

CUSTOMER	Full Legal Name Town of Nags Head				Phone Number (252) 449-2020	
	Address 5401 South Croatan Hwy		City Nags Head	State NC	Zip 27959	Fax Number (252) 441-4680
	Billing Address P.O. Box 99		City Nags Head	State NC	Zip 27959	Purchase Order Requestion Number
	DBA Name (if any)				Send Invoice to Attention of Kim Kenny	

	Make/Model/Accessories	Serial #	Base Monthly Rental	Monthly Copy Allowance	Cost-Per-Copy Additional Copies	Initial Meter Reading	Meter Reading Frequency
1.							<input type="checkbox"/> Monthly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually
2.							<input type="checkbox"/> Monthly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually
3.							<input type="checkbox"/> Monthly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually
4.							<input type="checkbox"/> Monthly <input type="checkbox"/> Semi-Annually <input type="checkbox"/> Quarterly <input type="checkbox"/> Annually

BILLING PREFERENCE: Each unit invoiced separately (include all billing locations on information Schedule) All units on one invoice (with individual unit reports) Each unit invoiced separately to one billing location

FOR ADDITIONAL UNITS ATTACH SCHEDULE A

	Make/Model/Accessories	Serial #	Initial Meter Reading	Make/Model/Accessories	Serial #	Initial Meter Reading
1.	Xerox WC7425P			5 Xerox Phaser 3300MFP		
2.	Xerox WC5150PT			6 Xerox Phaser 3300MFP		
3.	Xerox WC5150PT			7 Xerox Phaser 3300MFP		
4.	Xerox WC5150PT			8 Xerox Phaser 3300MFP		

ALL UNITS LISTED ABOVE ARE CONSOLIDATED UNDER THIS PLAN

BILLING PREFERENCE: Consolidated units with individual meter option above on one invoice
 Consolidated units separate from individual meter option above

FOR ADDITIONAL UNITS ATTACH SCHEDULE A

Term in Months	First Rental Payment	(PLUS)	Security Deposit	(PLUS)	Sales Tax	(EQUALS)	Total Payment Enclosed
60	\$458.20	+		+		=	\$458.20

SALES TAX OPTIONS

Each payment is subject to sales tax of _____ % or amounts or percentages that may be in effect by location.

Exempt - Exemption Certificate Attached.

OWNER SIGNATURE

YOU AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED ON BOTH PAGES OF THIS AGREEMENT AND IN ANY ATTACHMENTS TO SAME, ALL OF WHICH ARE INCLUDED BY REFERENCE AND BECOME PART OF THIS AGREEMENT. YOU ACKNOWLEDGE TO HAVE READ AND AGREE TO ALL THE TERMS AND CONDITIONS AND UNDERSTAND THAT THIS IS A NON-CANCELABLE AGREEMENT FOR THE FULL TERM SHOWN ABOVE.

You acknowledge that the Equipment is: NEW USED

Signature: *Cliff Ogburn* Date: *4-7-10*

Print Name: *Cliff Ogburn* Title: *Town Manager*

Legal Name of Corporation or Partnership: *Town of Nags Head*

DELIVERY AND ACCEPTANCE

You acknowledge that the Equipment set forth above has been received, has been put in use, is in good working order and is satisfactory and acceptable.

Signature: *Cliff Ogburn* Date: *4-7-10*

Print Name: *Cliff Ogburn*

Title: *Town Manager*

Legal Name of Corporation or Partnership: *Town of Nags Head*

GUARANTY

TO INDUCE OWNER TO ENTER INTO THE WITHIN RENTAL AGREEMENT, THE UNDERSIGNED UNCONDITIONALLY GUARANTEES TO OWNER THE PROMPT PERFORMANCE WHEN DUE OF ALL THE USER'S OBLIGATIONS TO OWNER UNDER THE AGREEMENT. OWNER SHALL NOT BE REQUIRED TO PROCEED AGAINST CUSTOMER OR THE EQUIPMENT OR ENFORCE ANY OTHER REMEDY BEFORE PROCEEDING AGAINST THE UNDERSIGNED. THE UNDERSIGNED WAIVES NOTICE OF ACCEPTANCE HEREOF AND ALL OTHER NOTICES OR DEMAND OF ANY KIND TO WHICH THE UNDERSIGNED MAY BE ENTITLED. THE UNDERSIGNED CONSENTS TO ANY EXTENSIONS OR MODIFICATION GRANTED TO USER AND THE RELEASE AND/OR COMPROMISE OF ANY OBLIGATIONS OF USER OF AN OTHER OBLIGORS AND GUARANTORS WITHOUT IN ANY WAY RELEASING THE UNDERSIGNED FROM HIS OR HER OBLIGATIONS HEREUNDER. THIS IS A CONTINUING GUARANTEE AND SHALL NOT BE DISCHARGED OR AFFECTED BY DEATH OF THE UNDERSIGNED, SHALL BIND THE HEIRS, ADMINISTRATORS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS OF UNDERSIGNED AND MAY BE ENFORCED BY OR FOR THE BENEFIT OF ANY ASSIGNEE OF SUCCESSOR OF OWNER. THIS GUARANTY IS GOVERNED BY AND CONSTITUTED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA AND I CONSENT TO NON-EXCLUSIVE JURISDICTION IN ANY STATE OR FEDERAL COURT IN PENNSYLVANIA.

