



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

PARTICIPATION AGREEMENT FOR LEASES

ANNEXURE L2

**THE PARTICIPATION AGREEMENT HAVE BEEN VETTED LEGALLY AND SHOULD
NOT BE AMENDED BY PARTICIPANTS BUT SIGNED AS IS**

BETWEEN

Name of State Institution (Participant): DEPT ECONOMIC DEVELOPMENT TOURISM AND ENVIROMENTAL AFFAIRS	AND	Name of Service Provider: KONICA MINOLTA SOUTH AFRICA a division of BIDVEST OFFICE (PTY) LTD
Physical Address: MINISTRY DEPARTMENT MARINE BUILDING 10th FLOOR 22 DOROTHY NYEMBE STREET DURBAN		Physical Address: 3 Barnsley Road, Campsdrift Park, Campsdrift, Pietermaritzburg 3201
Signature: 		Signature: 

Service Provider's Details	Name: <u>Konica Minolta South Africa</u> Reg. No. <u>Reg.No. 1997/010942/07</u> Physical Address: <u>3 Barnsley Road, Campsdrift Park, Campsdrift, Pietermaritzburg, 3201.</u> Postal Address: <u>PO Box 11008, Dorpspruit, 3206</u> Contact Person: <u>OCTAVIA MTHETHWA</u> Cell _____ Tel No. <u>033 846 9840</u> Fax No. _____ Email address: <u>octaviam@konicaminoltasa.com</u>						
Participant's Details	Name: <u>DEPT ECONOMIC DEVELOPMENT TOURISM AND ENVIROMENTAL AFFAIRS</u> Physical Address: <u>22 DOROTHY NYEMBE STREET, DURBAN</u> Postal Address: <u>PRIVATE BAG XX9152, PIETERMARITZBURG</u> Contact Person: <u>MS NOLWAZI NGOBESE</u> Cell <u>072 762 2461</u> Tel No. <u>031 310 5323</u> Fax No. _____ Email address: <u>Nolwazi.Ngobese@kznedtea.gov.za</u>						
Equipment Details, Lease, Minimum Lease period, Lease Due Date and Commencement Date	The Equipment Details, Lease, Minimum Lease period, Lease Due Date and Commencement Date are embodied in the Schedule						
<table border="0"> <tr> <td data-bbox="124 1167 464 1301"> Participant's Signatory </td> <td data-bbox="464 1167 1455 1301"> Full Names: <u>BRIGHTBOT NHLAKANI</u> Capacity: <u>HEAD OF DEPARTMENT</u> Surname: <u>NKONTWANA</u> </td> </tr> <tr> <td data-bbox="124 1301 464 1391"> Thus done and signed at <u>PMB</u> on this <u>18th</u> day of <u>APRIL</u> 20<u>23</u>. </td> <td data-bbox="464 1301 1455 1391"> Full Names: <u>Nomathamsenge</u> Capacity: <u>Acting Director</u> </td> </tr> <tr> <td data-bbox="124 1391 464 1509"> Participant's Witness </td> <td data-bbox="464 1391 1455 1509"> Surname: <u>Kunene</u> Signature: <u>[Signature]</u> </td> </tr> </table>		Participant's Signatory	Full Names: <u>BRIGHTBOT NHLAKANI</u> Capacity: <u>HEAD OF DEPARTMENT</u> Surname: <u>NKONTWANA</u>	Thus done and signed at <u>PMB</u> on this <u>18th</u> day of <u>APRIL</u> 20 <u>23</u> .	Full Names: <u>Nomathamsenge</u> Capacity: <u>Acting Director</u>	Participant's Witness	Surname: <u>Kunene</u> Signature: <u>[Signature]</u>
Participant's Signatory	Full Names: <u>BRIGHTBOT NHLAKANI</u> Capacity: <u>HEAD OF DEPARTMENT</u> Surname: <u>NKONTWANA</u>						
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<table border="0"> <tr> <td data-bbox="124 1509 464 1644"> Service Provider's Signatory </td> <td data-bbox="464 1509 1455 1644"> Full Names: <u>Craig</u> Capacity: <u>Branch Manager</u> Surname: <u>Sadler</u> </td> </tr> <tr> <td data-bbox="124 1644 464 1711"> Thus done and signed at <u>PIETERMARITZBURG</u> on this <u>15th</u> day of <u>MARCH</u> 20<u>2023</u> </td> <td data-bbox="464 1644 1455 1711"></td> </tr> <tr> <td data-bbox="124 1711 464 1870"> Service Provider's Witness </td> <td data-bbox="464 1711 1455 1870"> Full Names: <u>Bernadette</u> Capacity: <u>Branch Admin Manager</u> Surname: <u>Van Der Byle</u> Signature: <u>[Signature]</u> </td> </tr> </table>		Service Provider's Signatory	Full Names: <u>Craig</u> Capacity: <u>Branch Manager</u> Surname: <u>Sadler</u>	Thus done and signed at <u>PIETERMARITZBURG</u> on this <u>15th</u> day of <u>MARCH</u> 20 <u>2023</u>		Service Provider's Witness	Full Names: <u>Bernadette</u> Capacity: <u>Branch Admin Manager</u> Surname: <u>Van Der Byle</u> Signature: <u>[Signature]</u>
Service Provider's Signatory	Full Names: <u>Craig</u> Capacity: <u>Branch Manager</u> Surname: <u>Sadler</u>						
Thus done and signed at <u>PIETERMARITZBURG</u> on this <u>15th</u> day of <u>MARCH</u> 20 <u>2023</u>							
Service Provider's Witness	Full Names: <u>Bernadette</u> Capacity: <u>Branch Admin Manager</u> Surname: <u>Van Der Byle</u> Signature: <u>[Signature]</u>						

