




TO: BOARD OF DIRECTORS  
FROM:  STEVE LIDGARD, EXECUTIVE DIRECTOR OF BUSINESS SERVICES  
SUBJECT: COPIER LEASE AGEEMENTS – STANWOOD MIDDLE SCHOOL  
DATE: SEPTEMBER 21, 2021  
TYPE: ACTION REQUIRED

Tod Klundt, Principal at Stanwood Middle School, has researched copiers and recommends leasing two Toshiba copiers from Kelly Connect. The machines will be leased under a contract through the King County Directors Association (KCDA). The new machines will replace an existing copier that has an expiring lease.

The Stanwood Middle School building budget will pay the lease and maintenance.

Recommendation:

We recommend the board move to approve the lease and maintenance agreements for two Toshiba copiers for Stanwood Middle School.



AGREEMENT

AGREEMENT NO.: 2818736

CUSTOMER ("you" or "your")

FULL LEGAL NAME: Stanwood Camano School District #401

ADDRESS: 26920 Pioneer Hwy Stanwood WA 98292-0000

CONTACT NAME: Steve Lidgard

PHONE #: (360) 629-1200

FEDERAL TAX ID #: 91-0981326

EQUIPMENT AND PAYMENT TERMS

MAKE/MODEL/ACCESSORIES

SERIAL NO.

STARTING

Toshiba

ESTUDIO8518AG

MONTHLY PAYMENT AMOUNT: \$284.22 (PLUS TAX)

TERM IN MONTHS: 60

SECURITY DEPOSIT: \$0.00

ORIGINATION FEE: \$75.00 (PLUS TAX)

EQUIPMENT LOCATION Stanwood Middle School 9405 271st ST NW Stanwood, WA 98292

SEE ATTACHED SCHEDULE

THIS AGREEMENT IS NON-CANCELABLE AND IRREVOCABLE. IT CANNOT BE TERMINATED. PLEASE READ CAREFULLY BEFORE SIGNING.

CUSTOMER'S AUTHORIZED SIGNATURE

BY SIGNING THIS PAGE, YOU REPRESENT TO US THAT YOU HAVE RECEIVED, READ, AND ACKNOWLEDGED THE ADDITIONAL TERMS AND CONDITIONS APPEARING ON THE SECOND PAGE OF THIS TWO-PAGE AGREEMENT. THIS AGREEMENT IS BINDING UPON OUR ACCEPTANCE HEREOF.

(As Stated Above)

X

CUSTOMER

SIGNATURE

PRINT NAME & TITLE

DATE

OWNER ("we", "us", "our")

Kelley Connect

OWNER

SIGNATURE

PRINT NAME & TITLE

DATE

22710 72nd Ave S Kent, WA 98032-1926

UNCONDITIONAL GUARANTY

The undersigned, jointly and severally if more than one, unconditionally guarantee(s) that the Customer will timely perform all obligations, including all and any debts, liabilities, and obligations of every nature or form, now existing or hereafter arising or acquired, under the Agreement or any supplements hereto. The undersigned also waive(s) any notification if the Customer is in default and consent(s) to any extensions or modifications granted to the Customer. In the event of default, the undersigned will immediately pay all sums due under the terms of the Agreement without requiring us or our assignee, if applicable, to proceed against Customer or any other party or exercise any rights in the Equipment. The undersigned hereby binds any respective administrators, representatives, successors, and authorized assigns. THE UNDERSIGNED, AS TO THIS GUARANTY, AGREE(S) TO THE DESIGNATED FORUM AND CONSENT(S) TO PERSONAL JURISDICTION, VENUE, AND CHOICE OF LAW AS STATED IN THE AGREEMENT, AGREE(S) TO PAY ALL COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, INCURRED BY US OR OUR ASSIGNEE RELATED TO THIS GUARANTY AND THE AGREEMENT, WAIVE(S) A JURY TRIAL AND TRANSFER OF VENUE, AND AUTHORIZE(S) OBTAINING CREDIT REPORTS.

SIGNATURE:

X

INDIVIDUAL:

DATE:

SIGNATURE:

X

INDIVIDUAL:

DATE:

CERTIFICATE OF DELIVERY AND ACCEPTANCE

The Customer hereby certifies that all the Equipment: 1) has been received, installed, and inspected, and 2) is fully operational and unconditionally accepted.

SIGNATURE:

X

NAME & TITLE:

DATE:

