

Customer Information

Client Legal Name:	Town of Prosper						
Billing Address:	PO Box 307						
City:	Prosper	State:	TX	Zip:	75078	Main Phone #:	(972)346-2640
Main Contact:	Leigh Johnson	E-Mail:	Leigh_johnson@prospertx.gov	Phone:	(972)569-1150	Ext:	
Meter Contact:	Harold Keith	E-Mail:	Harold_keith@prospertx.gov	Phone:	(972)346-2640	Ext:	
Payables Contact:	January Cook	E-Mail:	January_cook@prospertx.gov	Phone:	(972)569-1018	Ext:	

Equipment Schedule

Please refer to "Pricing and Schedule of Equipment", attached and made part of this Agreement for specific equipment and pricing.

Customer Authorized Signature:	ImageNet Consulting, LLC Authorized Signature:				
Accepted by:	Title:	Date:	Accepted by:	Title:	Date:

The words YOU and YOUR refer to the Client listed above and the words OUR, WE and US refer to ImageNet Consulting, LLC, separately a "Party" and together the "Parties".

1. General:

- a. In accordance with the selected "Service Plan" listed in the attached Pricing and Schedule of Equipment (the "Schedule"), we may provide service and all maintenance including unlimited service calls, parts (as classified by the manufacturers) and consumable supplies, including maintenance kits, transfer kits, fuser kits, process kits, developer and imaging drums and toner on the equipment listed in the attached Schedule (the "Equipment") for the term outlined. The terms and conditions outlined herein, combined with the Schedule, constitute the entire agreement between the parties (the "Agreement").
- b. Standard service rates are formulated using the manufacturer's suggested yield for toner and a six percent (6%) coverage for black and white prints and twenty-four percent (24%) coverage for color prints. Upon request, we will supply the manufacturer's suggested yield for supplies to be provided under this Agreement. If the total yield of supplies provided to you ("Pages Shipped") exceeds the total reported volume of printing ("Pages Billed") by more than twenty percent (20%) we may assess a surcharge equal to the manufacturer's suggested retail price ("MSRP") of the additional usage. Upon receipt of supplies, you shall be responsible for their safekeeping and shall reimburse us the MSRP of any supplies that are lost, damaged, stolen or used in equipment not supported under this Agreement.
- c. We may reset supply items (i.e. fuser and maintenance kits) in lieu of replacement so long as print quality is not affected. The term "supply" or "supplies" includes toner, developer, fuser, maintenance kits, drums and supply modules as specified by the manufacturer.
- d. We will not be obligated to provide service on Equipment where you use (a) supplies; (b) printer parts; or (c) paper that does not meet manufacturer's specifications and/or you use supplies or spare parts not obtained through us. We may charge our standard hourly rates to repair Equipment with service problems as a result of your misuse of these items.
- e. In lieu of scheduled preventative maintenance, we will perform a "Total Call" that will cover any service required, including, but not limited to, the original service issue requested. The Total Call will include, (1) communication with you of the call status, if requested, (2) identification of problem source and what is needed to affect repairs, (3) Equipment inspection for high mortality areas to proactively avoid future service issues, (4) technician compliance through field audits and quality checks, (5) exterior and interior cleaning of Equipment and surrounding area, and (6) an explanation of repairs to you, if requested.
- f. If the Equipment is modified, altered, or serviced by personnel other than our representative, we may charge you for any damage resulting from such modification, alteration, or improper service.
- g. We will not be responsible for delays, inability to provide service calls due to strikes, riots, civil insurrections, acts of terrorism, accidents, acts of God, or any other event beyond its control. All Service under this agreement will be rendered during normal working hours of 8:00am to 5:00pm Monday through Friday unless otherwise agreed upon in writing by both parties.
- h. Each impression on ledger (11x17) paper will be counted as two images.
- i. In the event a manufacturer discontinues parts or supplies for a specific device, the unused portion of this Agreement can be transferred to a new machine purchased through us.
- j. In the event of rising fuel costs, we reserve the right to add a fuel charge to the monthly, quarterly or annual invoice.
- k. If applicable, you may request the right to adjust the "Base Charge" and "images included" by up to 10%. An adjustment request of a greater percentage will require that this agreement be terminated and new agreement signed with new billing rates.
- l. We provide standard web-based support services including, but not limited to, service call dispatch, supply ordering, and current meter input available at www.imagenetconsulting.com.

