



T 708+478+1000

F 708+478+1770

11411 West 183<sup>rd</sup> Street, Suite A  
Orland Park, IL 60467

## Terms and Conditions – Amendment

THIS AMENDMENT TO THE STANDARD TERMS AND CONDITIONS shall be made effective 5/2/23, by and between Customer and Next Day Toner Supplies, Inc. d/b/a Next Day Plus (“Supplier”).

THAT, for and in consideration of the mutual promises herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties to this Amendment to the standard Terms and Conditions, intending to be legally bound, hereby agree that the Terms and Conditions between the parties, dated \_\_\_\_\_ (hereinafter referred to as the “Agreement”) and is hereby amended as follows:

Section 2.1 is hereby revised to read as follows:

**Company shall provide Supplies to Customer for the Equipment identified in one (1) or more Schedules for the duration of the Term. Customer covenants and agrees that Company shall be Customer’s preferred supplier of Supplies for the duration of the Term. Pricing for the Supplies and/or maintenance is fixed during the Term, which is subject to modification by the Company upon express Agreement of the parties.**

Section 2.3 is hereby revised to include:

**Company acknowledges that Customer is a governmental unit subject to the Illinois Freedom of Information Act, and that the Freedom of Information Act applies to public records in the possession of a party with whom the Village has an Agreement. The Village of Orland Park will have only a very short period of time from receipt of a FOIA request to comply with the request, and there is a significant amount of work required to process a request including collating and reviewing the information. Vendor acknowledges the requirements of FOIA and agrees to comply with all requests made by the Village for public records (as that term is defined by Section 2(c) of FOIA) and to provide the requested public records to the Village within two (2) business days of the request being made by the Village. Vendor agrees to indemnify and hold harmless the Village from all claims, costs, penalty, losses and injuries (including but not limited to, attorney’s fees, other professional fees, court costs and/or arbitration or other dispute resolution costs) arising out of or relating to its failure to provide the public records to the Village under this agreement.**

Section 8 INVOICING AND PAYMENTS is hereby revised to read as follows:

**8.1 Periodically, dependent upon the Services provided, Company shall issue invoices for the Services to the Customer’s preferred contact. All invoices are due and payable pursuant to the Illinois Local Government Prompt Payment Act.**

**8.2 Customer agrees to pay Company, as provided by the Illinois Local Government Prompt Payment Act, , all minimum monthly charges, excess print charges and all other amounts due under this Agreement (including all applicable taxes). Customer agrees to pay the minimum monthly charges each month even if Customer does not make the number of prints included with the minimum monthly charges. Customer may not carry over a credit from any month during which Customer makes fewer than the minimum number of prints Customer will pay Company for any costs incurred, including attorney fees and courts costs, in enforcing the terms of this Agreement.**

Section 10 SERVICES OUTSIDE SCOPE OF AGREEMENT is hereby omitted.

Section 12.3 is hereby revised to read as follows:

**Customer further agrees to defend, indemnify and hold harmless Company from and against any loss, damage or costs (including reasonable attorney’s fees) incurred in connection with claims made or brought against Company by a third party arising from or relating to: (i) any act, error, omission, fault, negligence, or misconduct of Customer or any user of the Services, Software or Company Equipment, whether authorized or unauthorized by Customer; (ii) Customer’s breach of any obligation, warranty, representation, or covenant of this Agreement; (iii) any claim by any employee or invitee of Customer or user other than a claim based on the negligence or willful misconduct of Company; (iv) any claim by any customer of Customer, end user or other third party relating to, or arising from, Customer Data or Customer’s use of the Services, Software or Company Equipment; or (v) violation of any Applicable Laws by Customer or any Customer employee, contractor or agent.**

Section 14.2 is hereby revised to read as follows:

**In addition, the Parties acknowledge that each are individually the owner of valuable trade secrets and other confidential information. It is further acknowledged that in performance of the Services certain proprietary and confidential information may be incidentally disclosed to the other Party. The Parties agree that, except as permitted and directed by the Company or Customer or as required by law, the Company's and Customer's respective directors, managers, employees, agents, representatives, third party vendors, and subcontractors will not at any time during or after the term of this Agreement disclose any proprietary or confidential information, procedures, or strategies to any person or company, or permit any person or company to examine or make copies of any reports or documents prepared. Upon the termination of this Agreement, each Party will return all physical confidential and proprietary information in possession or control that contain or relate to such confidential information, including all materials and deliverables, such as working papers, reports, and data, provided to, developed by or prepared as part of this Agreement, unless it is part of a deliverable included in the Customer's contracted solution. To the extent that a copy of such proprietary or confidential information is in the digital possession of either Party, the possessing Party shall destroy any such digital copies and files at the termination of this Agreement as allowed by law.**

Section 16 FORCE MAJEURE is hereby revised to read as follows:

**Neither Party shall be held liable or responsible to the other Party nor be deemed to have defaulted under or breached this Agreement for failure or delay in fulfilling or performing any obligation under this Agreement when such failure or delay is caused or occasioned by or results from causes beyond the reasonable control of the affected Party, including but not limited to fire, floods, embargoes, war, acts of war or terrorism, insurrections, riots, strikes, lockouts, , government-mandated shutdowns, governmental executive orders or similar decrees, industrywide shipping or production delay, international pandemics such as COVID-19 (commonly known as the novel Coronavirus), or acts of God; provided, however, that the Party so affected shall use reasonable commercial efforts to avoid or remove such causes of nonperformance, and shall continue performance hereunder with reasonable dispatch whenever such causes are removed. Either Party shall provide the other Party with prompt written notice of any delay or failure to perform that occurs by reason of force majeure.**

Section 19 DEFAULT is hereby revised to read as follows:

**19.1 In the Event of Default by Customer, Company may do any or all of the following, at Company's option: (a) terminate this Agreement, (b) require Customer to pay to Company, on demand, an amount equal to the sum of (i) all amounts then due and past due, (ii) amount equal to the highest invoiced amount to Customer for the Equipment since the beginning of the Term multiplied by twelve months, and (iii) all other amounts advanced by the company or may thereafter become due to a third party, and/or (c) exercise any other remedy available to Company at law or in equity. Customer shall further reimburse Company for all reasonable expenses of enforcement, including, without limitation, reasonable attorneys' fees and costs, as determined by a court of competent jurisdiction.**

**19.2 In the Event of Default by the Company, the Customer may terminate this Agreement. and/or exercise any other remedy available to Customer at law or in equity. Company shall further reimburse Customer for all reasonable expenses of enforcement, including, without limitation, reasonable attorneys' fees and costs, as determined by a court of competent jurisdiction.**

AS AMENDED, the Terms and Conditions are hereby ratified and approved, and each party hereto acknowledges and agrees that the Terms and Conditions shall remain in full force and effect. This Amendment and the aforementioned Terms and Conditions constitutes the entire agreement between the parties and supersedes any and all prior written or oral agreements and understandings between the parties. The Terms and Conditions as amended may not be extended, changed or amended unless mutually agreed by both parties in writing.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

**Next Day Toner Supplies, Inc.**  
d/b/a Next Day Plus  
DocuSigned by:  
Tom Kosloskus  
19F0347309074899  
Signature

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Tom Kosloskus  
Print Name

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CEO  
Title

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5/5/2023  
Date

(Customer)  
George Koczwar  
Signature

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George Koczwar  
Print Name

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Village Manager  
Title

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5/2/23  
Date