## ADDITIONAL TERMS AND CONDITIONS

1. **AGREEMENT:** For business purposes only, you agree to rent from us the goods, together with all replacements, parts, repairs, additions, and accessions incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries (the "Equipment") and/or to finance certain licensed software and services ("Financed Items", which are included in the word "Equipment" unless separately stated), all as described on page 1 of this Agreement, excluding equipment marked as not financed under this Agreement, as it may be supplemented from time to time. You agree to all of the terms and conditions contained in this Agreement and any supplement, which (with the acceptance certification) is the entire agreement regarding the Equipment ("Agreement") and which supersedes any purchase order or invoice. You authorize us to correct or insert missing Equipment identification information and to make corrections to your proper legal name and address. This Agreement becomes valid upon execution by us. This Agreement is binding upon our acceptance hereof and will begin on the date the Equipment is delivered to you or any later date we designate. Unless otherwise stated in an addendum hereto, this Agreement will renew month to month unless you send us written notice at least 30 days (before the end of any term) that you want to return the Equipment, and you timely return the Equipment (according to the conditions herein). Any security deposit will be commingled with our assets, will not earn interest, and will be returned at the end of the term, provided you are not in default. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others. You shall deliver all information requested by us which we deem reasonably necessary to determine your current financial condition and faithful performance of the terms hereof.
2. **RENT, TAXES AND FEES:** You will pay the monthly Payment (as adjusted) when due, plus any applicable sales, use and property taxes with respect to this Agreement and the Equipment. The base Payment will be adjusted proportionately upward or downward: (1) by up to 10% to accommodate changes in the actual Equipment cost; (2) if the shipping charges or taxes differ from the estimate given to you; and (3) to comply with the tax laws of the state in which the Equipment is located. If we pay any taxes, insurance or other expenses that you owe hereunder, you agree to reimburse us when we request and to pay us a processing fee for each expense or charge we pay on your behalf. We may charge you for any filing fees required by the Uniform Commercial Code (UCC) or other laws, which fees vary state-to-state. We own the Equipment (excluding any Software). You agree to indemnify us for the loss of any U.S. federal income tax benefits resulting from your acts or omissions inconsistent with this Agreement or our ownership of the Equipment. By the date the first Payment is due, you agree to pay us an origination fee, as shown on our invoice or addendum, to cover us for all closing costs. We will have the right to apply all sums, received from you, to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for nonpayment, you will pay us a bad check charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement. You cannot pay off this Agreement or return the Equipment prior to the end date without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee up to 10% of the Fair Market Value of the Equipment on the date of this Agreement.
3. **MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST; SOFTWARE/DATA:** At your expense, you agree to keep the Equipment: (1) in good repair, condition and working order, in compliance with applicable manufacturers' and regulatory standards; (2) free and clear of all liens and claims; and (3) only at the installation address, and you agree not to move it unless we agree in writing. As long as you have given us the written notice as required in paragraph 1 prior to the expiration or termination of this Agreement's term, you will return all but not less than all of the Equipment and all related manuals and use and maintenance records to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. If this Agreement is deemed to be a secured transaction, you grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us, and you authorize us to file a financing statement (UCC-1). You will not change your state of organization, headquarters or residence without providing prior written notice to us so that we may amend or file a new UCC-1. You will notify us within 30 days if your state of organization revokes or terminates your existence. Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligations of you or the licensor under any license agreement. **You are solely responsible for removing any data that may reside in the Equipment you return, including but not limited to hard drives, disk drives or any other form of memory.**
4. **COLLATERAL PROTECTION; INSURANCE; INDEMNITY; LOSS OR DAMAGE:** You agree to keep the Equipment fully insured against risk and loss, with us as lender's loss payee, in an amount not less than the original cost until this Agreement is terminated. You also agree to obtain a general public liability insurance policy with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. Your insurance policy(s) will provide for 10 days advance written notice to us of any modification or cancellation. You agree to provide us certificates or other evidence of insurance acceptable to us. If you fail to comply with this requirement within 30 days after the start of this Agreement, we may (A) secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we place insurance on the Equipment, we will not name you as an insured and your interests may not be fully protected. If we secure insurance on the Equipment, you will pay us an amount for the premium which may be higher than the premium that you would pay if you placed the insurance independently and an insurance fee which may result in a profit to us through an investment in reinsurance; or (B) charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. **NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT.** We are not responsible for, and you agree to hold us harmless and reimburse us for and, if requested, to defend us against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, use, condition, inspection, removal, return or storage of the Equipment. You are responsible for the risk of loss or for any destruction of or damage to the Equipment. You agree to promptly notify us in writing of any loss or damage. If the Equipment is destroyed and we have not otherwise agreed in writing, you will pay to us the unpaid balance of this Agreement, including any future rent to the end of the term plus the booked residual of the Equipment (both discounted at 4%). Any proceeds of insurance will be paid to us and credited, at our option, against any loss or damage. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment. No loss or damage shall relieve you of your payment obligations under this Agreement. All indemnities will survive the expiration or termination of this Agreement.
5. **ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, without our prior written consent.** Without our prior written consent, you shall not reorganize or merge with any other entity or transfer all or a substantial part of your ownership interests or assets. We may sell, assign, or transfer this Agreement without notice. You agree that if we sell, assign or transfer this Agreement, our assignee 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 assignee will not be subject to any claims, defenses, or offsets that you may have against us. You shall cooperate with us in executing any documentation reasonably required by us or our assignee to effectuate any such assignment. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.
6. **DEFAULT AND REMEDIES:** You will be in default if: (a) you do not pay any Payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates, (b) you make or have made any false statement or misrepresentation to us, (c) you or any guarantor dies, dissolves or terminates existence, (d) there has been a material adverse change in your or any guarantor's financial, business or operating condition, or (e) any guarantor defaults under any guaranty for this Agreement. If any amount payable to us is not paid when due, you will pay a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-six (\$26.00) dollars; or 2) the highest lawful charge, if less. If you are ever in default, at our option, we can terminate this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of the term plus the booked residual of the Equipment (both discounted at 4%). We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any or all of the remedies available to us under Articles 2A and 9 of the UCC and any other law, including requiring that you: (1) return the Equipment to us to a location we specify; and (2) immediately stop using any Financed Items. In addition, we will have the right, immediately and without notice or other action, to set-off against any of your liabilities to us any money, including depository account balances, owed by us to you, whether or not due. In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay our reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. If we have to take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement. **YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE.** Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. **You waive all rights under sections 2A-507 through 522 of the UCC.** If interest is charged or collected in excess of the maximum lawful rate, we will not be subject to any penalties.
7. **FAXED OR SCANNED DOCUMENTS, MISC.:** You agree to submit the original duly-signed documents to us via overnight courier the same day of the facsimile or scanned transmission of the documents. The parties agree that: (i) this Agreement and any related documents hereto may be authenticated by electronic means; (ii) the "original" of this Agreement shall be the copy that bears your manual, facsimile, scanned or electronic signature and that also bears our manually signed signature; and (iii) to the extent this Agreement constitutes chattel paper (as defined by the UCC), a security interest may only be created in the original. You agree not to raise as a defense to the enforcement of this Agreement or any related documents that you executed or authenticated such documents by electronic or digital means or that you used facsimile or other electronic means to transmit your signature on such documents. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually. By providing any telephone number, now or in the future, for a cell phone or other wireless device, you are expressly consenting to receiving communications, regardless of their purpose, at that number, including, but not limited to, pre-recorded or artificial voice message calls, text messages, and calls made by an automatic dialing system from us and our affiliates and agents. These calls and messages may incur access fees from your provider.
8. **WARRANTY DISCLAIMERS: YOU AGREE THAT YOU HAVE SELECTED ANY/ALL THIRD PARTY SUPPLIERS AND EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND YOU DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. YOU WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST AMOUNTS DUE UNDER THIS AGREEMENT FOR ANY REASON. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.**
9. **LAW, JURY WAIVER: Agreements, promises and commitments made by Owner, concerning loans and other credit extensions must be in writing, express consideration and be signed by Owner to be enforceable.** This Agreement may be modified only by written agreement and not by course of performance. **YOU AGREE THAT THIS AGREEMENT AND ANY CLAIM RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE IN WHICH OUR (OR, IF WE ASSIGN THIS AGREEMENT, OUR ASSIGNEE'S) PRINCIPAL PLACE OF BUSINESS IS LOCATED AND ANY DISPUTE CONCERNING THIS AGREEMENT WILL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN SUCH STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS AND WAIVE TRANSFER OF VENUE.** For any action arising out of or relating to this Agreement or the Equipment, **YOU AND WE WAIVE ALL RIGHTS TO A TRIAL BY JURY.**
10. **TRANSITION BILLING:** In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the start date of this Agreement (the "Effective Date") will be a date after the certification of acceptance of the Equipment, as shown on the first invoice. You agree to pay us an additional amount equal to 1/30<sup>th</sup> of the Monthly Payment for each day between the date the Equipment is delivered and the Effective Date, which will be added to your first invoice.
11. **MISCELLANEOUS:** You authorize us, our agent or our assignee to furnish your information, including credit application, payment history and account information, to credit reporting agencies and our assignees, potential purchasers or investors and parties having an economic interest in this Agreement or the Equipment, including, without limitation, the seller, supplier or any manufacturer of the Equipment. For security purposes and to help the government fight terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each individual or commercial entity that enters into a customer relationship with the financial institution. For this reason, we may request the following identifying information: name, address, date of birth. We may also ask other questions or request other documents meant to verify your individual or commercial identity.

**STATE AND LOCAL  
GOVERNMENT ADDENDUM**

**AGREEMENT #  
2818736**

Addendum to Agreement # 2818736 and any future supplements/schedules thereto, between Stanwood Camano School District No 401, as Customer and Kelley Connect Co, as Lessor ("Agreement"). The words "you" and "your" refer to Customer. The words "we," "us" and "our" refer to Lessor.

The parties wish to amend the above-referenced Agreement by adding the following language:

**REPRESENTATIONS AND WARRANTIES OF CUSTOMER:** You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

**NON-APPROPRIATION OR RENEWAL:** If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

**TITLE TO THE EQUIPMENT:** If the selected purchase option for this Agreement is \$1.00 or \$101.00, unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

The parties wish to amend the above-referenced Agreement by restating the following language:

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, at the end of the initial term, this Agreement shall renew on a month-to-month basis under the same terms hereof unless you send us written notice at least 30 days before the end of any term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security interest in the Equipment







## **TERMS AND CONDITIONS**

This is not a sale on approval or trial basis and, unless otherwise stipulated, payment for goods and equipment shall be made upon delivery. Title to all goods and equipment shall remain with Seller until such time as the purchase price thereof shall have been paid in full. If Buyer neglects or refuses to pay the full purchase price when due, Seller may retake possession of said equipment and supplies. Buyer agrees to pay Seller's reasonable attorneys' fees in any collection, action, suit or appeal arising from Buyer's default thereunder. This agreement shall not be amended or modified unless set forth in writing and executed by both parties. Buyer signature indicates Buyer has read and agreed to these terms. THIS IS A BINDING ORDER, not subject to cancellation.

In the event that this sale is contingent upon approval of financing for Buyer, it is understood and agreed the Buyer will obtain their own financing not through Seller. Until such time as financing is approved, title shall remain with Seller. If financing has not been approved within thirty (30) days from the date of this agreement, all rights of the Buyer to the equipment shall cease, and the equipment shall be immediately returned to the Seller in good order and condition. If the Buyer fails to return the equipment, Seller may take the equipment into his possession, and for the purpose may enter the premises of the Buyer and remove the equipment, in which event Buyer waives any trespass or claim arising from such removal.