2. Equipment Guidelines: All equipment covered under this Agreement must adhere to the following guidelines:

- a. Equipment must be placed in a normal office setting with sufficient space for access, free from excessive dust, humidity, temperature and ammonia or other corrosive fumes.
- b. Equipment must always be operated on an electrical circuit, with proper current, voltage and type of outlets as specified by the original equipment manufacturer. Moreover, if stipulated by the manufacturer, Equipment must be operated on an isolated electrical line.
- c. Equipment must be operated within the specified operational (including usage) specifications.
- d. Only our furnished supplies and parts may be used on the Equipment.
- e. Our supplies and parts found in equipment not covered within this agreement will be invoiced at the manufacturer's suggested MSRP.
- f. Equipment will be utilized at, and will not be removed from, the "Location Address" specified in the Schedule unless you get our written permission in advance to move it.

3. **Coverage Excluded:** This Agreement excludes the following unless otherwise specified:
 - a. _____ Paper and staples;
 - b. _____ Any, and all, equipment not listed on the Schedule attached to this Agreement, external cards, hard drives or supplemental hardware; and software;
 - c. _____ Network Connected Equipment: Network connected equipment will be covered up to the network connection of the Printer/Multi-Function Printer (“MFP”). Issues relating to software and/or connectivity after ninety (90) days of installation will require a new scope of work at your request and does not affect this Agreement.
 - d. _____ Items damaged by you, including but not limited to, doors, paper trays and covers. Replacement of these items will be charged to you at our current rates.
 - e. _____ It is your responsibility to ensure that any connected device meets with your network security policy, included but not limited to any malware protection.
4. **Meter Reading:**
 - a. _____ **Monitoring:** We will install, activate, and utilize software, at no cost to you, to provide monitoring, support and reporting services for networked equipment. If you choose not to utilize our monitoring software, we reserve the right to charge \$5.00 per machine per month to offset our cost of manual meter collection, including onsite, phone and personal email requests for networked and non-networked Equipment.
 - b. _____ **Estimated Meters:** In the event we are not able to obtain Equipment meter readings from you, we will utilize past meters to estimate a current meter in order to process billing. Overages may apply during the proceeding billing cycle if estimates are lower than actual volume. Invoice credits will not be issued for estimated meter readings.
 - c. _____ **Stale Meters:** If we are unable to obtain meter readings for Equipment in three (3) consecutive reporting periods, we may require a usage/configuration page prior to placing any supply order. If no usage/configuration page is provided, we may (i) bill you for requested supplies at MSRP, (ii) remove the non-reporting Equipment from service coverage under this Agreement, (iii) suspend invoicing until a meter reading is reported, at which time all usage will be billable in arrears, (iv) continue to bill base charges based on the minimum usage commitment, or (v) dispatch a service technician to obtain a current meter reading and bill you our current hourly labor charge.
 - d. _____ **Contact:** You agree to make available and designate a key contact for general administration of this Agreement, including troubleshooting of monitoring software or providing meter readings to us, as necessary. If the employment status of the key contact changes and affects the contact’s availability to perform this assignment, you shall promptly inform us and provide a new key contact.
5. **Quality Assurance:** We will ensure reasonable Equipment uptime through our performance management and reporting tools. Performance reviews may be scheduled at your request.
