Diocese of Rockford

Considerations and Checklist for Leasing Photocopiers and Other Office Equipment

Parishes, schools and other Diocesan entities ("the location") should review this document prior to leasing office equipment or entering into a maintenance agreement. This memo provides guidance to the location on determining its needs and whether the decision to lease is appropriate.

Equipment leases are generally written to favor the lessor (the leasing company) in the terms and conditions imposed on the customer, and are usually impossible to terminate prior to the end of the lease. While this memo focuses on photocopier leases, it is applicable to leases and maintenance agreements of all office equipment.

A. Lease Features for Photocopiers

Common features:

- The term runs for 3–5 years.
- The cost is expensive in relation to the retail value of the copier due to the financing costs built into the lease agreement or contained in an accompanying finance agreement.
- A finance company usually assumes the lease, thereby becoming the owner or "Lessor" of the equipment while the parish, school, or Diocesan entity becomes the "Lessee."
- A separate long-term maintenance agreement generally accompanies the lease. You usually have the right to decline a maintenance agreement.
- Consumables, such as paper and staples, are usually not included in the maintenance agreement.
- The small print in these leasing, financing, and maintenance agreements typically contains the following provisions:
    - Upon termination of the lease, the location must either purchase or ship the machine to the Lessor (often to a location out of state) at the location's cost.
    - Late payments give the Lessor the right to consider the agreement(s) in default and may require the location to immediately pay the entire amount of the lease, financing, or maintenance agreement.
    - No early termination of the agreement is allowed, except if the location agrees to buy out the remainder of the term left on the agreement, This means that a location that signs a lease agreement for $500 a month for 60 months must pay the Lessor $30,000 to terminate the agreement, even if the machine stops working after one month, or the machine regularly breaks down or the service provided by the vendor is not satisfactory.
    - The applicable law and location for resolving disputes is usually not in Illinois.

In contrast, a the location may be able to buy a refurbished photocopier for a fraction of its original retail cost which does not require committing itself to long-term lease payments for a piece of equipment that may not operate for as long as the lease payments are required to be made. Maintenance companies offer competitive pricing for either month-to-month or annual contracts; these too can be found online or through your sales representative.

B. Lease Documents for Photocopiers

Photocopier leases generally have three parts: an order or equipment schedule, a lease agreement which sometimes also acts as a finance agreement, and a maintenance agreement.

1. The order or equipment schedule: The order generally describes the equipment to be leased. The sales company preparing the order is often the same entity that offers the maintenance service. This document usually sets out the term (duration) of the lease, and the monthly amount due.

2. The lease: The leasing entity is not typically the same as the manufacturer or salesperson; the leasing entity is usually a financial entity, like a bank, that simply finances the lease, thereby becoming the Lessor. Sometimes it is the financial arm of the manufacturer. The Lessor offers no warranties whatsoever and is not responsible if the equipment selected by the location does not work properly or is not adequate for the needs of the parish, school, or Diocesan entity. The Lessor is the owner of the equipment throughout the life of the lease. The photocopier may not be moved (even to another room) without the Lessor's permission. The lease is not cancellable for any reason. If the photocopier breaks down or turns out to be unsuitable for the needs of the location, the lease obligations through the end of the lease must still be paid. The financing rate is not stated in the lease, and it is usually high.

Certain modifications should be made in the lease itself before it is signed:

- The jurisdiction of disputes should be changed to Illinois;
- There should be no provision for increases in payment at any time(s) during the life of the lease;
- There should not be an automatic renewal of the lease. Automatic renewals, if at all, should be "month to month";
- There should be no charge for insurance coverage; the equipment is covered by the Diocese's insurance; and
- The cost of maintenance should not be a part of the lease agreement because doing so makes the maintenance agreement non-cancellable for any reason, and the cost of maintenance may be factored into the buyout cost at the end of the lease, or included in the vendor's demand for immediate payment of all amounts due under the agreement if the vendor claims the location is in default. The maintenance agreement must be a separate document that is not referred to in the lease, other than a statement that there is a separate maintenance agreement.