Signature: <i>X</i> Date: _____	Signature: <i>X</i> Date: _____
Print Name: _____	Print Name: _____
Home Address: _____	Home Address: _____
City: _____ State: _____ Zip: _____	City: _____ State: _____ Zip: _____
Phone: _____	Phone: _____

RENTAL TERMS AND CONDITIONS

The words "YOU" and "YOUR" mean the Customer. The words "WE", "US", and "OUR" mean De Lage Landen Financial Services, Inc., the Owner of the Equipment.

1. RENTAL AGREEMENT ("AGREEMENT"): WE agree to rent to YOU and YOU agree to rent from US the Equipment listed in the "Individual Meter Option" and/or "Consolidated Billing Option" section of this Agreement and/or in any attached schedules ("Equipment"). YOU promise to pay US A BASE MONTHLY RENTAL PAYMENT ("RENTAL PAYMENT"), plus the Cost-Per-Copy Additional Copies ("Additional Copy Charge") on copies in excess of the Monthly Copy Allowance, in accordance with the terms and conditions herein. The Additional Copy Charges will be invoiced at the end of each meter reading period set forth on the face of this Agreement. YOU authorize US to insert in his Agreement the serial numbers of the Equipment when WE so determine them.

2. TERM: This Agreement is effective on the date that it is accepted and signed by US, and the term of this Agreement begins on that date or any later date that WE designate (the "Commencement Date") and continues thereafter for the number of months designated as "Term in Months". Rental 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 Agreement 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 Rental Payment, the number of days in that period, and a month of 30 days. WE will apply the first Rental Payment to the first month of the term on the Commencement Date or any later date designated by US. The second Rental Payment is due on the date set forth in the invoice with subsequent payments due on the same day of each successive month thereafter until the balance of the Rental Payments and any Additional Copy Charges or expenses chargeable to YOU under this Agreement have been paid in full.

YOU agree to provide accurate and timely meter readings on the forms or other alternative means specified by US. If meter readings are not received in a timely manner, charges may be estimated by US. YOUR obligation to pay the Rental Payments, Additional Copy Charges and other obligations hereunder shall be absolute and unconditional. This Agreement is NON-CANCELABLE.

WE have the right to increase the Rental Payment and the Additional Copy Charge on an annual basis, in an amount not to exceed ten percent (10%) of the Rental Payment or the Additional Copy Charge in effect at the end of the prior annual period.

3. LATE CHARGES/DOCUMENTATION FEES: Whenever any Rental Payment or Additional Copy Charge is not made when due, YOU agree to pay US, within one month, a late charge of five percent (5%) for each delayed payment, with a minimum of \$10.00, but only to the extent permitted by law. YOU agree to pay US a fee of \$75.00 plus 1/10th of one percent (1%) of the original Equipment cost in excess of \$50,000.00 to reimburse OUR expenses for preparing financing statements, other documentation costs and all ongoing administration costs during the term of this Agreement. If the Equipment is located in more than one location, YOU agree to pay US an additional fee of \$10.00 for each additional filing required for each additional location.

4. DELIVERY AND ACCEPTANCE: YOU are responsible, at YOUR own cost, to arrange for the delivery and installation of the Equipment (unless such costs are included in the cost of the Equipment). If requested, YOU will sign a separate Equipment delivery and acceptance certificate. WE may OUR discretion confirm by telephone that YOU have accepted the Equipment, and this telephone confirmation of YOUR acceptance of the Equipment shall have the same effect as a signed delivery and acceptance certificate.

5. USE, MAINTENANCE, REPAIR, SUPPLIES AND WARRANTIES: YOU have selected the Equipment and the related maintenance program and supplies as described in a separate maintenance agreement with the Equipment dealer ("Dealer"). WE are not the manufacturer of the Equipment and 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. WE transfer to YOU for the term of this Agreement all warranties, if any, made by manufacturer.

YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS AGREEMENT AND EXCEPT FOR THE MANUFACTURER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT THIS AGREEMENT OR THE EQUIPMENT. WE SHALL NOT BE LIABLE FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF ANY UNIT OF EQUIPMENT. YOUR OBLIGATION TO PAY IN FULL ANY AMOUNT DUE UNDER THIS AGREEMENT SHALL NOT BE AFFECTED BY ANY DISPUTE, CLAIM, COUNTERCLAIM, DEFENSE OR OTHER RIGHT WHICH YOU MAY HAVE OR ASSERT AGAINST THE DEALER OR THE EQUIPMENT MANUFACTURER.

6. TITLE, PERSONAL PROPERTY, LOCATION AND INSPECTION: Except for Agreements with a \$1.00 purchase option, WE will have title to the Equipment. If YOU have a \$1.00 purchase option or this Agreement is deemed to be a security agreement, YOU grant US a security interest in the Equipment and all proceeds therefrom. YOU have the right to use the Equipment for the full term provided YOU comply with the terms and conditions of this Agreement. The Equipment is personal property even though the Equipment may become attached to any real estate. YOU agree not to permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. WE also have the right, at reasonable times, to inspect the Equipment.

7. ASSIGNMENT: YOU AGREE NOT TO TRANSFER, SELL, SUBRENT, ASSIGN, PLEDGE OR ENCUMBER EITHER THE EQUIPMENT OR ANY RIGHTS UNDER THIS AGREEMENT WITHOUT OUR PRIOR WRITTEN CONSENT. WE may sell, assign or transfer this Agreement. 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.

8. REDELIVERY AND RENEWAL: Upon at least ninety (90), but not more than (150), days written notice to US prior to the expiration of the initial term of this Agreement, YOU shall advise US of YOUR intention to return the Equipment to US at the end of the initial term of this Agreement. Provided YOU have given such timely notice, YOU shall return the Equipment, freight and insurance prepaid, to US in good repair, condition and working order, ordinary wear and tear excepted, in a manner and to a location designated by US. If YOU fail to so notify US, or having notified US, YOU fail to return the Equipment as provided herein, this Agreement shall renew for additional terms of twelve (12) months each with Rental Payments and Additional Copy Charges equal to 100% of the Rental Payments and Additional Copy Charges at the expiration of the initial term of this agreement.

9. LOSS OR DAMAGE: YOU are responsible for the risk of loss or destruction of, or damage to the Equipment. No such loss or damage relieves YOU from any obligation under this Agreement.

10. INDEMNITY: WE are not responsible for any losses or injuries caused by the installation or use of the Equipment. YOU agree to reimburse US for and to defend US against any claim for losses or injuries caused by the Equipment. This indemnity will continue even after the termination of this Agreement.

11. TAXES: YOU agree to pay all license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment as part of the Rental Payment or as billed by US. YOU agree that if WE pay any taxes or charges on YOUR behalf, YOU shall reimburse US for all such payments and shall pay US interest and a late charge (as calculated in Section 3) on such payments with the next Rental Payment, plus a fee for OUR collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities. YOU agree that WE have the right each year to estimate the yearly personal property taxes that will be due for the Equipment and that YOU will pay US 1/12th of the estimated taxes on each Rental Payment. 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.

12. INSURANCE: During the term of this Agreement, YOU will keep the Equipment insured against all risks of loss or damage in an amount not less than the replacement cost of the Equipment, without deductible and without co-insurance. YOU shall also obtain and maintain for the term of this Agreement, comprehensive public liability insurance covering both personal injury and property damage of at least \$100,000 per person and \$300,000 per occurrence for bodily injury and \$50,000 for property damage. WE shall be the sole named loss payee on the property insurance and shall be named as an additional insured on the public liability insurance. YOU will pay all premiums for such insurance and shall deliver proof of insurance coverage satisfactory to US. 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 make a profit.

13. DEFAULT: YOU are in default of this Agreement if any of the following occurs: (a) YOU fail to pay any Rental Payment or other sum when due; (b) YOU breach any warranty or other obligation under this Agreement, or any other agreement with US; (c) YOU, any partner or any guarantor dies, YOU become insolvent or unable to pay YOUR debts when due; YOU stop doing business as a going concern; YOU merge, consolidate, transfer all or substantially all of YOUR assets; YOU make an assignment for the benefit of creditors or YOU undergo a substantial deterioration in YOUR financial condition; or (d) YOU, any guarantor or any partner, shall voluntarily file or have filed against it involuntarily, a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator shall be appointed of it or a substantial part of its assets.