6. **Additional Equipment:** You shall notify us promptly upon installing any additional equipment not purchased and/or leased from ImageNet Consulting, LLC (“Additional Equipment”) at your site capable of using our provided Supplies. If the Additional Equipment is of the same model or utilizes the same specific supplies as any of the Equipment serviced by us under this Agreement then, upon installation, such Additional Equipment shall automatically be covered at the already established rates and considered Equipment under the terms of this Agreement. If the Additional Equipment is not of the same model as any of the Equipment serviced by us then we shall have the right to add it to this Agreement per a mutually agreed upon price evidenced by an amendment to the Equipment Schedule and executed by both parties.
7. **Implementation:** We will inspect any existing equipment currently located at your site that is to be covered under this Agreement to determine that it is in good mechanical condition prior to this Agreement’s Effective Date. Should the equipment require significant repair or overhaul, such repairs may be charged to you at our current hourly rates. Such repairs will be performed and charged only upon agreement of both parties. Should you elect not to have equipment repaired, we will tag the equipment as Do Not Repair (“DNR”) and will provide you with a revised Schedule to include the equipment identified as DNR. Any new equipment to be installed by us as part of this Agreement will be covered upon installation and execution of this Agreement.
8. **Back Orders:** Unless otherwise noted within this agreement, we may provide to customer compatible supplies if unable to receive supplies from the manufacturer due to back orders.
9. **Term:** Unless terminated in accordance with Section 10, this Agreement will begin upon delivery of Equipment and continue for a term designated in the Schedule attached to this Agreement or, if Equipment is leased, the term of this Agreement shall mirror the term of the lease (the “Initial Term”). This Agreement will be automatically extended upon expiration of the Initial Term for an additional 12 months (the “Renewal Term”) unless you provide written notice to us of your intent to cancel the Agreement at least thirty (30) days prior to the last day of the Initial Term. Either party may cancel this Agreement at the end of the Initial Term or any Renewal Term with at least thirty (30) day written notice. If you cancel this Agreement, you must return any unused supplies we provided to you as part of this Agreement and, if you do not, we reserve the right to charge MSRP for any unused supplies. We reserve the right to increase contract rates annually, not to exceed 15% of the previous Base and Overage rates.
10. **Termination:** You may terminate this Agreement for cause, without penalty, at any time during the Initial Term or any Renewal Term for the following reasons with thirty (30) day written notice to us:
 - a. **Breach:** In the event of a breach of this Agreement by us, you may give written notice of the breach and request corrective action. If we have not either taken the requested action or begun a diligent prosecution thereof within thirty (30) days from receipt of your request, then you may, at your option, send us written notice of termination for cause; or
 - b. **Service Expectation Shortfall:** You may determine, based upon measurements made against reasonable requirements, that we are not performing to your reasonable expectations and requirements and may provide written notice to us that outlines any performance shortfalls. We shall have ten (10) business days from receipt of your notification to resolve the shortfall issue(s) to your complete satisfaction or you may, at your option, send us written notice of termination for cause; or
 - c. **Insolvency:** Upon our voluntary or involuntary bankruptcy or insolvency; or
 - d. **Fraud:** Upon our fraud, misrepresentation, misappropriation, or willful misconduct; or