Seller shall not be liable to Buyer or any other person for any loss, damage, or expense of any kind or for direct or consequential damage relative to, arising from, or caused directly or indirectly, by equipment or any supplies or accessories or the use thereof, or deficiency, defect, or inadequacy thereof, or any delay in delivery or installation thereof.

This agreement may not be assigned or transferred by customer without the prior written consent of Seller.

This agreement shall be governed or construed in accordance with the laws of the State of Washington and exclusive venue of any action arising out of this agreement shall be in King County, Washington.

## **EQUIPMENT WARRANTIES**

KELLEY CONNECT warrants all new equipment in this order for 90 days from installation. Warranty covers labor and parts to correct defects in materials and workmanship at no charge to the customer. This warranty does not extend to the replacement of supply items or consumable parts in the equipment within the manufacturer's recommendations.

Any statements made by Kelley Connect salesperson(s) about these products do not constitute warranties and shall not be relied on by customer in deciding whether to purchase these goods or equipment.

## **KELLEY CONNECT MAINTENANCE AND PERFORMANCE GUARANTEE**

**Performance Guarantee** - If your equipment is covered by a continuous Kelley Connect maintenance agreement and is out of service for more than two (2) consecutive business days after notifying Kelley Connector requires off-site service, a loaner copier or facsimile will be provided by Kelley Connect at no additional charge.

**Equipment Training Guarantee** - Kelley Connect will provide initial training plus any follow-up training needed by appointment at no additional charge.

**Solution Sales & Software/Connectivity Guarantee** - Kelley Connect will provide initial installation and training. After 30 days, all additional training will be provided and charged on an hourly basis.

**Service Cost** - Kelley Connect guarantees that the cost of your maintenance agreement will not increase more than 10% per year, as long as you continue to be the original owner of this equipment.

**Service Response Guarantee** - Our Service Representative will arrive at your door within the guaranteed four (4) hour average response time over a one (1) year period.





## Kelley Connects Maintenance Agreement Terms & Conditions

Kelley Connect (Kelley) ("we", "us" or "our") shall provide to the entity designated under the "Bill to Firm Name" on the first page, entitled "Maintenance Agreement" ("Customer", "you" or "your") maintenance services for the equipment ("Equipment") and software ("Software") designated on the first page and in any Additional Equipment Page relating hereto, and shall make all adjustments, repairs and part replacements necessary to keep the Equipment and any modifications to keep the software in good working order in accordance with its published specifications ("Maintenance") pursuant to the terms and conditions of this Agreement, said first page, the Additional Terms and Conditions and any applicable Additional Equipment Page shall constitute the "Agreement" and capitalized terms shall have the same meaning throughout.

**MAINTENANCE:** Providing you are not in default of this Agreement, we shall provide on-site Maintenance during our normal business hours (8:00 AM to 5:00 PM, Monday - Friday, excluding Federal Holidays) for any unit of Equipment or Software that has continually been covered under Kelley Maintenance Agreement. For requested Maintenance outside of our normal business hours, rates in effect at the time such service is requested will be charged. We will first attempt to provide remote diagnostic and maintenance services to utilize the key operator to resolve the service problem over the telephone before dispatching a service representative, and we shall train your key operator at no additional charge pursuant to our standard training policies. We shall provide Maintenance at no additional cost, unless the required adjustments, repairs, or parts replaced are required due to: (i) failure to operate the Equipment or Software under suitable temperature, humidity, line voltage, or any other specified environmental conditions; (ii) lack of reasonable care handling, operating, and maintaining the Equipment and Software, including damage by misuse or mal-intent; (iii) use of the Equipment or Software not in accordance with the agreed applications and for the ordinary purpose for which it is designed; (iv) use of accessories, supplies or other materials, or services not provided by us (excluding paper); (v) any alterations to the Equipment and Software; (vi) the use of damaged materials or those not in compliance with the units specifications, such as paper or envelopes; (vii) the use of the Equipment in excess of its volume rating; (viii) malfunction of equipment, parts, components, or software provided by your third parties and not approved by us which interface with the Equipment or Software; (ix) forgo major events; (x) use of the Equipment or Software for unlawful purposes; or (xi) any loss or damage resulting from perils or casualty, including fire, water damage or other external cause; (all of the foregoing causes the use or damaged materials or those not in compliance with the units specifications, such as paper or envelopes; (all of the foregoing causes collectively the "Excluded Causes"). We shall perform Maintenance necessitated by Excluded Causes at our then current time and materials rate, and quote an estimate of the cost for such Maintenance in advance if requested by you. For copier and multifunctional Equipment Maintenance, unless the malfunctions is cause by an Excluded Cause, photoconductor drums, lubricants and other materials needed to service such Equipment are provided without additional charge, and print powder, developer, or/and master cartridges may or may not be included with Maintenance as indicated on said first page and on any Additional Equipment Page relating hereto.

**MAINTENANCE TERM:** This Maintenance Agreement is effective for (36) months or as specified under Additional Terms as to each unit of newly purchased Equipment or Software from the earlier of the date of installation, or ten (10) days after shipment, or, if the unit is existing Equipment, as of the date herein, and will renew for successive similar periods unless written notice of cancellation at least 30 days prior to renewal is provided and accepted by Kelley. If you cancel at any time other than on your anniversary date, we are not obligated to issue any credit invoice or refund; Kelley reserves the right to bill customer pro-rated usage for any maintenance kits, imaging units, or fuser units installed in customers equipment in the previous 60 days. If you acquire additional accessories for the Equipment, or add new equipment, we will provide coverage and adjust your rate accordingly. Maintenance will be billed in advance unless noted in Additional Terms.

**BREACH OR DEFAULT:** If the Customer does not pay all charges, billed under the terms of this Agreement, promptly when due, or in the event of a breach of any of the other terms of the Agreement, Kelley may (a) refuse to service the equipment until remittance is made, (b) provide service on "Per Call" basis rates, (c) require C.O.D. payment in full at the time of service (and any supplies) at Kelley's "Per Call" basis rates, and (d) take any and all other actions as provided by law. Such remedies shall be cumulative, and the waiver of any one breach by customer shall not be deemed a waiver of any other or subsequent breach.

**PRORATIONS AND TRANSFERS:** If the covered equipment is upgraded with equipment purchased from Kelley, any unused portion of a paid agreement may be prorated and applied toward a service program for the new equipment. This agreement may not be assigned by the Customer without Kelley prior written consent. Customer specifically agrees that this agreement shall not terminate upon Customer's election to sell, transfer or remove from service any equipment covered by this Agreement, unless Kelley agrees in writing to terminate this agreement prior to such sale, transfer or removal from service.

**SOLUTION SALES, SOFTWARE/CONNECTIVITY:** Any Software shall be licensed to you pursuant to the terms of the license agreement provided with the Software. You must complete our Site Survey prior to installation of any Equipment or Software that shall be connected to your computer network. In reliance on this information we will either proceed with the installation, or advise you of problems or potential problems that may limit the functionality or your use of such Equipment or Software. Once accepted by you, or if the Site Survey is incorrect or there are any changes to your computer network or software, any attempts by us to remedy such problems will be at our standard charges then in effect, and we formulate representation or warranty that we can remedy such problems. Third party software not designated in this Agreement as serviced by us shall be subject to the license(s) and other agreement(s) between you and the third party provider(s), and we shall not have any obligation or liability for same. Solution Sales & Software/Connectivity Support, after initial 30 days, will be charged on an hourly basis.