14. REMEDIES: WE have the following remedies if a default should occur:
 a) Upon written notice, declare the entire balance of the unpaid Rental Payments for the full term immediately due and payable, sue for and receive all Rental Payments and any other payments then accrued or accelerated under this Agreement or any other Agreement plus the estimated fair market value of the Equipment at the end of the originally scheduled Term, with all accelerated Rental Payments and the estimated fair market value of the Equipment at the end of the originally scheduled Term discounted at the lesser of (i) 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 prepayment term equal to the remaining term of the Agreement, all as reasonably determined by US, or (ii) 3 percent (3%) per annum.

b) Charge YOU interest on all monies due US at the rate of eighteen percent (18%) per year from the date of default until paid, but in no event more than the maximum rate permitted by law;

c) Charge YOU a return-check or non-sufficient funds charge ("NSF Charge") OF \$25.00 for a check that is returned for any reason; and

d) Require that YOU return the Equipment to US and in the event YOU fail to return the Equipment, enter upon the premises peaceably with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment shall not constitute a termination of this Agreement unless WE expressly notify YOU in writing. In the event the Equipment is returned or repossessed by US and unless WE have terminated this Agreement, WE will sell or re-rent the Equipment to such persons and upon such terms as WE may determine, at one or more public or private sales and with or without notice to YOU and apply the net proceeds after deducting the costs and expenses of such sale or re-rent, to YOUR obligations with YOU remaining liable for any deficiency and with any excess being retained by YOU. The credit for any sums to be received by US from any such rental shall be discounted to the date of the rental agreement at six percent (6%) per year.

YOU are also required to pay (i) all expenses incurred by US in connection with the enforcement of any remedies, including all expenses of repossessing, storing, shipping, repairing and selling the Equipment, and (ii) reasonable attorneys' fees.

15. SECURITY DEPOSIT: WE will retain any required security deposit as security for YOUR performance of YOUR obligations. Any security deposit is non-interest bearing. WE may apply any security deposit to cure any default by YOU, in which event YOU will promptly restore any amount so applied. If YOU are not in default, any security deposit will be returned to YOU at the termination of this Agreement.

16. WARRANTIES: YOU hereby warrant and represent that the Equipment will be used for business purposes, and not for personal, family or household purposes.

17. UCC FILINGS AND FINANCIAL STATEMENTS: YOU authorize US to file a Uniform Commercial Code ("UCC") financing statement with respect to the Equipment and grant US the right to sign such financing statement on YOUR behalf. If WE feel it is necessary, YOU agree to submit financial statements (audited if available) on a quarterly basis.

18. UCC-ARTICLE 2A PROVISIONS: YOU agree that this Agreement is a Finance Lease as that term is defined in Article 2A of the UCC. YOU acknowledge that WE have given YOU the name of the supplier of the Equipment. WE hereby notify YOU that YOU may have rights under the contract with the Supplier and YOU may contact the supplier for a description of any rights or warranties that YOU may have under this supply contract. YOU also waive any and all rights and remedies granted by Sections 2A-508 through 2A-522 of the UCC.

19. CHOICE OF LAW: This Agreement has been made in Wayne, Pennsylvania and, except for local filing requirements, is governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. YOU consent to and agree that non-exclusive jurisdiction, personal or otherwise, over YOU and the Equipment shall be with the Courts of the Commonwealth of Pennsylvania or the Federal District Court for the Eastern District of Pennsylvania solely at OUR option with respect to any provision of this Agreement. YOU ALSO IRREVOCABLY WAIVE YOUR RIGHT TO A TRIAL BY JURY.

20. ENTIRE AGREEMENT; SEVERABILITY; WAIVERS: This Agreement contains the entire agreement and understanding. No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Agreement which for any reason may be held unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Agreement. It is further agreed that the rights and remedies of the parties are governed by this Agreement.

21. FACSIMILE DOCUMENTATION: YOU agree that a facsimile copy of the Agreement with facsimile signatures may be treated as an original and will be admissible as evidence of the Agreement.

OWNER ACCEPTANCE	Signature	Date
	<input checked="" type="checkbox"/> X	
	Print Name	Title
For DE LAGE LANDEN FINANCIAL SERVICES, INC.		

090EDC258

Opinion of Counsel Letter

Date: March 11, 2010

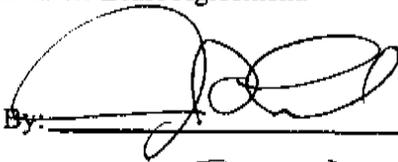
1111 Old Eagle School Road
Wayne, Pennsylvania 19087

Gentlemen/Ladies:

Reference is made to the Lease Agreement dated March 11, 2010 between De Lage Landen Financial Services, Inc. (herein called "Lessor"), and Town of Nags Head (herein called "Lessee") for the lease of 8 Xerox Multifunction Copiers (equipment description). Unless otherwise defined herein, terms which are defined or defined by reference in the Lease Agreement or any exhibit or schedule thereto shall have the same meaning when used herein as such terms have therein.

