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File #16744  
June 19, 2001  
Agreement #01-246**Agenda Item**~~IBM INFOPRINT 2000 LEASE PURCHASE~~  
THRU IBM ICC.

DATE: June 19, 2001

TO: Board of Supervisors

FROM: G. P. Atkisson, Chief Information Officer  
Information Technology Services DepartmentSUBJECT: Term Lease Master Agreement with IBM for the lease purchase of two  
IBM Infoprint 2000 printers**RECOMMENDED ACTION:**

Approve and authorize the Chairman to execute a five-year lease agreement with IBM for two Infoprint 2000 high-volume laser printers to replace the two existing Xerox 4135 printers at the Information Technology Services Department.

**FISCAL IMPACT:**

The County has the option to purchase the IBM printers for \$419,833 or lease purchase the printers on a five-year schedule for a total cost of \$513,048. Over the five-year period, the lease purchase option will cost an additional \$43,675 when taking into account the value of interest earned on unspent capital dollars. Although slightly more costly over the five-year period, it is recommended that the County lease the IBM printers as they will have little residual value and a limited useful life beyond 5 years. The analysis of cash flow favors leasing over purchasing because there is less cash required for the first four years (Exhibit A – Break Even Analysis).

**DISCUSSION:**

High-speed laser printers are required for all high volume production printing tasks at the Information Technology Services Department. The current printers are in the sixth year of use and were obtained through a five-year lease purchase. The printers have exceeded the expected useful life of five years and are routinely failing. It is recommended that the County replace the aging printers with equipment that incorporates newer technology. The ability to print output generated on servers

ADMINISTRATIVE OFFICE REVIEW Page 1 of 2

BOARD ACTION: DATE June 19, 2001 APPROVED AS RECOMMENDED XXX OTHER

Official Action of  
Board of Supervisors

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other than the mainframes is now a requirement and the existing Xerox printers do not readily adapt to the County's client-server environment. This recommendation will also satisfy the increasing demand from the user departments to print documents and reports originating at remote sites.

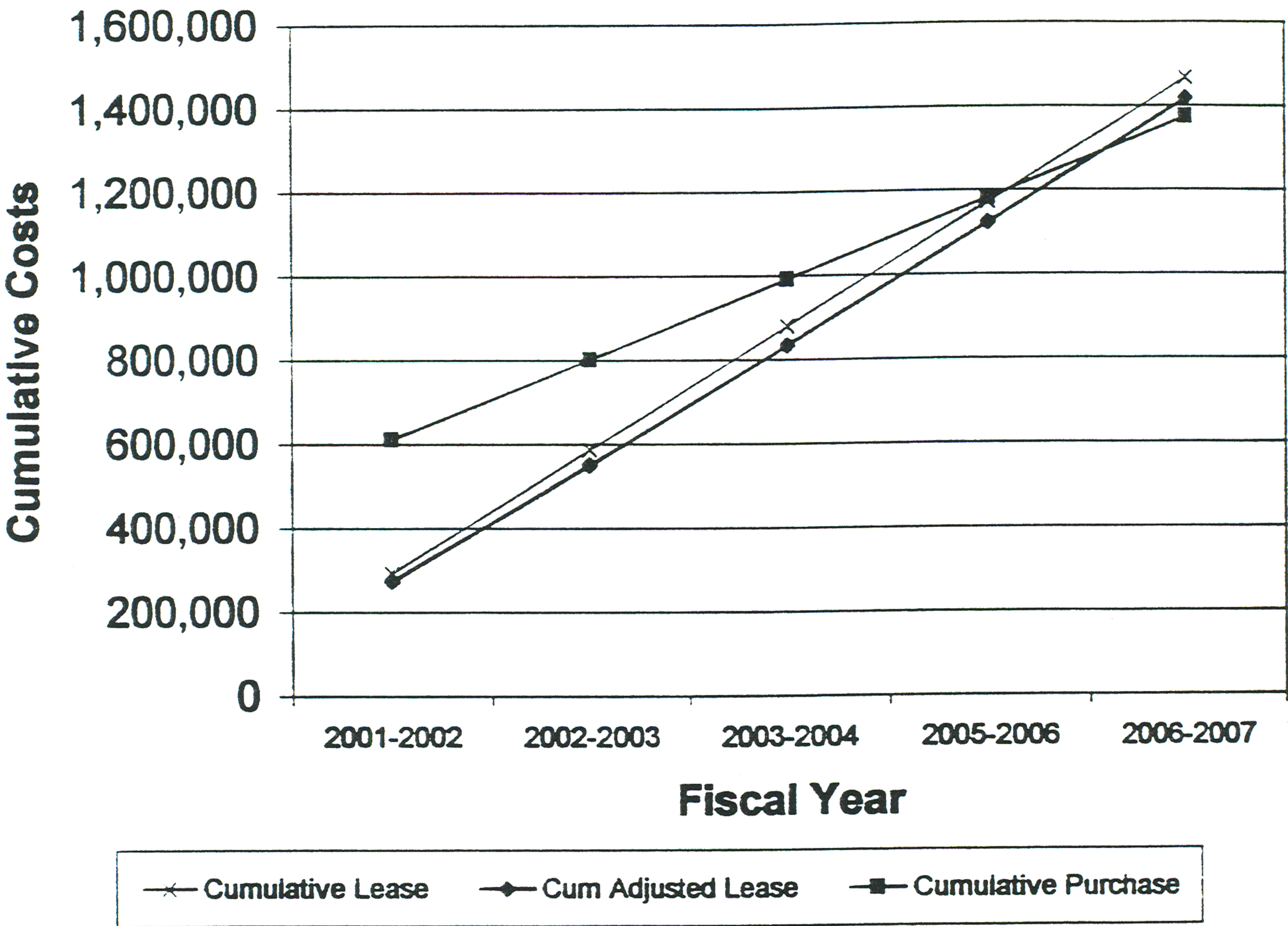
A Request for Proposal was sent to IBM, Océ and Xerox and all three vendors responded. Presentations were made by each vendor and site visits were made to evaluate each of their respective products. Respondents were invited to include a 60-month lease agreement with a one-dollar buyout option at the end of the lease. In April 2001, the Selection Committee evaluated the information and recommended adopting the IBM solution. IBM was selected based on the technical superiority, operational considerations, implementation advantages and overall cost savings.

The Debt Advisory Committee has reviewed this proposal and concurs with this recommendation.



Exihibit A

Break Even Analysis





Ugt # 01-246

COMPOSITE SIGNATURE PAGE

May 25, 2001

County of Fresno  
2281 Tulare Street  
Fresno, CA 93721

Customer Number	Reference Number	Description
1949606	PAH0316	Term Lease Master Agreement
	PAH0316	Term Lease Master Agreement
		Attachment for State and Local Government
	F140041	Addendum to Term Lease Master Agreement
	C00963738	Term Lease Supplement
	Q02249507-05	Addendum to Term Lease Supplement
		LG \$1.00 & G Prime (G') Purchase Option Codes

Term: 60 months

Payment Method: monthly

By Customer's signature below, Customer acknowledges that Customer has read, understands and agrees to terms of the referenced documents listed above and attached hereto, and Customer is signing this composite signature page as a convenience in lieu of signing the separate documents. Once this signature page is signed by each of the parties, each of the referenced documents shall be deemed to be accepted by the Customer and by the IBM Credit Corporation and any reproduction of the referenced documents and this signature page made by reliable means (for example, image, photocopy or facsimile) shall in all respects be considered equivalent to an original.

SHIRI GREENWOOD, Clerk,  
Board of Supervisors

Accepted by:

IBM Credit Corporation  
For or as Lessor

Customer  
COUNTY OF FRESNO

Deputy

BY: Mary Rossell  
Print Name: Mary Rossell  
Title: Financing Sales Executive

BY: Deron Koligian  
Chairman, Board of Supervisors

Date: June 5, 2001

Date: JUN 19 2001

Recommended for approval

BY: G. P. Atkisson  
G. P. Atkisson, CIO

Date: June 6, 2001

ADDRESS: IBM, Suite 200  
2710 Gateway Oaks Dr.  
Sacramento, CA 95833

TAX ID: 22-2351962



APPROVED AS TO LEGAL FORM:

Phillip S. Cronin, County Counsel

By:

Janell E. Kelly

APPROVED AS TO ACCOUNTING FORM:

Gary W. Peterson, Auditor-Controller/  
Treasurer-Tax Collector

By:

Bobbie Ormonde

APPROVED BY:

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Administrative Office

Budget: 3905 Budget Yr 2001-2002

Account: 7887



# IBM Credit Corporation

## Term Lease Master Agreement

Name and Address of Lessee:

COUNTY OF FRESNO  
2281 Tulare St  
Fresno, CA. 93721  
Branch Office Address:  
2929 North Central Ave  
Phoenix, AZ 85012

Agreement No.: PAH0316

Branch Office No.: PAH

Customer No.: 1949606

The Lessor under this Term Lease Master Agreement ("Agreement") is a) IBM Credit Corporation, a subsidiary of International Business Machines Corporation ("IBM"); b) a partnership in which IBM Credit Corporation is a partner; or c) a business enterprise for which IBM Credit Corporation is acting as agent ("Lessor"). The "Lessee" is the business entity indicated on the signature line below. Any Parent, Subsidiary or Affiliate of Lessee may enter into a Lease and/or Financing Transaction (each as defined below) under this Agreement by signing a Term Lease Supplement ("Supplement") referencing this Agreement and so will be bound to the terms and conditions of this Agreement as Lessee. For the purposes of this Agreement, "Parent" shall mean a business entity that owns or controls a majority interest of Lessee; "Subsidiary" shall mean a business entity a majority interest of which is owned or controlled by Lessee; and "Affiliate" shall mean a business entity under common majority control with Lessee. A Lease or Financing Transaction under this Agreement shall be effective when a Supplement listing equipment to be leased ("Equipment") and software program licenses, maintenance, services, and other one-time charges to be financed ("Financed Items") is signed by both parties. Equipment includes any internal programming that is integral to the Equipment's functioning ("Licensed Internal Code"). Lessee may acquire Equipment and Financed Items from IBM, Lessor, or any other manufacturer, vendor or provider ("Lessee's Supplier"). The terms of (a) the Supplement; (b) any applicable attachments; and (c) this Agreement; each as may be amended by addenda, shall constitute the lease for the Equipment ("Lease") and Financing Transaction for the Financed Items ("Financing Transaction") listed in the applicable Supplement. Some Leases or Financing Transactions may have additional terms that will be specified in attachments or addenda. Terms in a Supplement and related attachments or addenda will apply only to the Lease and/or Financing Transaction represented by that Supplement. The headings of the Paragraphs are inserted for convenience only.