**METER READINGS:** The Customer agrees to allow Kelley to install data collection software (DCA) for the purpose of automating the capture of device counts and other pertinent information used in managing the account. The information collected is limited to device serial number, IP address, meter, supply usage, notes, device location and device alerts. Customer agrees to provide Kelley true and accurate meter readings for each billing period. If accurate meter readings are not provided, Kelley reserves the right to estimate Customer's meter readings based upon previous meter reading and bill Customer based upon such estimates or to send a Kelley representative to visually inspect such meter readings, in which event Customer shall also pay Kelley an additional charge for such site visit.

**OVERAGE COST ADJUSTMENT:** At the end of the first year of this Agreement and once each successive twelve month period, we may increase the base usage charge per copy. Any modification or addition to the equipment listed may increase the base and cost per copy rates.

**CUSTOMER OBLIGATIONS:** You hereby agree to:

- (a) Immediately notify us when maintenance is required and provide us with access for inspecting or servicing the Equipment or Software during our normal business hours;
- (b) Replace supplies when necessary, and discontinue use of any supplies not provided by us that may increase the cost of Maintenance or cause damage to the Equipment
- (c) Timely accept delivery of the Equipment and Software;
- (d) Comply with your obligations under this Agreement, including making payments when due;
- (e) Make available a key operator or machine operator, as the case may be, for our standard training in the use of the Equipment and Software. Should this person change, you shall inform us immediately so the new key operator can be trained;
- (f) Provide complete and accurate information pertaining to your computer network and software programs pertaining to the Equipment being connected to your network, or Software to be provided hereunder;
- (g) Have the area where the Equipment is to be installed prepared and ready to receive the Equipment prior to its delivery, including providing adequate power, analog phone line and/or computer network connections (if required), lighting, humidity, HVAC, and security, and to be ready to have the Equipment installed upon delivery;
- (h) Accurately complete our Site Survey for connected Equipment and Software;
- (i) Have your computer(s) and/or network available and ready to receive any software;
- (j) Abide by the terms of any Software license agreements; and
- (k) Execute any required documents to evidence our interests in the Equipment, Software, and Supplies



AGREEMENT

CUSTOMER ("you" or "your")

AGREEMENT NO.: 2818737

FULL LEGAL NAME: Stanwood Camano School District #401

ADDRESS: 26920 Pioneer Hwy Stanwood WA 98292-0000

CONTACT NAME: Steve Lidgard PHONE #: (360) 629-1200

FEDERAL TAX ID #: 91-0981326

EQUIPMENT AND PAYMENT TERMS

MAKE/MODEL/ACCESSORIES

SERIAL NO.

STARTING

Toshiba ESTUDIO5018AG

MONTHLY PAYMENT AMOUNT: \$113.81 (PLUS TAX)

TERM IN MONTHS: 60

SECURITY DEPOSIT: \$0.00

ORIGINATION FEE: \$75.00 (PLUS TAX)

EQUIPMENT LOCATION Stanwood Middle School 9405 271st ST NW Stanwood, WA 98292

SEE ATTACHED SCHEDULE

THIS AGREEMENT IS NON-CANCELABLE AND IRREVOCABLE. IT CANNOT BE TERMINATED. PLEASE READ CAREFULLY BEFORE SIGNING.

CUSTOMER'S AUTHORIZED SIGNATURE

BY SIGNING THIS PAGE, YOU REPRESENT TO US THAT YOU HAVE RECEIVED, READ, AND ACKNOWLEDGED THE ADDITIONAL TERMS AND CONDITIONS APPEARING ON THE SECOND PAGE OF THIS TWO-PAGE AGREEMENT. THIS AGREEMENT IS BINDING UPON OUR ACCEPTANCE HEREOF.

(As Stated Above)

X

CUSTOMER

SIGNATURE

PRINT NAME & TITLE

DATE

OWNER ("we", "us", "our")

Kelley Connect

OWNER

SIGNATURE

PRINT NAME & TITLE

DATE

22710 72nd Ave S Kent, WA 98032-1926

UNCONDITIONAL GUARANTY

The undersigned, jointly and severally if more than one, unconditionally guarantee(s) that the Customer will timely perform all obligations, including all and any debts, liabilities, and obligations of every nature or form, now existing or hereafter arising or acquired, under the Agreement or any supplements hereto. The undersigned also waive(s) any notification if the Customer is in default and consent(s) to any extensions or modifications granted to the Customer. In the event of default, the undersigned will immediately pay all sums due under the terms of the Agreement without requiring us or our assignee, if applicable, to proceed against Customer or any other party or exercise any rights in the Equipment. The undersigned hereby binds any respective administrators, representatives, successors, and authorized assigns. THE UNDERSIGNED, AS TO THIS GUARANTY, AGREE(S) TO THE DESIGNATED FORUM AND CONSENT(S) TO PERSONAL JURISDICTION, VENUE, AND CHOICE OF LAW AS STATED IN THE AGREEMENT, AGREE(S) TO PAY ALL COSTS AND EXPENSES, INCLUDING ATTORNEY FEES, INCURRED BY US OR OUR ASSIGNEE RELATED TO THIS GUARANTY AND THE AGREEMENT, WAIVE(S) A JURY TRIAL AND TRANSFER OF VENUE, AND AUTHORIZE(S) OBTAINING CREDIT REPORTS.

SIGNATURE: X

INDIVIDUAL:

DATE:

SIGNATURE: X

INDIVIDUAL:

DATE:

CERTIFICATE OF DELIVERY AND ACCEPTANCE

The Customer hereby certifies that all the Equipment: 1) has been received, installed, and inspected, and 2) is fully operational and unconditionally accepted.

SIGNATURE: X

NAME & TITLE:

DATE:

## ADDITIONAL TERMS AND CONDITIONS

- 1. AGREEMENT:** For business purposes only, you agree to rent from us the goods, together with all replacements, parts, repairs, additions, and accessories incorporated therein or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries (the "Equipment") and/or to finance certain licensed software and services ("Financed Items", which are included in the word "Equipment" unless separately stated), all as described on page 1 of this Agreement, excluding equipment marked as not financed under this Agreement, as it may be supplemented from time to time. You agree to all of the terms and conditions contained in this Agreement and any supplement, which (with the acceptance certification) is the entire agreement regarding the Equipment ("Agreement") and which supersedes any purchase order or invoice. You authorize us to correct or insert missing Equipment identification information and to make corrections to your proper legal name and address. This Agreement becomes valid upon execution by us. This Agreement is binding upon our acceptance hereof and will begin on the date the Equipment is delivered to you or any later date we designate. Unless otherwise stated in an addendum hereto, this Agreement will renew month to month unless you send us written notice at least 30 days (before the end of any term) that you want to return the Equipment, and you timely return the Equipment (according to the conditions herein). Any security deposit will be commingled with our assets, will not earn interest, and will be returned at the end of the term, provided you are not in default. If any provision of this Agreement is declared unenforceable in any jurisdiction, the other provisions herein shall remain in full force and effect in that jurisdiction and all others. You shall deliver all information requested by us which we deem reasonably necessary to determine your current financial condition and faithful performance of the terms hereof.
- 2. RENT, TAXES AND FEES:** You will pay the monthly Payment (as adjusted) when due, plus any applicable sales, use and property taxes with respect to this Agreement and the Equipment. The base Payment will be adjusted proportionately upward or downward: (1) by up to 10% to accommodate changes in the actual Equipment cost; (2) if the shipping charges or taxes differ from the estimate given to you; and (3) to comply with the tax laws of the state in which the Equipment is located. If we pay any taxes, insurance or other expenses that you owe hereunder, you agree to reimburse us when we request and to pay us a processing fee for each expense or charge we pay on your behalf. We may charge you for any filing fees required by the Uniform Commercial Code (UCC) or other laws, which fees vary state-to-state. We own the Equipment (excluding any Software). You agree to indemnify us for the loss of any U.S. federal income tax benefits resulting from your acts or omissions inconsistent with this Agreement or our ownership of the Equipment. By the date the first Payment is due, you agree to pay us a origination fee, as shown on our invoice or addendum, to cover us for all closing costs. We will have the right to apply all sums, received from you, to any amounts due and owed to us under the terms of this Agreement. If for any reason your check is returned for nonpayment, you will pay us a bad check charge of \$30 or, if less, the maximum charge allowed by law. We may make a profit on any fees, estimated tax payments and other charges paid under this Agreement. You cannot pay off this Agreement or return the Equipment prior to the end date without our consent. If we consent, we may charge you, in addition to other amounts owed, an early termination fee up to 10% of the Fair Market Value of the Equipment on the date of this Agreement.
- 3. MAINTENANCE AND LOCATION OF EQUIPMENT; SECURITY INTEREST; SOFTWARE/DATA:** At your expense, you agree to keep the Equipment: (1) in good repair, condition and working order, in compliance with applicable manufacturers' and regulatory standards; (2) free and clear of all liens and claims; and (3) only at the installation address, and you agree not to move it unless we agree in writing. As long as you have given us the written notice as required in paragraph 1 prior to the expiration or termination of this Agreement's term, you will return all but not less than all of the Equipment and all related manuals and use and maintenance records to a location we specify, at your expense, in retail re-saleable condition, full working order and complete repair. If this Agreement is deemed to be a secured transaction, you grant us a security interest in the Equipment to secure all amounts you owe us under any agreement with us, and you authorize us to file a financing statement (UCC-1). You will not change your state of organization, headquarters or residence without providing prior written notice to us so that we may amend or file a new UCC-1. You will notify us within 30 days if your state of organization revokes or terminates your existence. Except as provided in this paragraph, references to "Equipment" include any software referenced above or installed on the Equipment. We do not own the software and cannot transfer any interest in it to you. We are not responsible for the software or the obligations of you or the licensor under any license agreement. You are solely responsible for removing any data that may reside in the Equipment you return, including but not limited to hard drives, disk drives or any other form of memory.
- 4. COLLATERAL PROTECTION; INSURANCE; INDEMNITY; LOSS OR DAMAGE:** You agree to keep the Equipment fully insured against risk and loss, with us as lender's loss payee, in an amount not less than the original cost until this Agreement is terminated. You also agree to obtain a general public liability insurance policy with such coverage and from such insurance carrier as shall be satisfactory to us and to include us as an additional insured on the policy. Your insurance policy(s) will provide for 10 days advance written notice to us of any modification or cancellation. You agree to provide us certificates or other evidence of insurance acceptable to us. If you fail to comply with this requirement within 30 days after the start of this Agreement, we may (A) secure property loss insurance on the Equipment from a carrier of our choosing in such forms and amounts as we deem reasonable to protect our interests. If we place insurance on the Equipment, we will not name you as an insured and your interests may not be fully protected. If we secure insurance on the Equipment, you will pay us an amount for the premium which may be higher than the premium that you would pay if you placed the insurance independently and an insurance fee which may result in a profit to us through an investment in reinsurance; or (B) charge you a monthly property damage surcharge of up to .0035 of the Equipment cost as a result of our credit risk and administrative and other costs, as would be further described on a letter from us to you. We may make a profit on this program. NOTHING IN THIS PARAGRAPH WILL RELIEVE YOU OF RESPONSIBILITY FOR LIABILITY INSURANCE ON THE EQUIPMENT. We are not responsible for, and you agree to hold us harmless and reimburse us for and, if requested, to defend us against, any claim for any loss, expense, liability or injury caused by or in any way related to delivery, installation, possession, ownership, use, condition, inspection, removal, return or storage of the Equipment. You are responsible for the risk of loss or for any destruction of or damage to the Equipment. You agree to promptly notify us in writing of any loss or damage. If the Equipment is destroyed and we have not otherwise agreed in writing, you will pay to us the unpaid balance of this Agreement, including any future rent to the end of the term plus the booked residual of the Equipment (both discounted at 4%). Any proceeds of insurance will be paid to us and credited, at our option, against any loss or damage. You authorize us to sign on your behalf and appoint us as your attorney-in-fact to endorse in your name any insurance drafts or checks issued due to loss or damage to the Equipment. No loss or damage shall relieve you of your payment obligations under this Agreement. All indemnities will survive the expiration or termination of this Agreement.
- 5. ASSIGNMENT: YOU HAVE NO RIGHT TO SELL, TRANSFER, ASSIGN OR SUBLEASE THE EQUIPMENT OR THIS AGREEMENT, WITHOUT OUR PRIOR WRITTEN CONSENT.** Without our prior written consent, you shall not reorganize or merge with any other entity or transfer all or a substantial part of your ownership interests or assets. We may sell, assign, or transfer this Agreement without notice. You agree that if we sell, assign or offsets that you may have against us. You shall cooperate with us in executing any documentation reasonably required by us or our assignee to effectuate any such assignment. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns.
- 6. DEFAULT AND REMEDIES:** You will be in default if: (a) you do not pay any Payment or other sum due to us or any other person when due or if you fail to perform in accordance with the covenants, terms and conditions of this Agreement or any other agreement with us or any of our affiliates, (b) you make or have made any false statement or misrepresentation to us, (c) you or any guarantor dies, dissolves or terminates existence, (d) there has been a material adverse change in your or any guarantor's financial, business or operating condition, or (e) any guarantor defaults under any guaranty for this Agreement. If any amount payable to us is not paid when due, you will pay a late charge equal to: 1) the greater of ten (10) cents for each dollar overdue or twenty-six (\$26.00) dollars; or 2) the highest lawful charge, if less. If you are ever in default, at our option, we can terminate this Agreement and require that you pay the unpaid balance of this Agreement, including any future Payments to the end of the term plus the booked residual of the Equipment (both discounted at 4%). We may recover default interest on any unpaid amount at the rate of 12% per year. Concurrently and cumulatively, we may also use any or all of the remedies available to us under Articles 2A and 9 of the UCC and any other law, including requiring that you: (1) return the Equipment to us to a location we specify; and (2) immediately stop using any Financed Items. In addition, we will have the right, immediately and without notice or other action, to self-off against any of your liabilities to us any money, including depository account balances, owed by us to you, whether or not due. In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay our reasonable attorney's fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee. If we have to take possession of the Equipment, you agree to pay the costs of repossession, moving, storage, repair and sale. The net proceeds of the sale of any Equipment will be credited against what you owe us under this Agreement. YOU AGREE THAT WE WILL NOT BE RESPONSIBLE TO PAY YOU ANY CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES FOR ANY DEFAULT, ACT OR OMISSION BY ANYONE. Any delay or failure to enforce our rights under this Agreement will not prevent us from enforcing any rights at a later time. You agree that this Agreement is a "Finance Lease" as defined by Article 2A of the UCC and your rights and remedies are governed exclusively by this Agreement. You waive all rights under sections 2A-507 through 522 of the UCC. If interest is charged or collected in excess of the maximum lawful rate, we will not be subject to any penalties.
- 7. FAXED OR SCANNED DOCUMENTS, MISC.:** You agree to submit the original duly-signed documents to us via overnight courier the same day of the facsimile or scanned transmission of the documents. The parties agree that: (i) this Agreement and any related documents hereto may be authenticated by electronic means; (ii) the "original" of this Agreement shall be the copy that bears your manual, facsimile, scanned or electronic signature and that also bears our manually signed signature; and (iii) to the extent this Agreement constitutes chattel paper (as defined by the UCC), a security interest may only be created in the original. You agree not to raise as a defense to the enforcement of this Agreement or any related documents that you executed or authenticated such documents by electronic or digital means or that you used facsimile or other electronic means to transmit your signature on such documents. Notwithstanding anything to the contrary herein, we reserve the right to require you to sign this Agreement or any related documents hereto manually. By providing any telephone number, now or in the future, for a messages, and calls made by an automatic dialing system from us and our affiliates and agents. These calls and messages may incur access fees from your provider.
- 8. WARRANTY DISCLAIMERS: YOU AGREE THAT YOU HAVE SELECTED ANY/ALL THIRD PARTY SUPPLIERS AND EACH ITEM OF EQUIPMENT BASED UPON YOUR OWN JUDGMENT AND YOU DISCLAIM ANY RELIANCE UPON ANY STATEMENTS OR REPRESENTATIONS MADE BY US. YOU WILL CONTINUE TO MAKE ALL PAYMENTS UNDER THIS AGREEMENT REGARDLESS OF ANY CLAIM OR COMPLAINT AGAINST ANY SUPPLIER, LICENSOR OR MANUFACTURER, AND ANY FAILURE OF A SERVICE PROVIDER TO PROVIDE SERVICES WILL NOT EXCUSE YOUR OBLIGATIONS TO US UNDER THIS AGREEMENT. YOU ARE NOT ENTITLED TO REDUCE OR SET-OFF AGAINST AMOUNTS DUE UNDER THIS AGREEMENT FOR ANY REASON. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, OF, AND TAKE ABSOLUTELY NO RESPONSIBILITY FOR, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONDITION, QUALITY, ADEQUACY, TITLE, DATA ACCURACY, SYSTEM INTEGRATION, FUNCTION, DEFECTS, OR ANY OTHER ISSUE IN REGARD TO THE EQUIPMENT, ANY ASSOCIATED SOFTWARE AND ANY FINANCED ITEMS. WE ASSIGN TO YOU ANY WARRANTIES GIVEN TO US.**
- 9. LAW, JURY WAIVER: Agreements, promises and commitments made by Owner concerning loans and other credit extensions must be in writing, express consideration and be signed by Owner to be enforceable.** This Agreement may be modified only by written agreement and not by course of performance. YOU AGREE THAT THIS AGREEMENT AND ANY CLAIM RELATED TO THIS AGREEMENT SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE IN WHICH OUR (OR, IF WE ASSIGN THIS AGREEMENT, OUR ASSIGNEE'S) PRINCIPAL PLACE OF BUSINESS IS LOCATED AND ANY DISPUTE CONCERNING THIS AGREEMENT WILL BE ADJUDICATED IN A FEDERAL OR STATE COURT IN SUCH STATE. YOU HEREBY CONSENT TO PERSONAL JURISDICTION AND VENUE IN SUCH COURTS AND WAIVE TRANSFER OF VENUE. For any action arising out of or relating to this Agreement or the Equipment, YOU AND WE WAIVE ALL RIGHTS TO A TRIAL BY JURY.
- 10. TRANSITION BILLING:** In order to facilitate an orderly transition, including installation and training, and to provide a uniform billing cycle, the start date of this Agreement (the "Effective Date") will be a date after the certification of acceptance of the Equipment, as shown on the first invoice. You agree to pay us an additional amount equal to 1/30<sup>th</sup> of the Monthly Payment for each day between the date the Equipment is delivered and the Effective Date, which will be added to your first invoice.
- 11. MISCELLANEOUS:** You authorize us, our agent or our assignee to furnish your information, including credit application, payment history and account information, to credit reporting agencies and our assignees, potential purchasers or investors and parties having an economic interest in this Agreement or the Equipment, including, without limitation, the seller, supplier or any manufacturer of the Equipment. For security purposes and to help the government fight terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each individual or commercial entity that enters into a customer relationship with the financial institution. For this reason, we may request the following identifying information: name, address, date of birth. We may also ask other questions or request other documents meant to verify your individual or commercial identity.