The undersigned is Counsel for the Lessee in connection with the negotiation, execution and delivery of the Lease Agreement, and as such I am able to render a legal opinion as follows:

1. The Lessee is a public body corporate and politic of the State of North Carolina and is authorized by the Constitution and laws of the state of North Carolina to enter into the transactions contemplated by the Lease Agreement and to carry out its obligations thereunder.
2. The lease set forth above has been duly authorized, executed, and delivered by the Lessee and constitutes a valid, legal and binding agreement enforceable in accordance with its terms.
3. No further approval, consent or withholding of objections is required from any federal, state or local governmental authority with respect to the entering into or performance by the Lessee of the Lease Agreement and the transactions contemplated thereby.
4. The entering into and performance of the Lease Agreement and the other related documents will not violate any judgment, order, law or regulation applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest or other encumbrance upon any assets of the Lessee or the equipment pursuant to any indenture, mortgage, deed of trust, bank loan, credit agreement, or other instrument by which the Lessee is a party or by which it or its assets may be bound.
5. There are no actions, suits or proceedings pending or, to the knowledge of the Lessee, threatened against or affecting the Lessee in any court or before any governmental commission, board of authority, which, if adversely determined, will have a material adverse effect on the ability of the Lessee to perform its obligations under the Lease Agreement.
6. The equipment is personal property and, when subject to use by the Lessee, will not be or become fixtures under the laws of the state of North Carolina.
7. All required public bidding procedures regarding the award of the Lease have been followed by the Lessee.
8. Except as provided in the Lease Agreement, Lessee has no authority (statutory or otherwise) to terminate the Lease Agreement prior to the end of its terms for any reason including the nonappropriation of funds to pay the Lease Payments for any fiscal period during the term of the Lease Agreement.

By: 

Print Name: John D. Leidy

Title: Town Attorney

Maintenance Terms and Conditions

For the purpose of maintaining the equipment covered by this agreement in good operating condition, Electronic Systems, Inc., ("ESI") agrees to perform maintenance services described in this agreement subject to the following terms and conditions:

1. The customer agrees to make available and designate a suitable key operator for training in the use of the equipment. Should the employment status of the designated operator change so as to affect the operator's availability to perform this assignment, the customer shall inform ESI immediately.
2. Periodic inspections shall be made at reasonable intervals as determined by ESI while the agreement is in force and may be completed at the same time as a service call, rendered at the customer's request. At the time of inspection, equipment will be cleaned, lubricated and adjusted and parts which ESI determines are excessively worn or broken through normal usage will be replaced at no extra charge. At the time of service, ESI technicians shall run sample copies which will not be credited. If extended shop repair is necessary, ESI will provide a loaner, based on availability. The security of this equipment will be the customer's responsibility. Copies produced for resale, pre or post production in a retail establishment or copies made by an ESI technical representative to test and adjust a copy or print device, shall not be credited.
3. Service calls between inspections will be performed at no extra charge if such calls are made during ESI's normal business hours. Normal business hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, exclusive of holidays. ESI will provide after hours service on an "if available" basis at a rate equal to 1.5 x the published rate for billable service at time of call.
4. ESI's obligation under this agreement are as follows: a) Standard Service - includes all parts and labor, but not materials required for changes of photoconductive drums and developer, toner or paper; b) Full Service includes all parts and labor and a photoconductive drum but not materials required for changes of developer, toner or paper; c) Complete Copy Care includes all parts and all labor, photoconductive drum, developer and toner but not paper. No agreements shall include labor or materials required for changes of non-ESI approved toner, paper, or other supplies nor non-ESI installed accessories.
5. This agreement is subject to cancellation by ESI should customer use consumables or materials other than those recommended by ESI.
6. Equipment covered under this agreement shall be in good mechanical condition, in a suitable located and meet manufacturer's electrical specifications and space requirements on the effective date of the agreement.
7. When in ESI's opinion, shop reconditioning is necessary because normal maintenance and parts replacement and/or repair can no longer keep the equipment in satisfactory operating condition, ESI will submit a cost estimate which, if approved by the customer, will be charged in addition to the maintenance charges herein. All shop reconditioning and other repairs and adjustments which ESI, in its sole opinion, is unable to make on customer's premises, shall require removal of the equipment by ESI to its repair facilities from the customer's premises for such time as shall be reasonably required by ESI to affect such repairs, adjustments or reconditioning. ESI will provide loan equipment, based on availability.
8. This agreement shall not apply if equipment is lost or damaged through accident, abuse, misuse (i.e., operator error), theft, neglect, acts of third parties, fire, water, casualty, problems caused by or related to environment including electrical power, heating, air conditioning, and humidity which are not within specifications or any other natural force and any loss or damage (direct or consequential) occurring from any of the foregoing is specifically excluded from this agreement. ESI shall not be responsible for delays or inability to provide service calls due to strikes, accidents, embargoes, Acts of God, or any other event beyond its control.
9. In the event that the equipment is damaged when moved by sources other than ESI from the location set forth in this agreement, then, at ESI's option, the agreement pertaining to the moved equipment may be terminated and/or an additional service charge may be made.
10. The agreement does not cover cosmetic items including panels, trays and belts, software or software installation including network support or service required due to malfunction of parts or attachments not authorized by ESI, unless specifically covered in this agreement. Specification changes, alterations or attachments may require a change in the maintenance charges set forth herein. ESI reserves the right to terminate this agreement in the event that it shall determine that such changes, alterations or attachments make it impractical for ESI to continue to service the equipment.
11. The agreement shall commence upon the effective date shown on this agreement and shall remain in effect for one year or for the previously specified copies, whichever comes first. This agreement will be renewed automatically unless either party notifies the other in writing at least 30 days prior to a contract year end. The customer agrees to pay the then current annual rate at the beginning of each subsequent contract year. If equipment covered herein is leased, the term of this agreement shall be co-terminus with the lease term.
12. If a customer does not pay the amount due hereunder or breaches any terms of this agreement, ESI may terminate this agreement upon written notice to the customer. However, ESI will have the right to collect for the period in which the agreement was in force. Customer agrees to pay ESI reasonable attorney's fees and legal expenses incurred in exercising any of its rights and remedies upon breach of this agreement by the customer.
13. If the equipment covered herein is traded in on new ESI equipment, and unused portion of the yearly agreement charge may be prorated and applied toward the maintenance of the new equipment. Other than this exception, refunds for partially used contracts will not be granted.
14. To maintain this agreement in effect, the customer agrees to provide suitable electric service on the premises for operation of the equipment. Such service for the purpose of this agreement shall be consistent with the manufacturer's specifications. In addition, the customer agrees to notify ESI promptly when service or preventative maintenance of the equipment is required.
15. This agreement shall not be effective until it has been approved and accepted by an authorized ESI representative. This agreement is not assignable or transferable.
16. ESI's liability to the customer for damages, from any cause whatsoever, and regardless of the form of action, whether in contract or in tort, including negligence, shall be limited to twelve (12) months maintenance charges for the specific machine under this service agreement that caused the damages or that are the subject matter of or are directly related to the cause of action. Such charges shall be those charges in effect for the specific machine when the cause of action arose.