1. **OPTIONS.** Each Supplement shall constitute a single Lease and/or Financing Transaction but for each line item listed there will be a Lease or Financing Transaction option indicated. The various options are described in the "Option Codes" table on the Supplement.

2. **CREDIT REVIEW.** For each Lease or Financing Transaction, Lessee consents to a reasonable credit review by Lessor.

3. **AGREEMENT TERM.** This Agreement shall be effective when signed by both parties and may be terminated by either party upon one (1) month prior written notice. Each Lease or Financing Transaction then in effect, however, shall remain subject to the terms and conditions of this Agreement until its expiration or termination.

4. **LESSOR CHANGES.** Lessor may, with at least three (3) months prior written notice to Lessee, change the terms of this Agreement. Such changes will apply only to Leases and Financing Transactions that begin after the effective date specified in the notice, and only if Lessee does not notify Lessor that it does not agree to the changes.

5. **SURVIVAL OF OBLIGATIONS.** Lessor's and Lessee's obligations under this Agreement, which by their nature would continue beyond the expiration or termination of a Lease or Financing Transaction, will survive the expiration or termination of a Lease or Financing Transaction.

6. **SELECTION AND USE OF EQUIPMENT, PROGRAMMING AND LICENSED PROGRAM MATERIALS.** Lessee agrees that it did not rely on the Lessor, nor is the Lessor responsible, for the selection, use of, and results obtained from the Equipment or Financed Items. Nothing in this

Agreement is intended to limit any rights Lessee may have with respect to Lessee's Supplier or the Equipment manufacturer.

7. **ASSIGNMENT TO LESSOR.** Lessee assigns to Lessor, effective upon Lessor signing the Supplement, its right to purchase from and its obligation to pay its Supplier. All other rights and obligations as defined in the agreement between Lessee and Lessee's Supplier governing the purchase of the Equipment ("Purchase Agreement") shall remain with Lessee. Lessee represents that it has reviewed and approved the Purchase Agreement. Lessor will not modify or rescind the Purchase Agreement.

8. **LEASE NOT CANCELLABLE; LESSEE'S OBLIGATIONS ABSOLUTE.** Once the Term of any Lease or Financing Transaction has begun, as described in Paragraphs 13 and 14, Lessee's commitments hereunder become irrevocable and independent of acceptance of the Equipment. Lessee's obligation to pay all Rent and other amounts required to be paid by Lessee under this Agreement is absolute and unconditional and shall not be affected by any right of set-off or defense of any kind whatsoever, including any failure of the Equipment or a Financed Item to perform, or any representations by Lessee's Supplier. Lessee shall make any claim solely against Lessee's Supplier, the Equipment manufacturer or other third party if the Equipment or a Financed Item is unsatisfactory for any reason.

9. **WARRANTIES.** Lessor passes through to Lessee, to the extent permitted, all applicable warranties made available by Lessee's Sup-

THIS AGREEMENT, AND ANY APPLICABLE SUPPLEMENT, ATTACHMENTS OR ADDENDA ARE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT REGARDING EACH LEASE OR FINANCING TRANSACTION. THESE DOCUMENTS SUPERSEDE ANY PRIOR ORAL OR WRITTEN COMMUNICATIONS BETWEEN THE PARTIES. IF THERE IS A CONFLICT OF TERMS AMONG THE DOCUMENTS, THE ORDER OF PRECEDENCE WILL BE AS FOLLOWS: (a) ATTACHMENTS OR ADDENDA TO A SUPPLEMENT, (b) SUPPLEMENT, (c) ATTACHMENTS OR ADDENDA TO THIS AGREEMENT, (d) THIS AGREEMENT. DELIVERY OF AN EXECUTED COPY OF ANY OF THESE DOCUMENTS BY FACSIMILE OR ANY OTHER RELIABLE MEANS SHALL BE DEEMED TO BE AS EFFECTIVE FOR ALL PURPOSES AS DELIVERY OF A MANUALLY EXECUTED COPY. LESSEE ACKNOWLEDGES THAT LESSOR MAY MAINTAIN A COPY OF THESE DOCUMENTS IN ELECTRONIC FORM AND AGREES THAT A COPY REPRODUCED FROM SUCH ELECTRONIC FORM OR ANY OTHER RELIABLE MEANS (FOR EXAMPLE, PHOTOCOPY, IMAGE OR FACSIMILE) SHALL IN ALL RESPECTS BE CONSIDERED EQUIVALENT TO AN ORIGINAL. IF INDICATED HERE, THE FOLLOWING ATTACHMENTS SHALL APPLY TO AND BE INCORPORATED BY REFERENCE IN THIS AGREEMENT.

Lessee may not modify or change the terms of this Agreement without the Lessor's prior written consent

Term Lease Master Agreement  
Attachment for State & Local Government #PAH0316

Accepted By:

IBM Credit Corporation

By

*Mary Russell*  
Authorized Signature

*Mary Russell*  
Name (Type or Print)

*5/25/01*  
Date

Lessee:

By

*Deron Koligian*  
Authorized Signature

Name (Type or Print)

Date

Lessee Initial

JUN 1 2001



plier and/or by the Equipment manufacturer in the Purchase Agreement. Lessor represents and warrants that neither Lessor, nor anyone acting or claiming through Lessor, by assignment or otherwise, will interfere with Lessee's quiet enjoyment of the Equipment so long as no event of default by Lessee or anyone acting or claiming through Lessee shall have occurred and be continuing. During the Term of the Lease, Lessor assigns to Lessee all the rights that Lessor may have to be defended by Lessee's Supplier and/or by the Equipment manufacturer under any patent and copyright provisions in the Purchase Agreement. EXCEPT AS EXPRESSLY PROVIDED ABOVE, LESSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. AS TO LESSOR, LESSEE LEASES THE EQUIPMENT AND TAKES ANY FINANCED ITEM "AS IS". IN NO EVENT SHALL LESSOR HAVE ANY LIABILITY FOR, NOR SHALL LESSEE HAVE ANY REMEDY AGAINST LESSOR FOR, CONSEQUENTIAL DAMAGES, ANY LOSS OF PROFITS OR SAVINGS, LOSS OF USE, OR ANY OTHER COMMERCIAL LOSS. This shall in no way affect Lessee's rights and remedies against Lessee's Supplier and/or the Equipment manufacturer.

10. **LESSEE AUTHORIZATION.** Lessee is authorized to act on Lessor's behalf concerning delivery and installation of the Equipment and any warranty service for the Equipment, including any programming services. Lessor represents and warrants that it has the right to grant the authorization and rights to Lessee referred to in this Paragraph.

11. **DELIVERY AND INSTALLATION.** Lessee is responsible for the delivery, installation and acceptance of the Equipment and any Financed Item and shall pay any delivery and installation charges not paid by Lessee's Supplier. Lessor shall not be liable for any delay in, or failure of, delivery of the Equipment or Financed Items unless provided by Lessor.

12. **USED EQUIPMENT LEASES.** For used Equipment supplied by Lessor, the following provisions apply: The Equipment is subject to prior disposition at any time prior to Lessor's acceptance of a signed Supplement. The Equipment is provided "as is", without any warranty whatsoever by Lessor, in accordance with Paragraph 9. However, provided that the Equipment is unmodified since the date of delivery, has been manufactured and assembled by or for IBM; and has been installed and maintained by IBM, Lessor guarantees Lessee's satisfaction with the quality of the Equipment for three (3) months following the "Release Date" indicated on the face of the Supplement. If Lessee is dissatisfied with the Equipment for any reason, Lessee may notify Lessor within three (3) months of the Release Date and, at Lessor's option, the Equipment will either be (a) replaced with equivalent Equipment or (b) returned to Lessor and the Lease terminated and any Rent payments made to Lessor refunded to Lessee. If Lessee cancels its commitment to Lease the Equipment after Lessor signs the applicable Supplement but before the Equipment is delivered and accepted by Lessee, then Lessee shall be liable to Lessor for three (3) months Rent as liquidated damages. Lessor shall bear the risk of loss or damage to the Equipment during transit from the pickup location to Lessee's location, provided the Equipment is transported by a carrier designated by Lessor.

13. **RENT COMMENCEMENT DATE.** Unless otherwise stated on the applicable Supplement, the Rent Commencement Date shall be (a) for Equipment supplied by IBM, the day following the date of installation of the Equipment as provided for in the Purchase Agreement; (b) for Equipment supplied by Lessor, the earlier of the date of installation or fourteen (14) days after the Release Date as specified in the Supplement; (c) for Equipment supplied by Lessee's Supplier, the date Lessee designates on a certificate of acceptance; or, (d) for Financed Items, the date Lessor makes funds available to Lessee or Lessee's Supplier.

14. **LEASE TERM.** The Lease or Financing Transaction shall be effective when the Supplement is signed by both parties. The initial Term of the Lease or Financing Transaction shall begin on the Rent Commencement Date and shall expire at the end of the number of months specified as "Term" in the Supplement. Except for Equipment supplied by Lessor, if Lessee cancels its order with Lessee's Supplier prior to installation or discontinues any Financed Item prior to the date Lessor makes funds available, the Lease or Financing Transaction with respect to that item shall terminate without penalty.

15. **RATE PROTECTION.** The Rates stated on the Supplement are not subject to change provided the Supplement is signed and returned to Lessor by the date indicated on the Supplement and the Equipment is installed by the end of the month of the Estimated Commencement Date stated on the Supplement.