¹ Participants must provide a Delegation of Authority document where requested by the Service Provider for proof of Capacity.

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ANNEXURE L2A : LEASE SCHEDULE

RECITAL

This Participation Agreement is concluded pursuant to the Master Transversal Agreement (MTA) signed between National Treasury (Customer) and the Service Providers resulting from Bid no RT3-2022 for the Supply, Delivery, Installation, Commissioning and Maintenance of Office Automation Solutions to the State.

The Master Transversal Agreement concluded between the Customer and Service Providers enables Participants in possession of a valid Participation Letter to enter into Participation Agreements with the Service Providers.

In the event that the Service Provider's Office Automation Solution is financed by a registered Financial Service Providers, or their Asset Financier Partners, or state institutions established for the express purpose of providing funding to Service Provider for purposes of this Agreement, the Participant hereby confirms that it acknowledges such a relationship.

1. DEFINITIONS AND INTERPRETATION

1.1 The interpretations set forth in the Master Transversal Agreement shall apply *mutatis mutandis* to this Agreement.

1.2 Unless the context otherwise provides, any terms used in this Participation Agreement and for which no definition is provided in this Participation Agreement, shall bear the meaning ascribed thereto as defined in the Master Transversal Agreement (and cognate terms shall bear corresponding meanings). In addition, the following definitions apply to this Participation Agreement:

1.2.1 **"Copy Period"** means a period of one (1) calendar month during which copies are made and calculated by means of a monthly opening and closing meter reading,

1.2.2 **"Data Cleansing Service"** means any request for the Service Provider to carry out a secure deletion service for the Participant to delete the Stored Data,

1.2.3 **"Device Data"** means all information, images or content retained by or resident in any Office Automation Solution serviced and maintained by the Service Provider, whether through a digital storage device, hard drive, or other electronic medium,

1.2.4 **"Initial Start Date"** shall mean 01-04-2023 (state the period) being the first day of the month following the first delivery, installation, and commissioning of Office Automation Solution emanating from a Purchase Order (PO) issued 08-02-2023 (state the PO date) with a Service Provider as recorded on the Schedule to this Participation Agreement notwithstanding the date of signature of the Participation Agreement,

- 1.2.5 **"Parties"** under this Participation Agreement means the Parties (or either of them) indicated on the front page of this Participation Agreement, who concluded this Participation Agreement,
- 1.2.6 **"Purchase Order"** means a commercial source document that is issued by a Participant when placing an order with a Service Provider. The purchase order indicates the details of the Office Automation Solution that is leased which may include the type of printer, quantity, price and more.
- 1.2.7 **"Secure Data Erasure Services"** means any request by the Participant to carry out a secure deletion of any Device Data to be provided by the Service Provider, and
- 1.2.8 **"Stored Data"** means data which may or may not be confidential or personal data processed by the Office Automation Solution during its use by the Participant and which may be stored in any data storage components in the Office Automation Solution.