OTHER THAN AS SET FORTH ABOVE IN THIS PARAGRAPH, ESI DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE EQUIPMENT (INCLUDING WITHOUT LIMITATION WARRANTIES AS TO MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE), EITHER EXPRESS OR IMPLIED. THE ABOVE EXPRESS WARRANTY IS IN LIEU OF ALL OBLIGATIONS OR LIABILITIES ON THE PART OF ESI FOR DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THIS EQUIPMENT.

RENTAL TERMS AND CONDITIONS ADDENDUM

This Rental Terms And Conditions Addendum ("Addendum") is made this 11th day of March, 2010 and is made part of and amends that certain Rental Agreement ("Agreement") by and between De Lage Landen ("Lessor") and the Town of Nags Head ("Lessee"). The words "you" and "your" refer to the Lessee and the words "we", "us" and "our" refer to the Lessor. Electronic Systems Inc. is defined as the ("Vendor"). Unless otherwise defined herein, capitalized terms shall have the definition set forth in 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. The reason why there is not a Schedule A attached is because there is not any additional equipment to be listed other than the 8 copiers listed on the face of the document. The Town is not paying the copy costs as part of the rent, only as part of the maintenance agreement on a monthly cost per copy basis.

2. **Paragraph 2. TERM:** Change the last paragraph to read: "We will not increase the Rental Payment and the Additional Copy Charge on annual basis. The Rental Payment and Additional Copy Charges are set and final for the 60 month rental term".

3. **Paragraph 8. REDELIVERY AND RENEWAL:** Delete the entire section and replace with: "Upon at least sixty (60) days written notice to US prior to the expiration of the initial term of this Agreement, YOU shall advise US of YOUR intention to return the Equipment to US at the end of the initial term of this Agreement. Provided YOU have given such timely notice, the VENDOR shall assume responsibility for the return of the Equipment, freight and insurance prepaid by the VENDOR, to US in good repair, condition and working order, ordinary wear and tear expected, in a manner and to a location designated by US. If YOU fail to notify US, or having notified US, YOU fail to return the Equipment as provided herein, this Agreement shall renew on a month to month basis".

4. **Paragraph 10. INDEMNITY:** Delete the paragraph in regards to Indemnity in its entirety.