16. **RENT.** During the initial Term, Lessor shall invoice and Lessee shall pay Rent for each Payment Period as specified in the Supplement. Lessee's obligation to pay shall begin on the Rent Commencement Date. When the Rent Commencement Date is not on the first day of a calendar month and/or when the initial Term does not expire on the last day of a calendar month, the applicable Rent for the first and last payment will be prorated on the basis of 30-day months.

17. **RENEWAL.** Lessee may, upon at least one (1) month prior written notice to Lessor, renew the Lease with respect to any line item of

Equipment, provided Lessee is not then in default. Lessor shall offer a renewal Term of one (1) year but may, if requested, offer different renewal Terms. For Equipment line items with a fair market value end-of-Lease renewal option, the renewal Rent shall be the projected fair market rental value of the Equipment as of the commencement of such renewal Term. For Equipment line items with a pre stated end-of-Lease renewal option, the renewal Rent shall be one-half of the pre stated Purchase Percent multiplied by the Unit Purchase Price stated in the Supplement and such renewal Rent payments will be annual and payable in advance.

18. **PURCHASE OF EQUIPMENT.** Lessee may, upon at least one (1) month prior written notice to Lessor, purchase any line item of Equipment upon expiration of the Lease provided Lessee is not then in default. For Equipment line items with a fair market value end-of-Lease purchase option, the purchase price shall be the projected fair market sales value of the Equipment as of such expiration date. For Equipment line items with a pre stated purchase option, the purchase price shall be specified in the Supplement. If the Lessee purchases any Equipment, Lessee shall, on or before the date of purchase, pay (a) the purchase price, (b) any applicable taxes, (c) all Rent due through the day preceding the date of purchase, and (d) any other amounts due under the Lease. Lessor shall, on the date of purchase, transfer to Lessee by bill of sale provided upon Lessee's request, without recourse or warranty of any kind, express or implied, all of Lessor's right, title and interest in and to such Equipment on an "AS IS, WHERE IS" basis, except that Lessor shall warrant title free and clear of all liens and encumbrances created by or through Lessor.

19. **OPTIONAL EXTENSION.** If, at the expiration of the Term, Lessee has not elected to renew the Lease, purchase or return the Equipment in accordance with Paragraph 25, and as long as Lessee is not in default under the Lease, the Lease will be extended for each unreturned item of Equipment unless (a) Lessee notifies Lessor in writing, not less than one (1) month prior to Lease expiration, that Lessee does not want the extension, or (b) the Equipment is returned to and received by Lessor within fourteen (14) days after the expiration of the Term. The extension will be under the same terms and conditions then in effect, including current Rent (but for Equipment line items with a fair market value purchase option, not less than fair market rental value as determined by Lessor at the expiration of the Term) and will continue on a day-to-day basis until the earlier of termination by either party upon one (1) month prior written notice, or six (6) years after expiration of the initial Term. For purposes of this Paragraph, current Rent shall be calculated as the sum of the Lease payments over the initial Term divided by the initial Term of the Lease.

20. **INSPECTION; MARKING; FINANCING STATEMENT.** Upon reasonable advance request, Lessee agrees to allow Lessor to inspect the Equipment and its maintenance records during Lessee's normal business hours, subject to Lessee's reasonable security procedures. Lessee will affix to the Equipment any identifying labels supplied by Lessor indicating ownership. The filing of any Uniform Commercial Code financing statements in connection with a Lease or Financing Transaction shall be governed by the terms and conditions of the applicable Supplement and any Supplement addendum.

21. **EQUIPMENT USE.** Lessee agrees that Equipment will be used for business purposes and not primarily for personal, family or household purposes and that it will be used in accordance with applicable laws and regulations.

22. **MAINTENANCE.** Lessee shall, at its expense, on its own or through third parties, keep the Equipment in a suitable environment as specified by the Equipment manufacturer, and in good condition and working order, ordinary wear and tear excepted.

23. **ALTERATIONS; MODIFICATIONS; PARTS.** For the purposes of this Agreement, a "Part" is any component or element of the Equipment; a "Modification" is any upgrade, feature or other change to the Equipment which is or has been offered for sale by the Equipment manufacturer and which contains no Part which has been changed or altered since its original manufacture; an "Alteration" is any change to the Equipment which is not a Modification. Lessee may modify or alter the Equipment only upon prior written notice to Lessor. Lessee may obtain new or used Alterations or Modifications from any supplier and may finance them with sources other than Lessor provided no security interest is created that encumbers or conflicts with Lessor's ownership of the Equipment. Any Lessor-owned Parts that Lessee removes shall remain Lessor's property and Lessee shall not make such Parts available for sale, transfer, exchange or other disposition without Lessor's prior written consent.

Before returning the Equipment to Lessor, Lessee agrees to remove any Alteration and may remove any Modification not owned by Lessor. If removed, Lessee agrees to, at its expense, restore the Equipment to its original condition using the removed Parts, normal wear and tear excepted. If Lessor had previously consented to the disposition of removed Parts, the restoration must be with Parts Lessor owns or supplies, or those supplied by a source approved by Lessor. If not removed, such Modifications shall become the property of Lessor, without charge, free of any liens or encumbrances.



Changes or additions made to items of Equipment in connection with maintenance or warranty services, including engineering changes, utilizing manufacturer's genuine parts, are exempt from the terms of this Paragraph, and any Parts installed in connection with such services shall become the property of Lessor.

24. **LEASES FOR MODIFICATIONS.** At Lessee's request, and subject to satisfactory credit review, Lessor will lease or finance new Modifications, used Modifications from Lessor's inventory, and Financed Items associated with the Modifications. Leases for Modifications will be at then current terms and conditions and must be coterminous with the underlying Equipment Lease.

25. **RETURN OF EQUIPMENT.** Lessee will return the Equipment to Lessor upon expiration or termination of the Lease. Upon return, the Equipment must be in good condition and working order, normal wear and tear excepted and qualified for the manufacturer's maintenance service, if available. Lessee will return the Equipment to the nearest IBM Credit consolidation and refurbishment center for that type of Equipment located in the contiguous United States. Unless otherwise agreed, Lessee is responsible for: a) deinstallation, packing and return of the Equipment and any associated costs; and b) any cost to qualify the Equipment for the manufacturer's maintenance service, or, if not available, the cost to return the Equipment to good working condition. The return of the Equipment shall constitute a full release by Lessee of any leasehold rights or possessory interest in the Equipment.

26. **CASUALTY INSURANCE; LOSS OR DAMAGE.** Lessor will maintain, at its own expense, insurance covering loss of or damage to the Equipment (excluding any Modifications or Alterations not subject to a Lease under this Agreement) with a \$5,000 deductible per occurrence. If any item of Equipment shall be lost, stolen, destroyed or irreparably damaged for any cause whatsoever ("Casualty Loss") before the Rent Commencement Date, the Lease with respect to that item shall terminate. If any item of Equipment suffers Casualty Loss, or shall be otherwise damaged, on or after the Rent Commencement Date, Lessee shall promptly inform Lessor. To claim a Casualty Loss Lessee must file a police or fire department report or other appropriate documentation substantiating the Casualty Loss. If Lessor determines that the item can be economically repaired, Lessee shall place the item in good condition and working order and Lessor will promptly reimburse Lessee the reasonable cost of such repair, less the deductible. If not so repairable, Lessee shall pay Lessor the lesser of \$5,000 or the fair market sales value of the Equipment immediately prior to the Casualty Loss. Upon Lessor's receipt of payment the Lease with respect to that item shall terminate and Lessee's obligation to pay Rent for the Equipment will be deemed to have ceased as of the date of the Casualty Loss. For purposes of this Paragraph, Lessor will consider the manufacturer's charge for such repair to be the reasonable cost of repair.

27. **TAXES.** Lessee shall promptly reimburse Lessor, as additional Rent, for all taxes, charges, and fees levied by any governmental body or agency upon or in connection with this Agreement, excluding, however, all taxes on or measured by the net income of Lessor.

28. **LESSOR'S PAYMENT.** If Lessee fails to pay taxes as required under this Agreement, discharge any liens or encumbrances on the Equipment (other than those created by or through Lessor), or otherwise fails to perform any other provision Lessee is required to perform under this Agreement, Lessor shall have the right to act in Lessee's stead so as to protect Lessor's interests, in which case, Lessee shall pay Lessor the cost thereof.

29. **TAX INDEMNIFICATION.** Solely for Leases entered into on the basis that Lessor is the owner of the Equipment for tax purposes, Lessor and Lessee agree that Lessor shall be entitled to certain federal and state tax benefits available to an owner of Equipment, including, under the Internal Revenue Code of 1986, as amended (the "Code"), the maximum Modified Accelerated Cost Recovery System deductions for 5-year property and deductions for interest expense incurred to finance the purchase of the Equipment ("Tax Benefits"). Lessee represents and warrants that (a) at no time will Lessee take or omit to take any action which would result in a loss, reduction, disallowance, recapture or other unavailability ("Loss") to Lessor (or the consolidated group with which Lessor files tax returns) of the Tax Benefits, and (b) Lessee will take no position inconsistent with the assumption that Lessor is the owner of the Equipment for federal income tax purposes. Upon Lessor's written notice to Lessee that a Loss of Tax Benefits has occurred, Lessee shall reimburse Lessor an amount that shall make Lessor's after-tax rate of return and cash flows ("Financial Returns") over the Term of the Lease equal to the expected Financial Returns that would have been otherwise available. Lessee shall have no obligation to reimburse Lessor for a Loss of Tax Benefits resulting from (i) a determination that a Lease does not constitute a true lease for federal income tax purposes, provided such determination is not the result of an act of Lessee, or (ii) a change in the tax law after the applicable Rent Commencement Date.

30. **GENERAL INDEMNITY.** Each Lease under this Agreement is a net lease. Lessee indemnifies Lessor against any third party claims whatsoever which arise in connection with this Agreement or Lessee's possession and use of the Equipment or a Financed Item hereunder in-

cluding all related reasonable costs and expenses, and legal fees incurred by Lessor. Lessee shall not be liable for any claim resulting from the sole negligence or willful misconduct of Lessor. Lessee agrees that upon written notice by Lessor of the assertion of any claim, Lessee shall assume full responsibility for the defense of such claim. Lessor shall cooperate as may be reasonably required in such defense.