# STATE AND LOCAL GOVERNMENT ADDENDUM

**AGREEMENT #  
2818737**

Addendum to Agreement # 2818737 and any future supplements/schedules thereto, between Stanwood Camano School District No 401, as Customer and Kelley Connect Co, as Lessor ("Agreement"). The words "you" and "your" refer to Customer. The words "we," "us" and "our" refer to Lessor.

The parties wish to amend the above-referenced Agreement by adding the following language:

**REPRESENTATIONS AND WARRANTIES OF CUSTOMER:** You hereby represent and warrant to us that: (i) you have been duly authorized under the Constitution and laws of the applicable jurisdiction and by a resolution or other authority of your governing body to execute and deliver this Agreement and to carry out your obligations hereunder; (ii) all legal requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (iii) this Agreement is in compliance with all laws applicable to you, including any debt limitations or limitations on interest rates or finance charges; (iv) the Equipment will be used by you only for essential governmental or proprietary functions of you consistent with the scope of your authority, will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use, and your need for the Equipment is not expected to diminish during the term of this Agreement; (v) you have funds available to pay Payments until the end of your current appropriation period, and you intend to request funds to make Payments in each appropriation period, from now until the end of the term of this Agreement; and (vi) your exact legal name is as set forth on page one of this Agreement.

**NON-APPROPRIATION OR RENEWAL:** If either sufficient funds are not appropriated to make Payments or any other amounts due under this Agreement or (to the extent required by applicable law) this Agreement is not renewed either automatically or by mutual ratification, this Agreement shall terminate and you shall not be obligated to make Payments under this Agreement beyond the then-current fiscal year for which funds have been appropriated. Upon such an event, you shall, no later than the end of the fiscal year for which Payments have been appropriated or the term of this Agreement has been renewed, deliver possession of the Equipment to us. If you fail to deliver possession of the Equipment to us, the termination shall nevertheless be effective but you shall be responsible, to the extent permitted by law and legally available funds, for the payment of damages in an amount equal to the portion of Payments thereafter coming due that is attributable to the number of days after the termination during which you fail to deliver possession and for any other loss suffered by us as a result of your failure to deliver possession as required. You shall notify us in writing within seven days after (i) your failure to appropriate funds sufficient for the payment of the Payments or (ii) to the extent required by applicable law, (a) this Agreement is not renewed or (b) this Agreement is renewed by you (in which event this Agreement shall be mutually ratified and renewed), provided that your failure to give any such notice under clause (i) or (ii) of this sentence shall not operate to extend this Agreement or result in any liability to you.

**TITLE TO THE EQUIPMENT:** If the selected purchase option for this Agreement is \$1.00 or \$101.00, unless otherwise required by law, upon your acceptance of the Equipment, title to the Equipment shall be in your name, subject to our interest under this Agreement.

The parties wish to amend the above-referenced Agreement by restating the following language:

Any provision in the Agreement stating this Agreement supersedes any invoice and/or purchase order is hereby amended and restated as follows: "You agree that the terms and conditions contained in this Agreement, which, with the acceptance certification, is the entire agreement between you and us regarding the Equipment and which supersedes any purchase order, invoice, request for proposal, response or other related document."

Any provision in the Agreement stating that this Agreement shall automatically renew unless the Equipment is purchased, returned or a notice requirement is satisfied is hereby amended and restated as follows: "Unless the purchase option is \$1.00 or \$101.00, at the end of the initial term, this Agreement shall renew on a month-to-month basis under the same terms hereof unless you send us written notice at least 30 days before the end of any term that you want to purchase or return the Equipment, and you timely purchase or return the Equipment."

Any provision in the Agreement stating that we may assign this Agreement is hereby amended and restated as follows: "We may sell, assign, or transfer this Agreement without notice to or consent from you, and you waive any right you may have to such notice or consent."

Any provision in the Agreement stating that you grant us a security interest in the Equipment to secure all amounts owed to us under any agreement is hereby amended and restated as follows: "To the extent permitted by law, you grant us a security interest in the Equipment

to secure all amounts you owe us under this Agreement and any supplements hereto. You authorize and ratify our filing of any financing statement(s) and the naming of us on any vehicle title(s) to show our interest."

Any provision in the Agreement stating that you shall indemnify and hold us harmless is hereby amended and restated as follows: "You shall not be required to indemnify or hold us harmless against liabilities arising from this Agreement. However, as between you and us, and to the extent permitted by law and legally available funds, you are responsible for and shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof, except that you shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after you have surrendered possession of the Equipment in accordance with the terms of this Agreement to us or that arise directly from our gross negligence or willful misconduct."