5. **Paragraph 11. TAXES:** Delete the entire section and replace with: "YOU agree to pay sales and use taxes only. Personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment are included in the Rental Payment". Per the North Carolina Department of Revenue Sales & Use Tax Technical Bulletin Section 23-1 this addendum does not cover all taxes on leased or rented equipment is because *"The gross receipts or gross proceeds derived from or the total amount agreed to be paid for the lease or rental, within North Carolina, of all kinds and types of tangible personal property not specifically exempt by statute are subject to the sales or use tax at the same rate that is applicable to the retail sale of such property. The tax shall be computed and paid on such gross receipts, gross proceeds, or rental payable without any deduction whatsoever for any expense incident to the conduct of business including, but not limited to, property taxes, interest, insurance fees, maintenance fees, delivery charges, etc. The tax is due and payable at the time the lessor bills the lessee for rent whether such billing is for the lump sum rental or on a monthly or other periodic basis. The privilege tax imposed under Article 5F applies to the lease or rental of tangible personal property that, if purchased, would be subject to the privilege tax"*.

6. **Paragraph 12. INSURANCE:** Delete the third, fourth and fifth sentence of this paragraph in regards to property insurance in its entirety. The replacement costs for the copiers are as follows:

Xerox WC7435P - \$6,598

Xerox WC5150 - \$3,935

Xerox MFP3300X - \$683

7. **Paragraph 14. REMEDIES:** Delete the paragraph in regards to Remedies (Section D) in its entirety.

8. **Paragraph 18. UCC-ARTICLE 2A PROVISIONS:** Delete the paragraph in regards to UCC-Article 2A Provisions in its entirety.

9. **Section 19. CHOICE OF LAW:** Delete the entire paragraph and replace with: "YOU consent to and agree that non-exclusive jurisdiction, personal or otherwise, over YOU and the Equipment shall be with the Courts of the State of North Carolina".

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.

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.

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.

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.

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

LESSEE: TOWN OF NAGS HEAD

Signature: *Cliff Ogbuen*
Print Name: Cliff Ogbuen
Title: Town Manager

LESSOR: DE LAGE LANDEN FINANCIAL SERVICES, INC.

Signature: *Todd Kipp*
Print Name: Todd Kipp
Title: Regional Operations Manager

VENDOR: ELECTRONIC SYSTEMS INC.

Signature: *Stephanie Carter*
Print Name: Stephanie Carter
Title: Finance Coordinator

MAINTENANCE TERMS AND CONDITIONS ADDENDUM

This Maintenance Terms And Conditions Addendum ("Addendum") is made this 11th day of March, 2010 and is made part of and amends that certain Maintenance Agreement ("Agreement") by Electronic Systems Inc. defined as the ("Vendor") and the Town of Nags Head ("Lessee"). The words "you" and "your" refer to the Lessee and the words "we", "us" and "our" refer to the Vendor. Unless otherwise defined herein, capitalized terms shall have the definition set forth in 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 3:** *Vendor's published rate for billable services is \$90 per hour and its hours of operation are from 8am to 5pm.*

2. **Paragraph 5:** *Below is a list of the recommended consumables:*

Xerox WC7435

WorkCentre 7425/7428/7435 Black Toner Reorder 6R1395 1 cartridge per carton
WorkCentre 7425/7428/7435 Yellow Toner Reorder 6R1396 1 cartridge per carton
WorkCentre 7425/7428/7435 Magenta Toner Reorder 6R1397 1 cartridge per carton
WorkCentre 7425/7428/7435 Cyan Toner Reorder 6R1398 1 cartridge per carton

Xerox Phaser 3300MFP

Xerox Black Toner Reorder 6R01411 1 cartridge per carton

Xerox WC5150

Xerox Black Toner Reorder 6R1046 2 cartridges per carton

3. **Paragraphs 6 & 11:** *The effective date shall be the date in which the Town accepts delivery equipment.*

4. **Paragraph 12:** Delete the paragraph in regards to collecting attorneys fees for ESI in its entirety.

5. **Paragraph 16:** Delete the paragraph in regards to the liquidated damages clause in its entirety.

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.

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.

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.

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.

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

LESSEE: TOWN OF NAGS HEAD

Signature: Cliff Osburn

Print Name: Cliff Osburn

Title: Town Manager

VENDOR: ELECTRONIC SYSTEMS INC.

Signature: Stephanie Carter

Print Name: Stephanie Carter

Title: Finance Coordinator

DELIVERY AND ACCEPTANCE

LEASE COMMENCEMENT DATE _____

LEASE NUMBER _____

LL	Full Legal Name <u>Town of Nags Head</u> DBA Name (If Any) _____	
	Billing Address <u>5401 South Croatan Hwy</u>	Phone Number <u>(252) 441-5508</u>
	City <u>Nags Head</u> County <u>Dare</u> State <u>NC</u> Zip Code <u>27959</u>	

EQUIPMENT INFORMATION	Equipment Location (if not same as above) _____		
	City _____ County _____ State _____ Zip Code _____		
	Quantity	Model Number	Description (Attach Schedule If Necessary)
	1	WC7435P	
	3	WC5150PT	
4	MFP3300X		

Lessee certifies that all of the above described Equipment leased from Lessor has been received in good condition, installed, operates properly, and is, therefore unconditionally accepted for purposes of the Lease. Lessee authorizes Lessor to pay the vendor for the Equipment.