31. **LIABILITY INSURANCE.** Lessee shall obtain and maintain commercial general liability insurance, in the amount of at least \$1,000,000 or more for each occurrence, with an insurer having a "Best Policyholders" rating of B+ or better. The policy shall name Lessor as an additional insured as Lessor's interests may appear and shall contain a clause requiring the insurer to give Lessor at least one (1) month prior written notice of the cancellation, or any material alteration in the terms of the policy. Lessee shall furnish to Lessor, upon request, evidence that such insurance coverage is in effect.

32. **SUBLEASE AND RELOCATION OF EQUIPMENT; ASSIGNMENT BY LESSEE.** Upon one (1) month prior written notice to Lessor, Lessee may relocate the Equipment to another of its business locations provided that Lessee remains the end user of the Equipment. Any other relocation requires Lessor's prior written consent. Upon Lessor's prior written consent, which will not be unreasonably withheld, Lessee may sublease the Equipment to another end user. No sublease or relocation shall relieve Lessee of its obligations under the Lease and Lessee will be responsible for all costs and expenses associated with any relocation or sublease of the Equipment, including additional taxes or any Tax Loss incurred by Lessor. In no event shall Lessee remove or allow the Equipment to be removed from the United States. Lessee shall not assign, transfer or otherwise dispose of any Lease or Financing Transaction, any Equipment, or any interest therein, or create or suffer any levy, lien or encumbrance thereof except those created by or through Lessor.

33. **ASSIGNMENT BY LESSOR.** Lessee acknowledges and understands that the terms and conditions of the Leases and Financing Transactions have been fixed to enable Lessor to sell and assign its interest or grant a security interest or interests in the Leases and Financing Transactions and the Equipment, individually or together, in whole or in part, for the purpose of securing loans to Lessor or otherwise. Lessee shall not assert against any such assignee any setoff, defense or counterclaim that Lessee may have against Lessor or any other person. Lessor shall not be relieved of its obligations hereunder as a result of any such assignment unless Lessee expressly consents thereto, nor shall any rights or obligations of Lessee be changed except as described herein.

34. **FINANCING.** Any one-time charge (indicated on the Supplement as the "Amount Financed") for a Financed Item will be paid by Lessor to Lessee's Supplier or directly to Lessee. Any other charges which may be owed or due to Lessee's Supplier shall be paid directly to Lessee's Supplier by Lessee. Lessee's obligation to pay Rent for the Financed Item shall not be affected by any discontinuance, return or destruction of any Financed Item on or after the date Lessor makes funds available. If Lessee discontinues any of the Financed Items in accordance with the terms of the applicable agreement with Lessee's Supplier prior to the date Lessor makes funds available, then the Financing Transaction with respect to the affected one-time charge shall be cancelled.

35. **FINANCING PREPAYMENT** (Does Not Apply For Items of Equipment). Lessee may terminate a Financing Transaction (but not a Lease with respect to an item of Equipment) by prepaying its remaining Rent. Lessee shall provide Lessor with at least one (1) month prior written notice of the intended prepayment date. Lessor may, depending on market conditions at the time, reduce the remaining Rent to reflect such prepayment and shall advise the Lessee of the balance to be paid. If prior to Lease expiration, Lessee purchases Equipment on Lease or if a Lease is terminated, Lessee shall at the same time prepay any related line items of Financing Transactions.

36. **DELINQUENT PAYMENTS.** If any amount to be paid to Lessor is not paid on or before its due date, Lessee shall pay Lessor two percent (2%) of the unpaid amount for each month or part thereof from the due date until the date paid or, if less, the maximum allowed by law.

37. **DEFAULT NO WAIVER.** Lessee shall be in default under this Agreement upon the occurrence of any of the following events: (a) Lessee fails to pay any amount when due under this Agreement and such failure shall continue for a period of seven (7) days after the due date; (b) Lessee subleases, relocates, assigns or makes any transfer in violation of the terms of this Agreement; (c) Lessee fails to perform any other obligations or violates any of its covenants or representations under a Lease or Financing Transaction, or Lessee fails to perform any of its obligations under any other agreement it may have with Lessor, and such failure or breach shall continue for a period of fifteen (15) days after written notice is received by Lessee from Lessor; (d) Lessee or any guarantor of Lessee's obligations under this Agreement makes a misrepresentation in any application for credit or other financial data required to be provided by Lessee in connection with a Lease or Financing Transaction; (e) Lessee or a guarantor makes an assignment for the benefit of creditors, or consents to the appointment of a trustee



or receiver, or if either shall be appointed for Lessee or a guarantor or for a substantial part of its property without its consent; (f) any petition or proceeding is filed by or against Lessee or a guarantor under any Federal or State bankruptcy or insolvency code or similar law, and if such petition is involuntary, it is not dismissed within sixty (60) days after filing thereof; (g) Lessee or a guarantor sells or disposes of all or substantially all of its assets (and Lessor does not consent to the same) or ceases doing business; or (h) a guarantor or the provider of any other credit enhancement under this Agreement breaches, terminates without Lessor's consent or contests any guaranty or other credit enhancement document of which Lessor is a beneficiary.

Lessor shall be in default under this Agreement upon the occurrence of any of the following events: (i) Lessor breaches Lessee's right of quiet enjoyment (except in an instance where Lessee is in default under the applicable Lease or Financing Transaction), and Lessor is unable to remedy such breach within fifteen (15) days of Lessee's written notice to Lessor thereof; (ii) Lessor fails to perform any other provisions or violates any of its covenants or representations under a Lease or Financing Transaction and such failure or breach shall continue for a period of fifteen (15) days after written notice is received by Lessor from Lessee; (iii) Lessor makes an assignment for the benefit of creditors, or consents to the appointment of a trustee or receiver, or if either shall be appointed for Lessor or for a substantial part of its property without its consent; or (iv) any petition or proceeding is filed by or against Lessor under any Federal or State bankruptcy or insolvency code or similar law and, if such petition is involuntary, it is not dismissed within sixty (60) days after filing thereof.

Any failure of either party to require strict performance by the other party or any waiver by either party of any provision in a Lease, Financing Transaction or this Agreement shall not be construed as a consent or waiver of any other breach of the same or of any other provision.

**38. REMEDIES.** If Lessee is in default under this Agreement, all amounts due and to become due under each Lease and Financing Transaction shall be immediately due and payable, without further notice from Lessor, and Lessor shall have the right, in its sole discretion, to exercise any one or more of the following remedies in order to protect its interests, reasonably expected profits and economic benefits under this Agreement. Lessor may (a) declare any Lease or Financing Transaction entered into pursuant to this Agreement to be in default; (b) terminate in whole or in part any Lease or Financing Transaction; (c) recover from Lessee any and all amounts then due and to become due; (d) take possession of any or all items of Equipment, wherever located, without demand or notice, without any court order or other process of law, in accordance with Lessee's reasonable security procedures; and (e) demand that Lessee return any or all such items of Equipment to Lessor in accordance with Paragraph 25 and, for each day that Lessee shall fail to return any item of Equipment, Lessor may demand an amount equal to the current Rent, prorated on the basis of a 30-day month. Upon repossession or return of any item of Equipment, Lessor shall sell, lease or otherwise dispose of such item in a commercially reasonable manner, with or without notice and on public or private bid, and apply the net proceeds thereof towards the amounts due under the Lease but only after deducting (i) in the case of sale, the estimated fair market sales value of such item as of the scheduled expiration of the Lease; or (ii) in the case of any replacement lease, the rent due for any period beyond the scheduled expiration of the Lease for such item; and (iii) in either case, all reasonable and necessary expenses, including reasonable legal fees, incurred in connection therewith. Any excess net proceeds are to be retained by Lessor. Lessor may pursue any other remedy available at law or in equity. No right or remedy is exclusive of any other provided herein or permitted by law or equity; all

such rights and remedies shall be cumulative and may be enforced concurrently or individually.

If Lessor is in default under this Agreement, Lessee's exclusive and sole remedy shall be (x) to terminate the applicable Lease or Financing Transaction and return the applicable items of Equipment to Lessor; and (y) to recover damages arising out of such default from Lessor, and all reasonable and necessary expenses, including reasonable legal fees, incurred in connection therewith.

**39. LESSOR'S EXPENSE.** Lessee shall pay Lessor all reasonable costs and expenses, including reasonable legal and collection fees, incurred by Lessor in enforcing the terms, conditions or provisions of this Agreement.

**40. OWNERSHIP; PERSONAL PROPERTY; LICENSED PROGRAM MATERIALS.** The Equipment under Lease is and shall be the property of Lessor. Lessee shall have no right, title or interest therein except as set forth in the Lease. The Equipment is, and shall at all times be and remain, personal property and shall not become a fixture or realty. Licensed programs that Lessee acquires and finances with Lessor remain the property of their licensor. Ownership of licensed programs is governed by the license agreement between the licensor and Lessee, and is not affected by this Agreement.

**41. NOTICES; ADMINISTRATION.** Service of all notices under the Agreement shall be sufficient if delivered personally or mailed to Lessee at its address specified in the Supplement or to IBM Credit Corporation as Lessor in care of the IBM location specified in the Supplement or invoice. Notices by mail will be effective on receipt or three (3) days after being deposited in the United States mail, duly addressed and with postage prepaid, whichever is earlier. Notices of default will be sent certified mail, or registered mail, or delivered in person and will be effective when received by the party. Notices, consents and approvals from or by Lessor will be given by Lessor or on its behalf by IBM and all payments will be made to IBM until Lessor notifies Lessee otherwise.

**42. LESSEE REPRESENTATION.** Lessee represents and warrants that, as of the date it enters into any Lease or Financing Transaction under this Agreement: (a) Lessee is a legal entity, duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and in each jurisdiction where Equipment and Financed Items will be located, with full power to enter into this Agreement and any transactions contemplated herein; (b) this Agreement and any Lease or Financing Transaction hereunder have been duly authorized and executed by Lessee and constitute valid, legal and binding agreements, enforceable in accordance with their terms; (c) the execution and performance by Lessee of its obligations under this Agreement and any Lease or Financing Transaction will not violate any judgment, order, law or governmental regulation affecting Lessee or any provision of Lessee's documents of organization, or result in a breach or default of any instrument or agreement to which Lessee is a party or to which Lessee may be bound.