Any provision in the Agreement stating that a default by you under any agreement with our affiliates or other lenders shall be an event of default under the Agreement is hereby amended and restated as follows: "You will be in default if: (i) you do not pay any Payment or other sum due to us under this Agreement when due or you fail to perform in accordance with the covenants, terms and conditions of this Agreement; (ii) you make or have made any false statement or misrepresentation to us; or (iii) you dissolve, liquidate, terminate your existence or are in bankruptcy."

Any provision in the Agreement stating that you shall pay our attorneys' fees is hereby amended and restated as follows: "In the event of any dispute or enforcement of rights under this Agreement or any related agreement, you agree to pay, to the extent permitted by law and to the extent of legally available funds, our reasonable attorneys' fees (including any incurred before or at trial, on appeal or in any other proceeding), actual court costs and any other collection costs, including any collection agency fee."

Any provision in the Agreement requiring you to pay amounts due under the Agreement upon the occurrence of a default, failure to appropriate funds or failure to renew the Agreement is hereby amended to limit such requirement to the extent permitted by law and legally available funds.

Any provision in the Agreement stating that the Agreement is governed by a particular state's laws and you consent to such jurisdiction and venue is hereby amended and restated as follows: "This Agreement will be governed by and construed in accordance with the laws of the state where you are located. You consent to jurisdiction and venue of any state or federal court in such state and waive the defense of inconvenient forum."

By signing this Addendum, Customer acknowledges the above changes to the Agreement and authorizes Lessor to make such changes. In the event of any conflict between this Addendum and the Agreement, this Addendum shall prevail. In all other respects, the terms and conditions of the Agreement remain in full force and effect and remain binding on Customer.

\_\_\_\_\_  
Lessor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Customer

**X**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

NOTE: CAPITALIZED TERMS IN THIS DOCUMENT ARE DEFINED AS IN THE AGREEMENT, UNLESS SPECIFICALLY STATED OTHERWISE.



22710 72nd Ave S  
 Kent, WA 98032  
 kelleyconnect.com

P: 206.284.9100  
 F: 206.285.4023

# Sales Agreement

Order Number 60264

SOLD TO		
COMPANY		
Stanwood Camano School District 401 for Stanwood Middle School		
ADDRESS		
9405 271st St NW		
CITY	STATE	ZIP
Stanwood	WA	98292
CONTACT		PHONE
Wendy Roope		(360) 629-1350
EMAIL		
wroope@stanwood.wednet.edu		

SHIP TO		
COMPANY		
Stanwood School Dist #401 Stanwood Middle School School		
ADDRESS		
9405 271st St NW		
CITY	STATE	ZIP
Stanwood	WA	98292
CONTACT		PHONE
Wendy Roope		(360) 629-1350
EMAIL		
wroope@stanwood.wednet.edu		

FINANCE OPTIONS	
<input checked="" type="checkbox"/> LEASE	<input type="checkbox"/> CASH
TERM: 60	MONTHLY PAYMENT: \$113.81

QTY	ITEM #	DESCRIPTION	UNIT PRICE	TOTAL
1	ESTUDIO5018A	50 PPM DIGITAL MONOCHROME MFP	Leased Unit	
1	MR4000B	300-Sheet DSDf	Leased Unit	
1	MJ1042B	Inner Finisher	Leased Unit	
1	MJ6011	Hole Punch for MJ1042B	Leased Unit	
1	KD1059B	2000 Sheet Large Capacity Feeder	Leased Unit	
1	PWRFLTR-XGPCS15D	Next Gen PCS Power Filter, 120V-15 AMPS	Leased Unit	
1	GR1340	Panel 10 Key Option	Leased Unit	
1	Set Up Toner & Install	Set Up Toner & Install	Leased Unit	
		Pricing reflects KCDA 30PPM unit price but we are filling the order with the 50PPM MFP because of inventory availability		
		60 Month Lease with payment of \$113.81 + tax per month.		
		Maintenance and Supplies billed Monthly in arrears on actual volume of copies/prints made, rate is .0079 per copy/print.		

SUPPLIES AND MAINTENANCE		CHARGES	
<input type="checkbox"/> INCLUDED IN LEASE	<input checked="" type="checkbox"/> MAINTENANCE AGREEMENT	SUBTOTAL	Leased Unit
<i>Please refer to your LEASE or MAINTENANCE AGREEMENT for volume and rates.</i>		DELIVERY	Included
SPECIAL INSTRUCTIONS OR CONDITIONS OF SALE:		NETWORK INSTALL	Included
		SALES TAX	Leased Unit
		TOTAL	Leased Unit
		LESS DEPOSIT	Leased Unit
		BALANCE DUE	Leased Unit

Sean O'Connell  
 Sales Representative

9/1/2021  
 Order Date

The parties acknowledge and agree all terms and conditions stated on the reverse side of the Sales Agreement constitute an integral part of the Sales Agreement and are incorporated herein. By signing this Agreement, the Customer represents it fully understands all terms and conditions stated herein, and agreement constitutes the entire understanding between Kelley Connect and Customer.

KELLEY CONNECT APPROVAL

ACCEPTED BY CUSTOMER

AUTHORIZED SIGNATURE REQUIRED  
 PRINTED NAME

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## **TERMS AND CONDITIONS**

This is not a sale on approval or trial basis and, unless otherwise stipulated, payment for goods and equipment shall be made upon delivery. Title to all goods and equipment shall remain with Seller until such time as the purchase price thereof shall have been paid in full. If Buyer neglects or refuses to pay the full purchase price when due, Seller may retake possession of said equipment and supplies. Buyer agrees to pay Seller's reasonable attorneys' fees in any collection, action, suit or appeal arising from Buyer's default thereunder. This agreement shall not be amended or modified unless set forth in writing and executed by both parties. Buyer signature indicates Buyer has read and agreed to these terms. THIS IS A BINDING ORDER, not subject to cancellation.

In the event that this sale is contingent upon approval of financing for Buyer, it is understood and agreed the Buyer will obtain their own financing not through Seller. Until such time as financing is approved, title shall remain with Seller. If financing has not been approved within thirty (30) days from the date of this agreement, all rights of the Buyer to the equipment shall cease, and the equipment shall be immediately returned to the Seller in good order and condition. If the Buyer fails to return the equipment, Seller may take the equipment into his possession, and for the purpose may enter the premises of the Buyer and remove the equipment, in which event Buyer waives any trespass or claim arising from such removal.

Seller shall not be liable to Buyer or any other person for any loss, damage, or expense of any kind or for direct or consequential damage relative to, arising from, or caused directly or indirectly, by equipment or any supplies or accessories or the use thereof, or deficiency, defect, or inadequacy thereof, or any delay in delivery or installation thereof.

This agreement may not be assigned or transferred by customer without the prior written consent of Seller.

This agreement shall be governed or construed in accordance with the laws of the State of Washington and exclusive venue of any action arising out of this agreement shall be in King County, Washington.

## **EQUIPMENT WARRANTIES**

KELLEY CONNECT warrants all new equipment in this order for 90 days from installation. Warranty covers labor and parts to correct defects in materials and workmanship at no charge to the customer. This warranty does not extend to the replacement of supply items or consumable parts in the equipment within the manufacturer's recommendations.

Any statements made by Kelley Connect salesperson(s) about these products do not constitute warranties and shall not be relied on by customer in deciding whether to purchase these goods or equipment.

## **KELLEY CONNECT MAINTENANCE AND PERFORMANCE GUARANTEE**

**Performance Guarantee** - If your equipment is covered by a continuous Kelley Connect maintenance agreement and is out of service for more than two (2) consecutive business days after notifying Kelley Connector requires off-site service, a loaner copier or facsimile will be provided by Kelley Connect at no additional charge.

**Equipment Training Guarantee** - Kelley Connect will provide initial training plus any follow-up training needed by appointment at no additional charge.

**Solution Sales & Software/Connectivity Guarantee** - Kelley Connect will provide initial installation and training. After 30 days, all additional training will be provided and charged on an hourly basis.