2. RELATIONSHIP BETWEEN THE PARTICIPATION AGREEMENT AND THE MASTER TRANSVERSAL AGREEMENT

- 2.1. The terms of the Master Transversal Agreement are incorporated into this Participation Agreement by reference as if set forth in full in this Participation Agreement subject to any variations to the terms of the Master Transversal Agreement as described in this Participation Agreement. Save to the extent agreed upon to the contrary in this Participation Agreement, the Parties to this Agreement shall be bound to the terms and conditions. Any lawful modifications or amendments to the terms of the Master Transversal Agreement, executed in accordance with the provisions of that Agreement, shall also be applicable to this Participation Agreement, without requiring any further amendment to be executed under this Participation Agreement.
- 2.2. This Participation Agreement may vary the terms and conditions of the Master Transversal Agreement only in respect of the service levels with respect to the subject matter of this Participation Agreement. Notwithstanding the above, the Parties acknowledges that any amendment of this Participation Agreement that has the effect that it conflicts with the provisions, or the spirit of the Master Transversal Agreement shall have the effect that this Participation Agreement falls outside the application of the Master Transversal Agreement and shall be deemed as such.
- 2.3. This Participation Agreement is to include all the specific leased Office Automation Solution as would be detailed on each Schedule attached as offered by the Service Provider(s) and accepted by the Participant.
- 2.4. The expiration or termination of this Participation Agreement shall not affect such of the provisions of the Schedule to the Participation Agreement as expressly provided that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

3. COMMENCEMENT AND DURATION

- 3.1. All Participation Agreements shall commence on the first day of the month following the first² delivery, installation, and commissioning of Office Automation Solution with a Service Provider as recorded on the Schedule(s) to the Participation Agreement notwithstanding the date of signature of the Participation Agreement and shall endure until expiry of the Master Transversal Agreement being 31 March 2026 unless extended for a further period or terminated on an earlier date in accordance with the provision of the Master Transversal Agreement.
- 3.2. The Participation Agreement shall be signed together with the first Schedule that has each lease that will run for 36 (thirty-six) months within fourteen (14) business days after delivery, installing and commissioning of any Office Automation Solution. The lease period in each Schedule may be extended in accordance with Clause 4 of the Master Transversal Agreement at a zero (R0) monthly rental and only cost per copy charges payable.

4. LEASE PAYMENTS

- 4.1. Monthly lease payments and copy charges for all printers shall be paid in accordance with Clause 8 of the Master Transversal Agreement during a Copy Period which is a period of one (1) calendar month during which copies are made and calculated by means of a monthly opening and closing meter reading.
- 4.2. All concluded monthly lease payments shall be fixed for the initial period of 36 (thirty-six) months.
- 4.3. Participants to pay the **applicable** cost per copy charges for leases on a monthly basis as this cost is adjusted on a bi-annual basis.
- 4.4. Cost per copy charges do not apply on leased paper shredders but only the monthly lease payments are to be payable to Service Providers.
- 4.5. The Participant(s) shall settle all undisputed outstanding invoices for lease payments of the Service Provider within 30 (thirty) working days of the date of termination of Agreement and will settle all lease payments to the Service Provider for the remainder of the initial lease period.
- 4.6. On termination of the MTA or this Participation Agreement for any reason, all amounts payable for Services rendered shall become due and payable even if they have not been invoiced. Such amounts may not be withheld for any reason and must be paid within 30 (thirty) days following receipt of an invoice from the Service Provider.
- 4.7. Termination of the MTA and Participation Agreement shall not affect the enforceability of the provisions which are intended to operate after such expiry or termination.

36 months

² First even in instances of multiple Office Automation Solution

- 4.8. Should the Customer terminate the MTA and Participation Agreement, termination charges equivalent to the monthly lease charge multiplied by the number of months remaining in the unexpired lease period will be applicable in the event of unresolved disputes by Participants.

5. SCHEDULE TO THE PARTICIPATION AGREEMENT

- 5.1. All details of each lease shall be recorded in a Schedule to the Participation Agreement.
- 5.2. The Parties must put a notice period to either in writing or system generated 60 (sixty) days prior to the expiry of the initial 36 (thirty-six) months lease period to effect the new lease extension.
- 5.3. The Participant may with the permission of the Service Provider upgrade the Office Automation Solution any time before the completion of the Initial Lease Period, provided that the upgrade may not take place prior to 12 (twelve) months of the Initial Lease Period.