**43. GENERAL.** Lessee agrees to take such further action and to execute such additional documents, instruments and financing statements as Lessor shall reasonably request to complete any Lease or Financing Transaction under this Agreement or to protect Lessor's interest in the Equipment or Financed Items.

This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which together shall constitute but one and the same document.

**44. APPLICABLE LAW; SEVERABILITY.** This Agreement will be governed by and construed in accordance with the laws of the State of New York. If any provision of this Agreement is held to be invalid or unenforceable, all other provisions shall remain in effect.



IBM Credit Corporation

Term Lease Master Agreement  
Attachment for State & Local Government

Name and Address of Lessee:

COUNTY OF FRESNO  
2281 Tulare St  
Fresno, CA 93721  
Branch Office Address:  
2929 North Central Ave  
Phoenix, AZ 85012

Agreement No.: PAH0316

Branch Office No.: PAH

Customer No.: 1949606

These terms and conditions modify those in the IBM Credit Term Lease Master Agreement and cover any Equipment and Financed Item(s) obtained by State and Local Governments and their political subdivisions as defined under Section 103 of the Internal Revenue Code of 1986, as amended. This attachment is incorporated by reference into the Term Lease Master Agreement executed by Lessee.

The following paragraphs are deleted in their entirety - 29, 36, 39 and 42.

Paragraph 8 - LEASE NOT CANCELLABLE; LESSEE'S OBLIGATIONS  
ABSOLUTE - add the following at the end of paragraph:

Lessee agrees to duly request the appropriation of funds for all payment amounts specified in the Supplement. If the funds Lessee requests for a fiscal year are not appropriated, Lessee will not be obligated to pay amounts due beyond the end of the last funded fiscal year. If a nonappropriation of this kind occurs, Lessee will promptly notify Lessor, the Lease and/or Financing Transaction will terminate at the end of the last fiscal year for which funds were appropriated and Lessee will not be in default. Lessee may retain the Equipment and/or Financed Items for a reasonable period of time beyond the termination and at a monthly charge, determined by Lessor. At the conclusion of such period of time, Lessor will remove the Equipment and/or Financed Items from Lessee's location and retain all sums paid as partial payment for their use and depreciation."

Paragraph 17 - RENEWAL - - after the second sentence add the following:

Lessee may renew the Lease with respect to a line item of Equipment with a fair market value purchase option one or more times but any renewal term may not extend beyond five (5) years from the date of installation of the Equipment."

Paragraph 18 - PURCHASE OF EQUIPMENT - at the end of the paragraph add the following:

"Lessee may also purchase any line item of Equipment with one dollar (\$1) end-of-lease purchase option prior to the expiration of the Lease. Lessee must notify Lessor of Lessee's intent to purchase at least one (1) month prior to Lease expiration. The effective date of purchase must be at least one (1) month following the date of Lessee's notice to Lessor. If the date of purchase is:

a. before the second anniversary of the Rent Commencement Date, the purchase price will be determined by multiplying the Unit Purchase Price stated on the Supplement by the applicable Purchase Option Percent for the second anniversary plus all Rent due through the second anniversary date;

b. on the second anniversary date or on any subsequent anniversary date, the purchase price will be determined by multiplying the Unit Purchase Price by the Purchase Option Percent;

c. after the second but between anniversary dates, the purchase price will be prorated between the prior anniversary purchase price and the upcoming anniversary purchase price.

The applicable Purchase Option Percents are stated in the Customer Bulletin "G Prime Purchase Option Codes" (Z125-4113) which is available upon request."

Paragraph 19 - OPTIONAL EXTENSION - replace the second sentence with the following:

The extension will be under the same terms and conditions that in effect, including current Rent (but for Equipment line items with a fair market value purchase option, not less than fair market rental value as determined by Lessor at the expiration of the Term) and will continue on a day-to-day basis until the earlier of termination by either party upon one (1) month prior written notice or five (5) years from the date of installation of the Equipment."

Paragraph 20 - INSPECTION; MARKING; FINANCING STATEMENTS - delete the last sentence and add the following to the end of the paragraph:

"Any provisions relating to signing financing statements or a power of attorney regarding the same, that may be contained in the Supplement are hereby deleted in their entirety."

Paragraph 26 - CASUALTY INSURANCE; LOSS OR DAMAGE - at the end of the paragraph add the following:

"Notwithstanding the above, Lessor hereby waives the \$5000 deductible for a Casualty Loss as provided for in this paragraph."

Paragraph 27 - TAXES - replace the entire paragraph with the following:

"All taxes on or measured by the net income of Lessor, any taxes arising under the Purchase Agreement, and any property taxes shall be for the account of Lessor. All other taxes of any description attendant to transactions under a Lease or Financing Transaction shall be for the account of Lessee, either by reimbursement of Lessor, or, at Lessor's request, directly paid by Lessee to the taxing authority."

Paragraph 30 - GENERAL INDEMNITY - replace the entire paragraph with the following:

All Leases under this Agreement shall be strictly net leases. Consequently unless specifically provided otherwise in this Agreement or a Lease hereunder, claims, costs and expenses of any description arising out of this Agreement shall be for the sole account of Lessee, except that Lessor shall bear responsibility, to the extent of its fault, for claims for personal injury or real and tangible personal property damage caused by Lessor's negligence."

Paragraph 37 - DEFAULT - subsection (g) is deleted in its entirety.

Paragraph 43 - GENERAL - delete the first sentence.

Paragraph 44 - APPLICABLE LAW; SEVERABILITY - replace the first sentence with the following:

Lessee's state laws shall govern this Agreement and any Leases and Financing Transactions hereunder."



IBM CREDIT CORPORATION

North Castle Drive  
Armonk, NY 10504-1785  
914/765-1900  
www.financing.ibm.com

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ADDENDUM TO TERM LEASE MASTER AGREEMENT

Enterprise No. 3554600      Term Lease Master Agreement No. PAH0316  
Customer No. 1949606      Addendum No. F1400401

Lessor and COUNTY OF FRESNO (Lessee) agree that the Term Lease Master Agreement between the parties is hereby modified as follows:

Paragraph 25 - Return of Equipment - at the beginning of the first sentence insert "If Lessee has not exercised a purchase option for the Equipment,".

- at the end of the paragraph insert the following:

"The fact that Lessee has maintenance or warranty agreement with the manufacturer of the Equipment covering the Equipment, shall be sufficient to establish that the Equipment met the aforesaid conditions relating to the return of the Equipment.

Paragraph 27 - Taxes - in the second sentence after "description" add ", including applicable sales or use tax,"

- at the end of the Paragraph as modified by the Attachment for State and Local Government, delete the "." and replace with a "," and add "provided however, Lessee shall not be responsible for any state or federal income tax, or penalties or interest thereon, if any, that may be imposed on the interest component of the Rent payments notwithstanding anything stated to the contrary in this Agreement, including Paragraph 30 hereof, entitled 'General Indemnity' ".

Paragraph 28 - Lessor's Payment - in line 5 after "Agreement", insert the words "after written notification and 10 days to cure". Add to end of the paragraph "Any increase in obligations which result from the delay caused by the notification requirement described above will be to the Lessee's account."

Paragraph 31 - Liability Insurance - at the end of the paragraph add the following:

"However, Lessee may, at its own cost and expense, maintain a program of insurance, self-insurance or risk-assumption or any

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NO CHANGES TO THIS ADDENDUM ARE AUTHORIZED

Addendum No. F1400401



IBM Credit Corporation

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combination thereof if Lessee does so generally, and not only with respect to the Lease. In such case Lessee shall not be required to obtain the liability insurance referred to above for the amounts covered by self-insurance or risk-assumption, provided Lessee shall provide Lessor with a letter evidencing the existence of such program or programs that shall protect Lessor and its assigns, and that shall be sufficient to enable Lessee to fulfill all of its obligations under this Agreement including, but not limited to, all of the obligations listed in the Paragraph entitled 'General Indemnity'."

Paragraph 32 - Sublease and Relocation of Equipment; Assignment by Lessee - in line 10 delete "or any Tax Loss" and replace with "in accordance with Paragraph 27".

Paragraph 33 - Assignment by Lessor - in the first sentence following "otherwise." add:

"The parties agree that Lessor may assign, at its sole option, the Lease to an investor or to a trust or similar pool of securities in which investors will receive fractional interest in the assets of of such pool. Lessor hereby agrees to remain as the active manager for all matters under this Lease for the entire term of the Lease. Lessor agrees that Lessee's name shall not be disclosed in any prospectus related to such offer in which investors receive fractional interest in the assets of such pool.

For the Lessor under this Agreement, the active management shall be and remain IBM Credit Corporation so that, for all matters under this Lease, Lessee may pay and otherwise deal exclusively with IBM Credit Corporation and Lessee may rely conclusively on the acts of IBM Credit Corporation with respect to the end of lease options."

Paragraph 37 - Default; No Waiver - beginning in line 8 delete the words "or Lessee fails to perform any of its obligations under any other Agreement it may have with Lessor,".