3. The maintenance agreement: The maintenance agreement is usually a separate document from the order and the lease, although as mentioned above, the vendor sometimes offers it as part of the lease document. The term of the maintenance agreement usually matches the term of the lease. However, consider changing the duration of the maintenance agreement to one year, as renewable at the option of the location. That way, the service provided under the maintenance agreement can be evaluated the first year. Consider also whether you want a maintenance agreement at all. Almost always you may decline to enter into a maintenance agreement. All maintenance agreements must include the attached *Addendum to Office Equipment Agreement(s)* which contains safeguards for the location.

The location must maintain copies of all lease, finance, and maintenance agreements signed by all parties, kept in a secure, easily accessible location for the life of the photocopier lease. Not infrequently, the Lessor will require the signature of the location on the agreements, but then fail to provide copies of the agreements with the Lessor's signature. It is important that the location insist on receiving copies of the agreements with Lessor's signature, which may require several written requests to Lessor.

C. Buyout of Pre-Existing Leases

A vendor may persuade the location to enter into a new lease by offering to buy out the location's existing photocopier lease and provide the location with a newer, better photocopier for the same or a lower monthly payment than the pre-existing lease. This practice perpetuates the lease cycle. While the location may get an upgraded machine, the obligation to make lease payments extends further out into the future and may go on indefinitely. There are several guidelines that must be followed in order to avoid liability for an improperly terminated lease.

- The location should not begin negotiations for a new lease with a vendor other than the current Lessor until the existing lease has six or fewer months remaining on the lease. This prevents the new vendor from having to pay a high buy out price to your current lessor, which results in the new vendor requiring a longer-term lease from you.

- The location must read the pre-existing lease to understand the buyout provisions, including time limitations, and to understand the procedure for returning or purchasing the current equipment when the current lease expires. If the location does not make a decision, often the current lease will renew automatically for another duration, typically the same duration as the current lease.

- The location should be prepared to cooperate with the new vendor to obtain buyout and equipment return information to facilitate the procedure.

- Under no circumstances should a location allow a pre-existing leased copier to be removed from the premises by the new vendor until the original Lessor has been appropriately notified and has provided return instructions to the location.

- The location is not allowed to accept payment from a photocopier vendor to be deposited into the location's account for a buyout. Checks may be accepted by the location only if the check is made payable to the Lessor of the pre-existing lease. If the new vendor cannot issue payment in the name of the old Lessor, contact the General Counsel's office for further instructions. The new vendor must provide the location with written proof of the new vendor's payment to the Lessor.

- The location should arrange to have all data on the pre-existing copier hard drive permanently deleted before it is removed from the premises, in order to remove all retained sensitive and confidential information. If the new vendor is unable or unwilling to do so, the location should make arrangements with its pre-existing service vendor to have this done before the equipment is removed from the location.

D. Execution of Office Equipment Agreements

Before a location enters into a lease or maintenance agreement for office equipment totaling in excess of $12,500, it must be sent, along with the standard administrator's letter, to the Chancery for review and approval to proceed. No equipment leases or maintenance agreements exceeding $12,500 may be signed by the location.

The lease must be entered into in the location's own name and tax identification number. It may be signed by the pastor for a parish or elementary school, the principal/Superintendent for a high school, and department head for the Diocese, only if the total amount is $12,500 or less. If the total amount exceeds $12,500, it must still be written in the location's name and tax identification number, but it must be signed at the Diocesan level.

To determine the value of the lease agreement, multiply the monthly lease payments by the entire length of the lease. To determine the value of a maintenance agreement, add the total amount of all scheduled payments over the life of the maintenance agreement. If the lease agreement and the maintenance agreement are each less than $12,500 but together exceed $12,500, both agreements must be sent to the Chancery for approval since the two agreements represent one transaction.

E. Checklist for Acquiring Office Equipment

Office equipment such as multi-function copiers ("MFCs") and phone systems can range from the very simple to the very complex. In most cases, you can compare the purchase of an MFC to that of an automobile. They have comparable costs, wide ranges of options available, and may have a financing component to them, which is typically in the form of a lease agreement. This Checklist is to provide guidance in the process of acquiring large office equipment.

1. Assess your Location's Needs

- ☐ Determine what you need before talking to any vendors. What problems are you trying to solve? What services will this equipment provide?

- ☐ For larger needs (like multiple copiers, phone systems, etc.) create an outline of what you are trying to do and what you expect the vendor to provide. It does not need to be overly detailed, but should identify all the important specifications and features that you think would be useful.