- e. **Breach of Confidentiality:** Upon your reasonable determination that we have violated the Confidentiality requirements outlined in this Agreement.

We may, at our sole discretion, terminate coverage on any specific Equipment that exceeds one hundred and fifty percent (150%) of its engine life or exceeds seven (7) years since the Equipment model was introduced to the market by the manufacturer by providing you thirty (30) day written notice.

11. **Payment:** Payment is due ten (10) days from date of invoice. Delinquent amounts will accrue interest at a rate of one and one-half percent (1.5%) of the past due amount per month (or, if lower, the maximum rate of interest chargeable under applicable law). You will pay all federal, state and local sales, use property, excise or other taxes imposed with respect to the equipment listed on this Agreement. We will provide electronic copies of invoices via email to you on a monthly, quarterly, or annual basis. Should you elect to have invoices mailed to you, we will charge you \$3.00 per invoice as an administration fee to print, package, and mail requested invoices.
12. **Indemnification:** **To the extent authorized by law,* Each party agrees to hold harmless, defend, and indemnify the other party against any liability, demand, claim or cause of action for personal injury or property damage due to or arising out of the acts of that party, its agents and employees. You agree to defend us, at your sole expense, against all suits, action or proceedings in which we are made a defendant for actual or alleged infringement of any intellectual rights. However, each party shall have no obligation to hold harmless, defend or indemnify the other from or for liability arising from the other's own intentional or negligent acts. In no event will we either party be liable to the other for consequential damages due to non-performance, any breach of this Agreement, or any act of its employees or agents.
13. **Assignment:** Neither party may sell or assign, by operation of law or otherwise, any, or all, of its responsibilities hereunder or attempt to transfer any, or all, of its interest in this Agreement without written consent of the other party, such consent not to be unreasonably withheld. Any attempt to sell, assign, or transfer this Agreement in violation of this paragraph shall be void. You agree that if we sell, assign or transfer this Agreement, the new owner will have the same rights and benefits that we now have. You agree that the right of the new owner will not be subject to any claims, defenses, or set offs that you may have against us. In the event of a sale, assignment or transfer, we agree to remain responsible for our obligations hereunder.
14. **Miscellaneous:** This Agreement supersedes all prior discussions or understandings between the parties. This Agreement cannot be changed or terminated orally. No modification of this Agreement shall be binding unless signed by both parties. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the Agreement shall still be construed as valid and enforceable. No waiver shall be deemed to be made by any party of any of its rights hereunder unless, the same shall be in writing signed by the waiving party and any waiver shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights or obligations of any party in any respect at any other time.
15. **Breach or Default:** If you do not pay all charges for services as provided hereunder, promptly when due: (1) we may (a) refuse to provide service or supplies for the Equipment or (b) furnish service and supplies on a C.O.D. (cash on deliver) "Per Call" basis at published rates and (2) you agree to pay us all costs and expenses of collection including the reasonable attorney's fee permitted by law in addition to all other rights and remedies available to us.
16. **Confidentiality:** In the process of performance under this Agreement, the Parties may provide each other certain confidential or proprietary information regarding their business operations (collectively, the "Confidential Information"). Such Confidential Information, whether provided directly or indirectly, in oral, written, graphic or any other form, will be deemed confidential and subject to restricted use and limited distribution, regardless of whether it is identified as being confidential or proprietary at the time of disclosure. The receiving Party will (a) hold the Confidential Information in confidence and protect it with at least the same degree of care with which it protects its own information of a similar nature, but in any event not less than reasonable care; (b) only use the Confidential Information for the purpose of performing its obligations hereunder; (c) not copy or duplicate such Confidential Information without the disclosing Party's prior written approval; (d) restrict disclosure of such Confidential Information to only those employees, consultants and contractors with a need to know; (e) ensure employees or others given access to the Confidential Information agree to maintain the confidentiality thereof; (f) promptly notify the disclosing Party in the event that the receiving Party becomes legally compelled in a judicial, administrative or governmental proceeding to disclose any of the Confidential Information, so that the disclosing Party may seek an order protecting the Confidential Information from public disclosure; and (g) advise the disclosing Party promptly upon becoming aware of any loss, disclosure, or duplication of the Confidential Information or breach of the confidentiality of the Confidential Information. The obligations in this section will not apply to information which (a) is already known to the receiving Party as evidenced by a writing dated prior to the date of disclosure; (b) is or becomes generally known to the public through no wrongful act of the receiving Party; (c) is received from an unaffiliated third Party without either an obligation of non-disclosure or breach of an obligation of confidentiality in the third Party's receipt or transmission of the Confidential Information; (d) is independently developed by it or its affiliates without use of or reference to the Confidential Information; or (e) is required by law to be disclosed by the receiving Party, provided that the receiving Party gives the disclosing Party prompt written notice of such requirement prior to such disclosure and reasonably assists the disclosing Party in obtaining an order protecting the Confidential Information from public disclosure. Upon request of the disclosing Party, the receiving Party will immediately return any and all Confidential Information and any copies thereof, and will destroy all notes, or other documents involving the Confidential Information, or certify to the destruction of the Confidential Information in a form reasonably satisfactory to the disclosing Party.
17. **Correspondence:** All correspondence relating to the notifications within this Agreement are to be sent via registered letter to ImageNet Consulting, LLC, Attn: Contracts Department, 913 N. Broadway, Oklahoma City, OK 73102 or emailed to contracts@imagenet.com. We will send correspondence to you at the appropriate "bill to" address, physical or electronic mail, listed on your account.
18. **Connectivity and Security:** We will connect up to four (4) workstations during initial installation; additional workstations will be subject to additional charges. We will provide you a Connectivity Information Sheet ("CIS") prior to installation of any equipment that requires software or connectivity. The CIS form may require an additional scope of work ("SOW") to be performed during the initial set up of the equipment. At your request, we will provide a new scope of work related to any issues that arise after ninety (90) days of the initial install. It is your responsibility to provide adequate and secure connectivity to enable the Equipment to perform to your satisfaction. You acknowledge and agree that we do not guarantee or warrant the quality, speed, security or uninterrupted availability of the Equipment as it relates to the connectivity provided by you. You acknowledge that the communications lines used to access the Equipment are provided by a third party public utility or by private companies over which we have no control, and the security of data transmission over such lines to