Paragraph 38 - Remedies - delete the entire Paragraph and replace with:

"Whenever any event of default referred to in Paragraph 37 shall have happened and be continuing with respect to any Lease or Financing Transaction, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps to the extent such action does not cause Lessee to be in violation of Lessee's debt limitation under California Constitution Article XVI, Section 18 and the laws thereunder:



IBM Credit Corporation

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- (a) Lessor, without terminating the Lease or Financing Transaction, may collect each installment of Rent Payments as it becomes due and payable in accordance with Lease or Supplement.
- (b) Lessor may terminate the Lease or Financing Transaction and any related Lease and Financing Transaction, and repossess the Equipment and any related Equipment, by giving Lessee written notice to deliver such Equipment and any related Equipment to Lessor, whereupon Lessee shall return the Equipment and any related Equipment in the manner provided in Paragraph 25; or in the event Lessee fails to do so within ten (10) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment and any related Equipment is kept and take possession of the Equipment and any related Equipment and charge Lessee for costs incurred in repossessing the Equipment and any related Equipment, including reasonable attorneys' fees.
- (c) If Lessor takes possession and disposes (whether by sale, lease or otherwise) of such Equipment and any related Equipment, or any portion thereof, Lessor shall apply the proceeds of any such disposition to pay the following items in the following order:
  - (1) all costs (including, but not limited to, attorney's fees) incurred in securing possession of the Equipment;
  - (2) all expenses incurred in completing the disposition;
  - (3) any sales or transfer taxes; and
  - (4) the balance of any Rent Payments with respect thereto as and when such Rent Payments will become due and payable.Any disposition proceeds remaining after the requirements of (1), (2), (3) and (4) above have been met shall be paid to Lessee.
- (d) By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, petition for the issuance of a writ of mandamus enforcing, for the entire balance of the Term, the duty of Lessee to appropriate and take all other administrative steps necessary for the making of Rent Payments.
- (e) Lessor may take any other remedy available at law or in equity with respect to such event of default, (without limitation) those requiring Lessee to perform any of its



IBM Credit Corporation

obligations hereunder or to pay any moneys due and payable to Lessor hereunder provided Lessor shall have no right to accelerate Rent Payments or otherwise declare any Rent Payments not then in default to be immediately due and payable.

If Lessor is in default under this Agreement, Lessee's exclusive and sole remedy shall be (x) to terminate the applicable Lease or Financing Transaction and return the applicable items of Equipment to Lessor and to recover damages arising out of such default from Lessor, and all reasonable and necessary expenses, including reasonable legal fees, incurred in connection therewith; or (y) to terminate the applicable Lease or Financing Transaction and pay Lessor the present value of the remaining payments and exercise Lessee's end of lease purchase option as determined in Paragraph 18."

Prepared by: A MIXCUS  
May 3, 2001

Accepted by:  
IBM Credit Corporation

COUNTY OF FRESNO

For or as Lessor:

by *K.D. Rodriguez*  
Authorized Signature  
K.D. RODRIGUEZ 6/4/01  
Name (Type or Print) Date  
F1400401/BP4

by *Daran Kolgarian*  
Authorized Signature  
JUN 19 2001  
Name (Type or Print) Date

This Addendum is valid if accepted by COUNTY OF FRESNO and IBM Credit Corporation no later than June 25, 2001.

ATTEST:

SHARI GREENWOOD, Clerk  
Board of Supervisors

By *[Signature]*  
Deputy

NO CHANGES TO THIS ADDENDUM ARE AUTHORIZED

Addendum No. F1400401



Date Prepared:

# TERM LEASE SUPPLEMENT

Customer No.: 1949606  
Customer Name and Address  
COUNTY OF FRESNO  
1020 S 10TH ST  
FRESNO , CA 93702-3508

Installed at Location  
COUNTY OF FRESNO  
1020 S 10TH ST  
FRESNO , CA 93702-3508

Supplement Number: C00963738  
IBM CSO Location: PAH  
IBM CSO Location Address  
PHOENIX CSO  
PO BOX 10349  
PHOENIX , AZ

Customer Reference: PO

Purchase Agreement Ref.: HQ12291

Term Lease Master Agreement No.: PAH0316  
Associated Supplement Nos.: C02251630 - 0  
Summary Supplement No.:  
Amendment Nos.: Q0224950705  
Addendum Nos.:  
Quote Letter No.: Q02249507 - 1

Line No.	Location/ Lessor Customer No.	Installed State	Leased or Financed Item: Type Model/Feature Description	Plant Order or MES No.	Serial No.	(*) Option	Purch. Option	Maint. Includ.	(*) Term	Unit Purchase Price/ Amount Financed	Rate \$/1000	Rent	(*)Estimated Commencement /Release Date	Inte Ri
1	1949606	CA	2710-NP1 INFOPRINT 2000	7YSHZH		G'	\$1		060			\$4,185	6/25/01	6
2	1949606	CA	2710-NP1 Shipping included			LG	\$1		060			\$3,760	6/25/01	

Supplier Name Supplier Customer No.

Fiscal Year Start Date (Month/Day)	(*) Security Deposit	Total Amount Financed (this page)	(*) Interim Rent Applies?	Total Rent (this page) Taxes May Apply	Payment Period MONTHLY IN ARRE/ Rent Commencement
07/01			NO	\$7,945	

(\*) See page 2 for explanations, definitions and additional terms.

FOR THESE LEASE RATES TO BE VALID, THIS SUPPLEMENT MUST BE SIGNED AND RECEIVED BY LESSOR BY: 6/25/01

THE TERM LEASE MASTER AGREEMENT REFERENCED ABOVE, THIS SUPPLEMENT AND ANY APPLICABLE ATTACHMENTS OR ADDENDA ARE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE AGREEMENT. THESE DOCUMENTS SUPERSEDE ANY PRIOR ORAL OR WRITTEN COMMUNICATIONS BETWEEN THE PARTIES. BY SIGNING BELOW, BOTH PARTIES AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF AGREED TO BY LESSEE AND LESSEE'S SUPPLIER, LESSEE AUTHORIZES LESSOR TO CHANGE THE AMOUNT FINANCED AND THE RESULTING PAYMENT SCHEDULE. LESSEE FURTHER AUTHORIZES LESSOR TO INSERT MACHINE SERIAL NUMBERS ON THIS SUPPLEMENT AS THEY BECOME AVAILABLE, WITHOUT FURTHER AUTHORIZATION FROM LESSEE. DELIVERY OF AN EXECUTED COPY OF ANY OF THESE DOCUMENTS BY FACSIMILE OR OTHER RELIABLE MEANS SHALL BE DEEMED TO BE AS EFFECTIVE FOR ALL PURPOSES AS DELIVERY OF A MANUALLY EXECUTED COPY. LESSEE ACKNOWLEDGES THAT LESSOR MAY MAINTAIN A COPY OF THESE DOCUMENTS IN ELECTRONIC FORM AND AGREES THAT A COPY REPRODUCED FROM SUCH ELECTRONIC FORM OR BY ANY OTHER RELIABLE MEANS (FOR EXAMPLE, PHOTOCOPY, IMAGE OR FACSIMILE) SHALL IN ALL RESPECTS BE CONSIDERED EQUIVALENT TO THE ORIGINAL. IF INDICATED HERE, THE FOLLOWING ATTACHMENTS SHALL APPLY TO AND BE INCORPORATED BY REFERENCE:

Accepted by:  
IBM Credit Corporation

For or as Lessor:

By: *[Signature]*  
Authorized Signature  
Name (Type or Print) Date

COUNTY OF FRESNO JUN 19 2001 Initial below  
to request an

By: *[Signature]*  
Authorized Signature  
ATTEST: IBM maintenance  
agreement on  
IBM Leased Items

Name (Type or Print) Date

SHARI GREENWOOD, Clerk  
Board of Supervisors





## TERM LEASE SUPPLEMENT

### Additional Terms and Conditions

Supp. No.: C00963738

#### OPTION CODES

- B Lease with fair market value end-of-lease options and Lessor is owner for tax purposes
- B+ Lease with fair market value end-of-lease options
- G Lease with fair market value end-of-lease options for tax exempt Lessees
- B' Lease with prelated end-of-lease options
- G' Lease with one dollar (\$1) end-of-lease purchase option and tax exempt interest for tax exempt Lessees
- B\$ Lease with one dollar (\$1) end-of-lease purchase option
- L Lease for used equipment
- LG Lease for used equipment for tax exempt lessees
- S Financing of IBM One-Time Charges
- S' Financing of IBM One-Time Charges with tax exempt interest for tax exempt Lessees
- T Financing of other one-time charges
- T' Financing of other one-time charges with tax exempt interest for tax exempt Lessees

#### TERM CODES

- CO Colerminous Lease - The Term for this Equipment shall expire at the same time as the Term for an associated item of Equipment.

#### PURCH. OPTION (PURCHASE OPTION CODES END-OF-LEASE ONLY)

- FM Fair market sales value at end-of-Lease NA Not Applicable
- CL Contact IBM Credit for purchase price \$1 Purchase price is one dollar (\$1.00) number . Prestated purchase percent - Purchase price will be the Unit Purchase Price times this percent.
- G Purchase Option Codes are specified in Customer Bulletin "G Prime Purchase Option Codes" (Z125-4113) which is available on request.

**INTEREST RATE.** The Interest Rate, if stated, is the Annual Percentage Rate (APR) which will never be exceeded for the transaction.

**RATE PROTECTION** The Rates stated on the Supplement are not subject to change provided the Supplement is signed and returned to Lessor by the date indicated on the face of the Supplement and (if applicable) the Equipment is installed or a signed certificate of acceptance ("COA") is received by the end of the month of the Estimated Commencement Date stated on the Supplement.

#### BASE EXTENSIONS

For Equipment designated as "Base Extension", this Supplement supersedes the prior Lease for this Equipment and incorporates the terms of the Term Lease Master Agreement effective for this Supplement, which terms may differ from those governing the superseded Lease.

**SUPPLEMENT OPTIONS.** When indicated on the face of the Supplement, the following terms and conditions shall apply to transactions indicated in this Supplement.

##### \* INTERIM RENT

Notwithstanding Paragraphs 13, 15 and 16 of the Agreement, the Rent Commencement Date shall be the first day of the first full Payment Period following the date that would otherwise constitute the "Rent Commencement Date" under Paragraph 13. Lessee will pay Interim Rent from the date that would otherwise constitute the "Rent Commencement Date" under Paragraph 13 to the Rent Commencement Date. Such interim Rent shall be prorated based on the Payment Period, that is 30 days for monthly, 90 days for quarterly, 182 days for semi-annually or 365 days for annually.

##### \* PAYMENT IN ADVANCE

Rent will be due on the first day of each Payment Period and (except for the Invoice for the first Payment Period) will be invoiced one month before its due date. The Invoice for any initial partial Payment Period and the first full Payment Period will be issued on the first day of the first full Payment Period following the date of installation.

##### \* PAYMENT IN ARREARS

Rent will be invoiced in advance as of the first day of each Payment Period and will be due on the day following the last day of the Payment Period.