6. DELIVERY OF OFFICE AUTOMATION SOLUTIONS

- 6.1. The Participant shall obtain and accept delivery of the Office Automation Solution from the Service Provider thereof and the Service Provider for all printers as part of the services to be provided shall arrange for installation and commissioning thereof. The Participant shall, upon such delivery, installation, and commissioning sign the requisite delivery and installation certificates as may be required by the Service Provider and furnish the Service Provider with a copy of such delivery and installation certificate, duly completed and signed by an authorized representative of the Participant.
- 6.2. The Participant shall have examined the Office Automation Solution or cause the Office Automation Solution to have been examined and shall have satisfied itself on installation and commissioning as to its good condition and serviceability.

7. OWNERSHIP OF OFFICE AUTOMATION SOLUTIONS

- 7.1. Ownership of leased Office Automation Solutions shall at all times remain vested in the Service Provider or its cessionary unless the Office Automation Solution is owned by the Participant other than under this Agreement. The Participant shall NOT after expiry of this Participation Agreement and once all monthly lease payments due as per the Schedule(s) to the Service Provider has been fully paid including penalty interest if any obtain the rights of ownership of the Office Automation Solution.
- 7.2. The Participant shall keep the Office Automation Solution free from claim of third parties and from attachment, shall not alienate or transfer or encumber the Office Automation Solution, either in part or as a whole, nor allow any lien to arise in respect thereof.

- 7.3. The Participant shall advise the owner or landlord of the premises where the Office Automation Solution has been installed of the Service Provider's ownership thereof throughout the subsistence of this Participation Agreement and thereafter.
- 7.4. The Participant shall advise the Service Provider of the name and address of the owner or landlord of the premises where the Office Automation Solution has been installed and of any intended change in the location of the Office Automation Solution at least 30 (thirty) days prior to such change.

8. USE OF OFFICE AUTOMATION SOLUTION

- 8.1. The Service Provider grants the use and enjoyment of the Office Automation Solution to the Participant subject to the provisions of this Participation Agreement.
- 8.2. The Participant shall:
- 8.2.1. use the Office Automation Solution with care and subject to any instructions issued by the Service Provider and/or the Original Equipment Manufacturer of the Office Automation Solution from time to time, which latter instructions shall be deemed to have been issued by the Service Provider,
 - 8.2.2. not use the Office Automation Solution in contravention of this Participation Agreement,
 - 8.2.3. not, without the prior written consent of the Service Provider, make any alteration to the Office Automation Solution. All replacements and/or renewals of component parts and/or accessories, and/or all additions and/or alterations to the Office Automation Solution, with the consent of the Service Provider during the currency of the Schedule, shall be deemed to form part of the Office Automation Solution and shall accede to and become the property of the Service Provider,
 - 8.2.4. keep the Office Automation Solution in its own possession and control and shall not permit the same to be used by any unqualified operator or in any manner contrary to the law, this Participation Agreement and/or the terms and conditions of any insurance policy relating to this Participation Agreement, and
 - 8.2.5. not alter any identification markings on the Office Automation Solution.

9. CESSION

- 9.1. The Customer (National Treasury) accepted that due to the capital amount (monthly lease) of the Schedule(s) of the Participation Agreement, there is external funding required by the Service Provider(s) of which the purpose of cession may be required and will be applicable in accordance with Clause 19.2.1 and 19.2.2 of the Master Transversal Agreement.

