lease in my possession is not signed by any officer of Modern Office Methods. Please obtain a fully executed copy and forward that copy to me. Thank you

Sincerely,



MATTHEW B. DeMARCUS