##### \* SECURITY DEPOSIT

As a condition to Lessee entering into the transactions indicated in the Supplement, Lessee has granted Lessor a security deposit in the amount indicated on the face of this Supplement, to secure Lessee's payment obligations hereunder. Lessor may apply any portion of the security deposit against any payment default and shall hold the security deposit until Lessee's obligations under the Agreement are satisfied in full.

**TAX EXEMPT REQUIREMENTS (For Options G, S' and T)**

Lessee represents that Lessee qualifies as a State or political subdivision of a State for purpose Section 103(a) of the Code. Any misrepresentation of Lessee's status under Section 103(a) is an event of default under the Agreement. Lessee shall comply with all information reporting requirements Code Section 149(e) and Treasury Regulations thereunder. Lessee shall file the appropriate Internal Revenue Service (IRS) Form 8038-G or 8038-GC. Lessee shall pay Lessor, on demand, a sum determined by Lessor, that will return to Lessor the economic results Lessor would otherwise have received if:

1. Lessee does not file the above IRS form on a timely basis; or
2. IRS rules Lessee does not qualify under Section 103(a) of the Code

#### AUTHORITY TO SIGN FINANCING STATEMENTS

Lessee authorizes Lessor or its agent as attorney in fact for the limited purpose of executing in Lessee name and filing any Uniform Commercial Code financing statements or similar documents. Such authorization shall not constitute a general power of attorney from Lessee, shall be narrowly construed and shall not be effective for any purpose other than to execute UCC-1 filings relating to the Equipment listed on this Supplement. However, Lessor will not prepare, execute or file financing statements similar documents for Option B, G, G' or LG.

#### WARRANTY DISCLAIMER

**EXCEPT FOR LESSOR'S WARRANTY OF QUIET ENJOYMENT, LESSOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO, THE CAPABILITY OF THE EQUIPMENT OR PROGRAMMING TO CORRECT PROCESS, PROVIDE AND/OR RECEIVE DATE DATA WITHIN AND BETWEEN THE 20TH / 21ST CENTURIES, AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**LEASE AGREEMENT AMENDMENT.** The following terms and conditions only apply to Term Lease Master Agreements signed prior to January 1997.

##### \* TERM

The initial Term of the Lease or Financing transaction shall begin on the Rent Commencement Date and shall expire at the end of the number of months under "Term" in the Supplement.

##### \* OPTIONAL EXTENSION

For purposes of the Optional Extension paragraph in the Agreement, the Rent shall be calculated as the sum of the Lease payments over the initial Term divided by the initial Term of the Lease for Options B, B+ or L not less than fair market rental value.

##### \* TERMS FOR USED EQUIPMENT

This Equipment is provided without any warranty by Lessor, in accordance with Paragraph 9, subject to prior disposition at any time prior to Lessor's signature on the Supplement. Rent Commencement Date will be the earlier of installation or 14 days after Release Date. Lessee pays of 3 months Rent as liquidated damages is required if Lessee cancels its commitment to lease Lessor's Supplement acceptance but before the Equipment is delivered and accepted by Lessee. Lease expiration notice shall be as soon as practicable if the Term is 3 months or less. If Equipment is unmodified, manufactured and assembled by or for IBM and IBM installs and maintains Equipment, Lessee may exercise the Lessor's quality satisfaction guarantee within 90 days of Release Date. At Lessor's option, the Equipment will either be replaced with equivalent Equipment or returned to Lessor and the Lease terminated with any Rent payments made to Lessor refunded.

##### \* TERMS FOR NON-IBM EQUIPMENT AND FOR EQUIPMENT NOT SOURCED FROM IBM

Notwithstanding anything to the contrary in the Agreement, for purpose of this Supplier "Lessee's Supplier" shall be the party with whom Lessee has contracted to purchase Equipment, lease program materials or acquire services leased or financed herein. Any occurrences of "effective Date for Additional License" in the Agreement are deleted. Any reference to "Estimated Shipment Date" shall mean "Estimated Commencement Date". The Rent Commencement Date shall be the date Lessee designates on the COA. Any terms and conditions applicable to Option shall also apply to Options B+ and L. Lessee shall return the Equipment in good condition working order, wear and tear excepted and qualified for the manufacturer's approved maintenance service. Should Lessee elect to alter or modify the Equipment, any Lessor-owned Parts that Lessee removes shall remain Lessor's property and Lessee is not permitted to make such Parts available for sale, transfer, exchange or other disposition without Lessor's prior written consent. If Lessee consents to a disposition of the removed Parts, the restoration must be with parts Lessor owns supplies, or those supplied by a source approved by Lessor.



IBM CREDIT CORPORATION

North Castle Drive  
Armonk, NY 10504-1785  
914/765-1900  
www.financing.ibm.com

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ADDENDUM TO TERM LEASE SUPPLEMENT

Enterprise No. 3554600      Term Lease Master Agreement No. PAH0316  
Customer No. 1949606      Supplement No. C00963738

Lessor and COUNTY OF FRESNO (Lessee) agree that for the purposes of the referenced Supplement only, the Term Lease Master Agreement between the parties is hereby modified as follows:

Paragraph 8 - Lease Not Cancellable - in the second sentence as modified by the Attachment for State and Local Government, delete "due beyond the end of the last funded fiscal year.", delete the third sentence in its entirety, and replace with "due beyond the later of (i) the last funded fiscal year or (ii) Lessor's receipt of Lessee's notice of nonappropriation (each a "Nonappropriation Event"). Upon either Nonappropriation Event, the Lease and/or Financing Transaction will terminate and Lessee will not be in default.

- in the fourth sentence delete "determined by Lessor" and replace with "not to exceed the monthly Rent".

Paragraph 17 - Renewal - delete the entire paragraph.

Paragraph 18 - Purchase of Equipment - at the end of the paragraph as modified by the Attachment for State and Local Government, delete "available upon request" and replace with "attached hereto and incorporated by reference".

Paragraph 19 - Optional Extension - delete the entire paragraph.

Paragraph 34 - Financing - strike the entire paragraph.

Paragraph 35 - Financing Prepayment - strike the entire paragraph.

On the back of the Supplement, in the "Tax Exempt Requirements" section, in the last sentence, replace "demand, a sum to be determined by Lessor that will return to Lessor the economic results Lessor would otherwise have received" with "thirty days notice a sum that is equal to the amount of additional interest which would have been paid up to that point if Lessee had not been given tax-exempt rates, and Lessee options shall be to (i) accept amendment of the Rent Payment schedule to reflect non tax-exempt rates or (ii) prepay remaining balance in full without penalty, "

---

NO CHANGES TO THIS ADDENDUM ARE AUTHORIZED

May 3, 2001

Addendum No. Q02249507-05



IBM Credit Corporation

- at the end of the section add the following:

"Notwithstanding anything contained in this Agreement or this section of the Supplement, Lessee makes no warranty or representation, either express or implied, regarding the tax treatment or tax effect of any interest paid or received under this Agreement."

Prepared by: W FLYNN

Accepted by:  
IBM Credit Corporation

COUNTY OF FRESNO JUN 19 2001

For or as Lessor:

by Mary Russell  
Authorized Signature

by Deron Koligian  
Authorized Signature

Mary Russell 5/25/01  
Name (Type or Print) Date

\_\_\_\_\_  
Name (Type or Print) Date

A249507E/BP4

ATTEST:  
SHARI GREENWOOD, Clerk  
Board of Supervisors  
By [Signature] Deputy

NO CHANGES TO THIS ADDENDUM ARE AUTHORIZED

May 3, 2001

Addendum No. Q02249507-05





Credit Corporation

## Information Bulletin for Customers

### LG \$1.00 & G PRIME (G') PURCHASE OPTION CODES

For Equipment under a Option LG \$1.00 Lease and Option G Prime (G') Lease, the following table is used in conjunction with the paragraph in the Term Lease Master Agreement (State and Local Government) entitled [Purchase of Equipment].

Initial Lease Term	Purchase Option Percent Rent Commencement Anniversary			
	2nd	3rd	4th	End of Lease
36	46			0
37	47	3		0
38	49	6		0
39	50	9		0
40	52	12		0
41	53	15		0
42	55	18		0
43	56	22		0
44	57	25		0
45	59	28		0
46	60	31		0
47	62	34		0
48	63	37		0
49	64	38	3	0
50	65	40	5	0
51	66	41	8	0
52	68	42	10	0
53	67	44	13	0
54	68	45	15	0
55	69	46	18	0
56	70	48	20	0
57	71	49	23	0
58	71	50	25	0
59	72	52	28	0
60	73	53	30	0