DISCLAIMER OF WARRANTIES. Lessee has selected both the Equipment and the supplier from who Lessor covenant to purchase the Equipment at Lessee's request. LESSEE KNOWLEDGES THAT LESSOR HAS NO EXPERTISE OR SPECIAL FAMILIARITY ABOUT OR WITH RESPECT TO THE EQUIPMENT. LESSEE AGREES THAT THE EQUIPMENT LEASED HEREUNDER IS LEASED "AS-IS" AND IS OF A SIZE, DESIGN AND CAPACITY SELECTED BY LESSEE AND THAT LESSEE IS SATISFIED THAT THE SAME IS SUITABLE FOR LESSEE'S PURPOSES, AND THAT LESSOR HAS MADE NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SUITABILITY OR DURABILITY OF SAID EQUIPMENT FOR THE PURPOSES AND USES OF LESSEE, OR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED WITH RESPECT THERETO, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LESSOR FURTHER DISCLAIMS ANY LIABILITY FOR LOSS, DAMAGE OR INJURY TO LESSEE OR THIRD PARTIES AS A RESULT OF ANY DEFECTS, LATENT OR OTHERWISE IN THE EQUIPMENT WHETHER ARISING FROM THE APPLICATION OF THE LAWS OF STRICT LIABILITY OR OTHERWISE. If the Equipment is not properly installed, does not operate as represented or warranted by the supplier and/or manufacturer, or is unsatisfactory for any reason, Lessee shall make any claim on account thereof solely against the supplier and/or manufacturer and shall, nevertheless, pay Lessor all Lease Payment under this Lease and shall not set up against Lessee's obligations any such claims as a defense, counterclaim, set-off or otherwise. So long as Lessee is not in breach or default of this Lease, Lessor hereby assigns to Lessee, solely for the purpose of making and prosecuting any such claim, any rights which Lessor may have against the supplier and/or manufacturer for breach of warranty or other representation respecting any item of Equipment. Any proceeds of any warranty recovery by Lessee from the supplier and/or manufacturer of any item of Equipment shall first be used to repair or replace the affected item of Equipment.

THE LESSEE ACKNOWLEDGES THAT NEITHER THE SUPPLIER NOR ANY SALESMAN, EMPLOYEE, REPRESENTATIVE OR AGENT OF THE SUPPLIER IS AN AGENT OR REPRESENTATIVE OF LESSOR, AND THAT NONE OF THE ABOVE IS AUTHORIZED TO WAIVE OR ALTER ANY TERM, PROVISION OR CONDITION OF THIS LEASE OR MAKE ANY REPRESENTATION OR WARRANTY WITH RESPECT TO THIS LEASE OR THE EQUIPMENT LEASED HEREUNDER. Lessee further acknowledges and agrees that Lessee, executing this Lease, has relied solely upon the terms, provisions and conditions contained herein, and any other statements, warranties, or representations, if any, by the supplier or any salesman, employee, representative or agent of the supplier, have not been relied upon, and shall not in any way affect Lessee's obligation to make the Lease Payments and otherwise perform as set forth in this Lease.

NOTICE TO LESSEE: PLEASE RETAIN THIS ACCEPTANCE WHICH IS TO BE SIGNED AND MAILED TO 1111 OLD EAGLE SCHOOL ROAD, WAYNE, PA 19087, USA AFTER THE EQUIPMENT HAS BEEN DELIVERED AND ACCEPTED.

DO NOT SIGN THIS DELIVERY AND ACCEPTANCE RECEIPT UNTIL YOU HAVE ACTUALLY RECEIVED ALL OF THE EQUIPMENT SET FORTH ABOVE.

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.

LESSEE SIGNATURE	Signature X <u><i>Cliff Ogburn</i></u> Date <u>4-17-10</u>
	(LEASE MUST BE SIGNED BY AUTHORIZED CORPORATE OFFICER, PARTNER OR PROPRIETOR) Print Name <u>Cliff Ogburn</u> Title <u>Town Manager</u>
	Legal Name of Corporation or Partnership <u>Town of Nags Head</u>

OFFICE USE ONLY	Name of Authorized person verifying Delivery and Acceptance of Equipment _____
	Signature of Employee who made Telephone Verification X _____
	Date of Telephone Verification _____

0890EDOC235