provide the Equipment is not our responsibility. Accordingly, we will have no liability to you arising from or related to the transmission or lack of transmission of data over the communications lines used to access the Equipment, or for any attempted or actual access, modification, damage, loss, deletion, misappropriation, or compromise of any data in connection with the Equipment. You agree to refrain from any act or omission which disrupts, inhibits or prevents the effectiveness, or operation of the Equipment provided by us and our partners, including without limitation, virus protection, data backup and IT managed services.

19. **Your Data:** You acknowledge and agree that the responsibility of acquiring and implementing tools for managing, storing, backing up, purging and/or securing data is within the owner of such data. You acknowledge and understand that data may be stored on hard drives inside the Equipment and you agree that it is your responsibility to manage this data in accordance with any federal compliance laws, including but not limited to, HIPAA. Furthermore, you acknowledge and agree that in the use of the Equipment, including but not limited to the transmission and storage of data, that despite every effort by you and us, there remains a risk that your data may be accessed, modified, damaged, lost, deleted, misappropriated, or compromised by willful attack or otherwise and perhaps not be recoverable (“Data Breach”). To that end, in the event of any Data Breach, you acknowledge and agree that we will have no liability to you related to any such Data Breach, but will endeavor to assist you in the recovery and restoration of such data at your sole cost.
20. **Data Backup:** We may install and/or configure the Equipment to work with your existing hardware and software on your computer(s), computer network and/or other office equipment and you acknowledge that it is advisable for you to back up all data on your computer equipment that you deem necessary prior to our installation and/or configuration of any Equipment to work with your hardware and software, and on a regular basis thereafter. You acknowledge that such backup procedures should be performed on at least a daily basis.
21. **Data Removal:** Upon expiration or termination of this Agreement, Equipment that is subject to this Agreement may contain your data (“Stored Data”). To the extent that you fail to remove and delete any of the Stored Data, you hereby authorize us to remove and delete the Stored Data at an additional cost, but acknowledge and agree that we have no obligation to do so. All hard drives and other data retention devices in the Equipment must function in the same manner following removal and deletion of the Stored Data. You assume liability for and agree to indemnify, defend and hold us harmless from and against all claims, losses, costs, expenses, damages, penalties and liabilities arising from or pertaining to your failure to remove such Stored Data from the Equipment. In the event we temporarily loan Equipment to you, it is subject to this Agreement.
22. **OTHER THAN THE OBLIGATIONS SET FORTH HEREIN, WE DISCLAIM ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OR MERCHANTABILITY FOR USE OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL EITHER PARTY WILL BE RESPONSIBLE FOR DIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES ARISING OUT OF THE PERFORMANCE OF THE EQUIPMENT, INABILITY TO USE ANY SOFTWARE LICENSED BY US, OR THE LOSS OF THE USE OF THE EQUIPMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND YOU HEREBY WAIVE ANY CLAIMS RELATED THERETO.**
23. **Jurisdiction:** This Agreement will be construed, performed, and enforced in accordance with, and governed by, the laws of the State of Oklahoma (excluding its conflict of laws provision). Both parties consent to the exclusive jurisdiction of any claims related to this Agreement in the state or federal courts of Oklahoma, and each party irrevocably waives any objection, including any objection of laying venue, which it may have, or hereafter have, to the bringing of any action or proceeding in any such court in respect of this Agreement. **BOTH PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY DISPUTE ARISING OUT OF, OR RELATING TO, THIS AGREEMENT.**
24. **Signer Authority:** Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.
25. **Entire Agreement:** This Agreement constitutes the entire agreement between parties and may not be modified except in writing signed by duly authorized officers of both parties.