10. GENERAL TERMS

- 10.1. The Participant selects its *domicilium citandi et executandi* for all purposes hereunder at the address recorded in the cover page and Schedule(s) to this Participation Agreement as annexed. Any notice delivered by hand shall be deemed to have been duly received by the Participant on the date of delivery. Any notice sent by prepaid registered post to the Participant shall be deemed to have been received by the Participant on the 5TH (fifth) day after posting thereof. Any notice transmitted by facsimile shall be deemed to have been received by the Participant on the first business day following dispatch.
- 10.2. Stored Data - notwithstanding anything to the contrary set forth in this Participation Agreement, the Parties acknowledge and agree that for any Stored Data on the Office Automation Solution: -
- 10.2.1. The Service Provider shall ensure that it sanitizes the internal hard drives before the Office Automation Solution leaves the Participants site with a certificate to confirm sanitation which means that all information has been deleted, or
- 10.2.2. The Service Provider shall remove and/or delete, all information, images or content retained by or resident in any Office Automation Solution serviced and maintained by the Service Provider if required by Participant whether through a digital storage device, hard drive, or other electronic medium (Device Data) in return for a service charge (Secure Data Erasure Services).
- 10.2.3. The Service Provider shall not be responsible for preserving, maintaining, or otherwise safeguarding any Office Automation Solution data.
- 10.2.4. The Participant is responsible for ensuring its own compliance with legal requirements in connection with data retention and protection and that the Service Provider does not provide legal advice or represent that the Office Automation Solution will guarantee compliance with such requirements. The selection and use of any Secure Data Erasure Services, and any decisions arising with respect to the deletion or storage of data, as well as the loss of any data resulting therefrom, shall be the sole and exclusive responsibility of the Participant.
- 10.2.5. If the Participant requests the Service Provider to carry out a secure deletion service to delete the Stored Data (a Data Cleansing Service) in respect of Office Automation Solution which is being returned back by Participant at expiry of lease, and the Service Provider agrees to provide such Data Cleansing Services, this will be set out in the Purchase Order or otherwise notified to the Participant.
- 10.3. The Participant warrants that all information supplied to the Service Provider or anyone on its behalf concerning the Participant's business in whatever form, is true and correct in all material respects; specifically the information supplied to the Service Provider during its investigation or vetting prior to the commencement date.

10.4. The Participant shall make all payments to the Service Provider's bank account as follows –

Account Holder	:	<u>KONICA MINOLTA SOUTH AFRICA</u>
Bank	:	<u>STANDARD BANK SOUTHDALE</u>
Type of account	:	<u>CURRENT ACCOUNT</u>
Account number	:	<u>000628514</u>
Branch	:	<u>SOUTHDALE</u>

SUPPLIERS ADVICE (ORDER FOR GOODS / SERVICES)

G 0182471

DESCRIPTION

Multifunction Copier Machine

ORDER DATE (DDMMYYYY)

08022023

REQ. NUMBER

20012205

REFERENCE

PAYMENT METHOD
☒ SYSTEM CHEQUE
☐ EBTDEPARTMENTAL
DATE STAMP

02 FEB 2023

DEPARTMENT OF...
AND...

ENTITY NAME

Bidvest Office -/4 Konics Minolta

ADDRESS

SA ASD Bidvest Office Pty Ltd

NAME

ADDRESS

DELIVERY ADDRESS

INVOICE ADDRESS

POSTAL CODE

TEL NO.

076 943 2628

ENQUIRIES TO

L5M4 D1000

FAX NO.

CONTRACT TENDER NO.

CONTRACT TYPE

LINE NO.

ITEM LINE DESCRIPTION

DEL

DELIVERY DATE

QUANTITY

UNIT PRICE

TOTAL AMOUNT

1.	Order to Bidvest Office to supply & maintain								
2.	(leasing) of Multifunctional Copier Machine at								
3.	Durban Ministry office 10th floor for a period of								
	36 months.								
TOTAL ORDER AMOUNT									R4,1 947-64

IMPORTANT

1. An invoice bearing the number of this order must be sent to the above mentioned address on the day the goods are dispatched.
2. A packing slip must be inserted in each parcel.
3. Responsibility will be accepted only for orders on this printed form, duly signed.
4. Delivery must be effected within the period stipulated.
5. If part-consignments are made on a f.o.r. basis, apply for additional rail warrants.
6. Unless specifically provided otherwise in a tender or other contract, the consignor is responsible for all charges at the dispatching station, such as charges for weighing, loading, storage, demurrage, etc.
7. In cases where the seller is requested to forward the goods by post, the postage paid for the goods may be added to the invoice. It is advisable to obtain receipts from the Post Office for all parcels posted.
8. The order number must be quoted on all invoices and correspondence.
9. Enquiries in connection with payment of accounts must be to the orderer direct and the order form number must be quoted.

15/02/2023

COMPILED BY

NAME

Apple

SIGNATURE

Apple

DATE

08/02/23