- ☐ Research different equipment on the Internet. All major vendors publish informational guides, user manuals, and possibly pricing information. Doing a little homework can help you refine your requirements and result in a better purchase for your location.

- ☐ Your research should provide you with some estimates of costs. Before you go any further, make sure you have the budget available for the expected term of use of what you want to purchase or lease. Remember that you need to account for the purchase or lease and the additional operating/maintenance costs over the expected term.

- ☐ If you have an existing lease, no more than six months should be remaining on the lease before you sign a new agreement for an MFC.

- ☐ The existing lease provides the deadline for terminating or non-renewal of the lease, and the manner in which the location must notify the lessor of its intention to terminate or not renew the lease. The location must strictly adhere to the deadline and manner of notifying the lessor of the existing lease.

2. Select Your Vendor and Equipment

- ☐ Solicit quotes from more than one vendor. For larger purchases or leases from a vendor that you do not know, obtain and check references. Ask the vendor to provide you with names of other Diocesan parishes, schools or entities it has agreements with, and then contact those locations for a reference. You can also reach out to your neighboring locations and ask for their recommendations on vendors.

- ☐ Provide as much detail about your requirements to the potential vendors so they can build quotes that satisfy your needs. Do not reveal your budget to any vendor. Let them provide quotes.

- ☐ Provide a copy of the *Addendum to Office Equipment Agreement(s)* to potential vendors from which you have asked for quotes so they know what is required. This addendum must be part of any agreement between a vendor and your location.

- When reviewing quotes, look at more than just the costs. Does the quote satisfy your requirements? Are there any unneeded extras? Are the lease terms acceptable? Depending on your budget requirements, you may need to have a vendor modify a quote to better meet your budget.

- Contracts for maintenance, service and consumables (i.e. printer toner or ink) should NOT be incorporated into the purchase cost. A Lease agreement and a maintenance agreement should be quoted as separate contracts.

- Do not enter into any lease, finance, or maintenance agreement with a Lessor until the existing lease, finance and maintenance agreement with the current lessor has been terminated. If you are having a vendor perform a "buy out" of an existing lease, the vendor shall not deliver a check to you for the old lease "buy out". The vendor must send a check directly to the lessor.

3. <u>Review the Vendor's Lease and Maintenance Agreements</u>

- When you have decided on an acceptable quote, have the vendor provide you with all documentation needed to order, finance (if you are financing), and provide any additional services. The equipment order, lease, and maintenance service contracts must be in the name of the parish or high school and the location's tax ID number must be used. If the office equipment is being secured for a department of the Diocese or for Bishop Lane Retreat Center, St. Elizabeth Community Center, or Catholic Charities, the lease will be in the Diocese's name.

- If the total value of the purchase or lease and the maintenance agreements does not exceed $12,500 the parish pastor/parochial administrator or the high school principal/superintendent may sign all documents. For agreements exceeding $12,500, Diocesan approval and signature are required.

- For agreements exceeding $12,500, submit to the Chancery the standard letter requesting permission, the proposed agreements provided by the vendor, the Addendum agreement provided by the Diocese, and, if applicable, and the current copier lease that will expire within the next 6 months.

- The Diocese will contact you with questions or suggested revisions, if any are needed, or will send you copies of the agreements signed by the Diocese.

- The vendor is required to provide you with a copy of the agreements signed by all the parties. Be sure to retain a least one copy of all fully signed agreements in a place where office staff can retrieve them.

4. <u>Delivery, Set Up and Return of Old Equipment</u>

- If you are returning equipment that is coming off a prior lease, be sure that you have the correct equipment return instructions from the lessor of that equipment and that you have the permission of that lessor to return the equipment. Most lease agreement prohibit the storage or transport of leased equipment anywhere other than the original installation location without written permission.

- Before allowing the vendor to remove any old equipment, be sure to have that equipment undergo a "security erasure" process to remove all data: stored images, files and configuration information. This may require a service call to the current equipment vendor and there may be a charge for the service.

- Be sure your vendor coordinates delivery and configuration of any network-connected equipment with your local IT support. Most vendors will provide a configuration worksheet that needs to be completed before the equipment can be installed.