**Service Cost** - Kelley Connect guarantees that the cost of your maintenance agreement will not increase more than 10% per year, as long as you continue to be the original owner of this equipment.

**Service Response Guarantee** - Our Service Representative will arrive at your door within the guaranteed four (4) hour average response time over a one (1) year period.







## Kelley Connects Maintenance Agreement Terms & Conditions

Kelley Connect (Kelley) ("we", "us" or "our") shall provide to the entity designated under the "Bill to Firm Name" on the first page, entitled "Maintenance Agreement" ("Customer", "you" or "your") maintenance services for the equipment ("Equipment") and software ("Software") designated on the first page and in any Additional Equipment Page relating hereto, and shall make all adjustments, repairs and part replacements necessary to keep the Equipment and any modifications to keep the software in good working order in accordance with its published specifications ("Maintenance") pursuant to the terms and conditions of this Agreement, said first page, the Additional Terms and Conditions and any applicable Additional Equipment Page shall constitute the "Agreement" and capitalized terms shall have the same meaning throughout.

**MAINTENANCE:** Providing you are not in default of this Agreement, we shall provide on-site Maintenance during our normal business hours (8:00 AM to 5:00 PM, Monday - Friday, excluding Federal Holidays) for any unit of Equipment or Software that has continually been covered under Kelley Maintenance Agreement. For requested Maintenance outside of our normal business hours, rates in effect at the time such service is requested will be charged. We will first attempt to provide remote diagnostic and maintenance services to utilize the key operator to resolve the service problem over the telephone before dispatching a service representative, and we shall train your key operator at no additional charge pursuant to our standard training policies. We shall provide Maintenance at no additional cost, unless the required adjustments, repairs, or parts replaced are required due to: (i) failure to operate the Equipment or Software under suitable temperature, humidity, line voltage, or any other specified environmental conditions; (ii) lack of reasonable care handling, operating, and maintaining the Equipment and Software, including damage by misuse or mal-intent; (iii) use of the Equipment or Software not in accordance with the agreed applications and for the ordinary purpose for which it is designed; (iv) use of accessories, supplies or other materials, or services not provided by us (excluding paper); (v) any alterations to the Equipment and Software; (vi) the use of damaged materials or those not in compliance with the units specifications, such as paper or envelopes; (vii) the use of the Equipment in excess of its volume rating; (viii) malfunction of equipment, parts, components, or software provided by your third parties and not approved by us which interface with the Equipment or Software; (ix) forgo major events; (x) use of the Equipment or Software for unlawful purposes; or (xi) any loss or damage resulting from perils or casualty, including fire, water damage or other external cause; (all of the foregoing causes the use or damaged materials or those not in compliance with the units specifications, such as paper or envelopes; (all of the foregoing causes collectively the "Excluded Causes"). We shall perform Maintenance necessitated by Excluded Causes at our then current time and materials rate, and quote an estimate of the cost for such Maintenance in advance if requested by you. For copier and multifunctional Equipment Maintenance, unless the malfunctions is cause by an Excluded Cause, photoconductor drums, lubricants and other materials needed to service such Equipment are provided without additional charge, and print powder, developer, or/and master cartridges may or may not be included with Maintenance as indicated on said first page and on any Additional Equipment Page relating hereto.

**MAINTENANCE TERM:** This Maintenance Agreement is effective for (36) months or as specified under Additional Terms as to each unit of newly purchased Equipment or Software from the earlier of the date of installation, or ten (10) days after shipment, or, if the unit is existing Equipment, as of the date herein, and will renew for successive similar periods unless written notice of cancellation at least 30 days prior to renewal is provided and accepted by Kelley. If you cancel at any time other than on your anniversary date, we are not obligated to issue any credit invoice or refund; Kelley reserves the right to bill customer pro-rated usage for any maintenance kits, imaging units, or fuser units installed in customers equipment in the previous 60 days. If you acquire additional accessories for the Equipment, or add new equipment, we will provide coverage and adjust your rate accordingly. Maintenance will be billed in advance unless noted in Additional Terms.

**BREACH OR DEFAULT:** If the Customer does not pay all charges, billed under the terms of this Agreement, promptly when due, or in the event of a breach of any of the other terms of the Agreement, Kelley may (a) refuse to service the equipment until remittance is made, (b) provide service on "Per Call" basis rates, (c) require C.O.D. payment in full at the time of service (and any supplies) at Kelley's "Per Call" basis rates, and (d) take any and all other actions as provided by law. Such remedies shall be cumulative, and the waiver of any one breach by customer shall not be deemed a waiver of any other or subsequent breach.

**PRORATIONS AND TRANSFERS:** If the covered equipment is upgraded with equipment purchased from Kelley, any unused portion of a paid agreement may be prorated and applied toward a service program for the new equipment. This agreement may not be assigned by the Customer without Kelley prior written consent. Customer specifically agrees that this agreement shall not terminate upon Customer's election to sell, transfer or remove from service any equipment covered by this Agreement, unless Kelley agrees in writing to terminate this agreement prior to such sale, transfer or removal from service.

**SOLUTION SALES, SOFTWARE/CONNECTIVITY:** Any Software shall be licensed to you pursuant to the terms of the license agreement provided with the Software. You must complete our Site Survey prior to installation of any Equipment or Software that shall be connected to your computer network. In reliance on this information we will either proceed with the installation, or advise you of problems or potential problems that may limit the functionality or your use of such Equipment or Software. Once accepted by you, or if the Site Survey is incorrect or there are any changes to your computer network or software, any attempts by us to remedy such problems will be at our standard charges then in effect, and we formulate representation or warranty that we can remedy such problems. Third party software not designated in this Agreement as serviced by us shall be subject to the license(s) and other agreement(s) between you and the third party provider(s), and we shall not have any obligation or liability for same. Solution Sales & Software/Connectivity Support, after initial 30 days, will be charged on an hourly basis.

**METER READINGS:** The Customer agrees to allow Kelley to install data collection software (DCA) for the purpose of automating the capture of device counts and other pertinent information used in managing the account. The information collected is limited to device serial number, IP address, meter, supply usage, notes, device location and device alerts. Customer agrees to provide Kelley true and accurate meter readings for each billing period. If accurate meter readings are not provided, Kelley reserves the right to estimate Customer's meter readings based upon previous meter reading and bill Customer based upon such estimates or to send a Kelley representative to visually inspect such meter readings, in which event Customer shall also pay Kelley an additional charge for such site visit.

**OVERAGE COST ADJUSTMENT:** At the end of the first year of this Agreement and once each successive twelve month period, we may increase the base usage charge per copy. Any modification or addition to the equipment listed may increase the base and cost per copy rates.

**CUSTOMER OBLIGATIONS:** You hereby agree to:

- (a) Immediately notify us when maintenance is required and provide us with access for inspecting or servicing the Equipment or Software during our normal business hours;
- (b) Replace supplies when necessary, and discontinue use of any supplies not provided by us that may increase the cost of Maintenance or cause damage to the Equipment
- (c) Timely accept delivery of the Equipment and Software;
- (d) Comply with your obligations under this Agreement, including making payments when due;
- (e) Make available a key operator or machine operator, as the case may be, for our standard training in the use of the Equipment and Software. Should this person change, you shall inform us immediately so the new key operator can be trained;
- (f) Provide complete and accurate information pertaining to your computer network and software programs pertaining to the Equipment being connected to your network, or Software to be provided hereunder;
- (g) Have the area where the Equipment is to be installed prepared and ready to receive the Equipment prior to its delivery, including providing adequate power, analog phone line and/or computer network connections (if required), lighting, humidity, HVAC, and security, and to be ready to have the Equipment installed upon delivery;
- (h) Accurately complete our Site Survey for connected Equipment and Software;
- (i) Have your computer(s) and/or network available and ready to receive any software;
- (j) Abide by the terms of any Software license agreements; and
- (k) Execute any required documents to evidence our interests in the Equipment, Software, and Supplies