International Business Machines Corporation

Please direct inquiries and correspondence to

IBM CORPORATION  
2929 N Central Ave  
Phoenix AZ 85012  
Tel 877-426-6006

Customer Number

1949606-02

Invoice Number Invoice date

F984712 08/01/2001

Page

1 of 1



Installed at

County Of Fresno  
1821 Fulton St  
Fresno, CA 93721-1014

County Of Fresno  
Business Off  
1821 Fulton St  
Fresno, CA 93721-1014

Customer reference

AGMT 01 246  
TERM LEASE C00963738

Please remit payments to

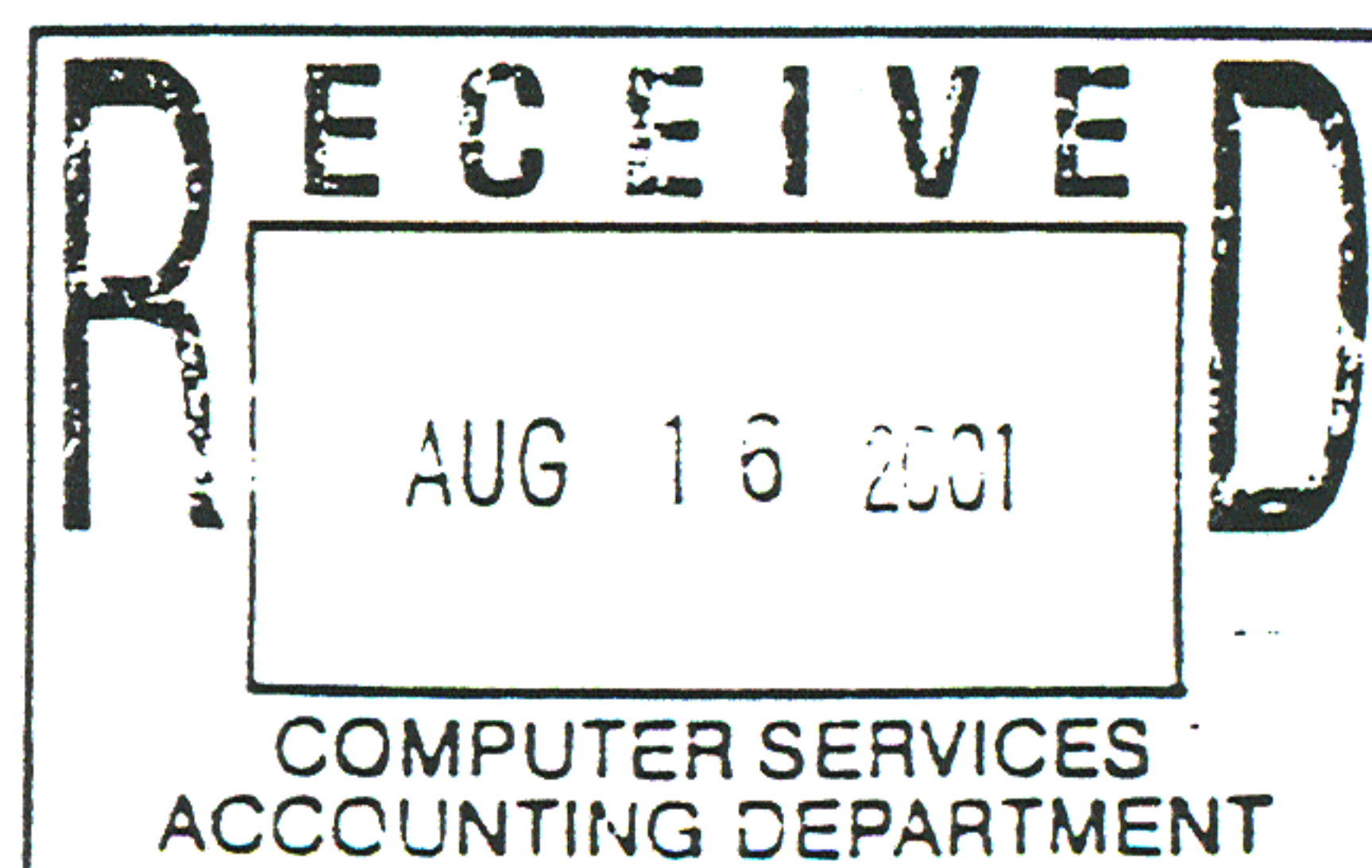
PO Box 61000 Dept 1896  
San Francisco CA 94161

Terms

PAYMENT IS DUE BY THE FIRST  
DAY OF THE MONTH FOLLOWING  
THE INVOICE DATE

INVOICE FOR IBM CREDIT CORPORATION FINANCING

TYPE/DESCRIPTION MOD/SERIAL	LSE OPT	FROM DATE	THRU DATE	PERIODIC CHARGE	TAX AMOUNT	NET AMOUNT EXCLUDING TAXES
REGULAR PERIODIC INVOICE-PAYMENT IN ARREARS						
2710 INFOPRINT 2000						
IP1 0000235	G'	08/01/01	08/31/01	4,185.00	319.11	4,185.00
IP1 0000225	G'	08/01/01	08/31/01	3,760.00	286.70	3,760.00
TOTALS						7,945.00
STATE AND LOCAL TAX						605.81
LOCATION TOTAL FOR CUSTOMER NUMBER: 3554085-01						8,550.81
CUMULATIVE TOTALS						8,550.81



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International Business Machines Corporation

For direct inquiries and correspondence to:  
IBM CORPORATION  
29 N Central Ave  
Phoenix AZ 85012  
877-426-6006

Customer Number  
1949606-02

Invoice Number: Invoice date  
F984712 08/01/2001

Page  
1 of 1



located at:  
County Of Fresno  
21 Fulton St  
Fresno, CA 93721-1014

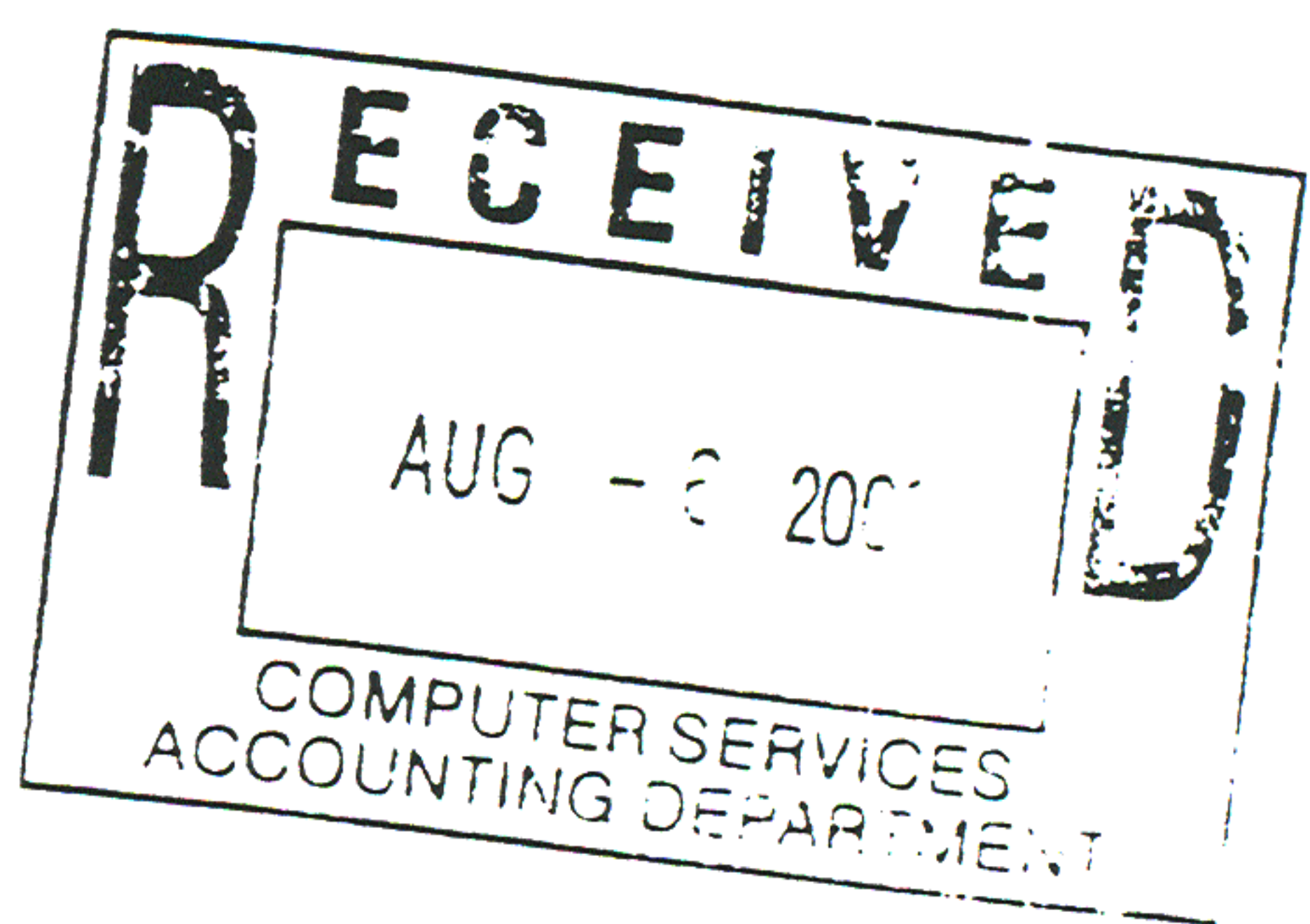
County Of Fresno  
Business Office  
1821 Fulton St  
Fresno, CA 93721-1014

Customer reference  
MT 01 246  
ARM LEASE C00963738  
Please remit payments to:  
Box 61000 Dept 1896  
San Francisco CA 94161

Terms: PAYMENT IS DUE BY THE FIRST  
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INVOICE FOR IBM CREDIT CORPORATION FINANCING

LINE/DESCRIPTION SERIAL	LSE OPT	FROM DATE	THRU DATE	PERIODIC CHARGE	TAX AMOUNT	NET AMOUNT EXCLUDING TAXES
REGULAR PERIODIC INVOICE-PAYMENT IN ARREARS						
INFOPRINT 2000						
0000235	G'	08/01/01	08/31/01	4,185.00	319.11	4,185.00
0000225	G'	08/01/01	08/31/01	3,760.00	<del>300.80</del>	3,760.00
LS					286.70	7,945.00
AND LOCAL TAX						<del>619.91</del> 605.81
GRAND TOTAL FOR CUSTOMER NUMBER: 3554085-01						8,564.91
GRAND TOTALS						8,564.91





International Business Machines Corporation

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IBM CORPORATION  
2929 N Central Ave  
Phoenix AZ 85012  
Tel 877-426-6006

Customer Number

1949606-02

Invoice Number Invoice date

W984712 08/01/2001

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Installed at

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AGMT 01 246  
TERM LEASE C00963738

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TYPE/DESCRIPTION MOD/SERIAL	LSE OPT	FROM DATE	THRU DATE	PERIODIC CHARGE	TAX AMOUNT	NET AMOUNT EXCLUDING TAXES
REGULAR PERIODIC INVOICE-PAYMENT IN ARREARS						
2710 INFOPRINT 2000						
NP1 0000235	G'	07/12/01	07/31/01	4,185.00	212.74	2,790.00
NP1 0000225	G'	07/12/01	07/31/01	3,760.00	191.13	2,506.60
TOTALS						5,296.60

STATE AND LOCAL TAX

403.87

LOCATION TOTAL FOR CUSTOMER NUMBER: 3554085-01  
CUMULATIVE TOTALS

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5,700.47

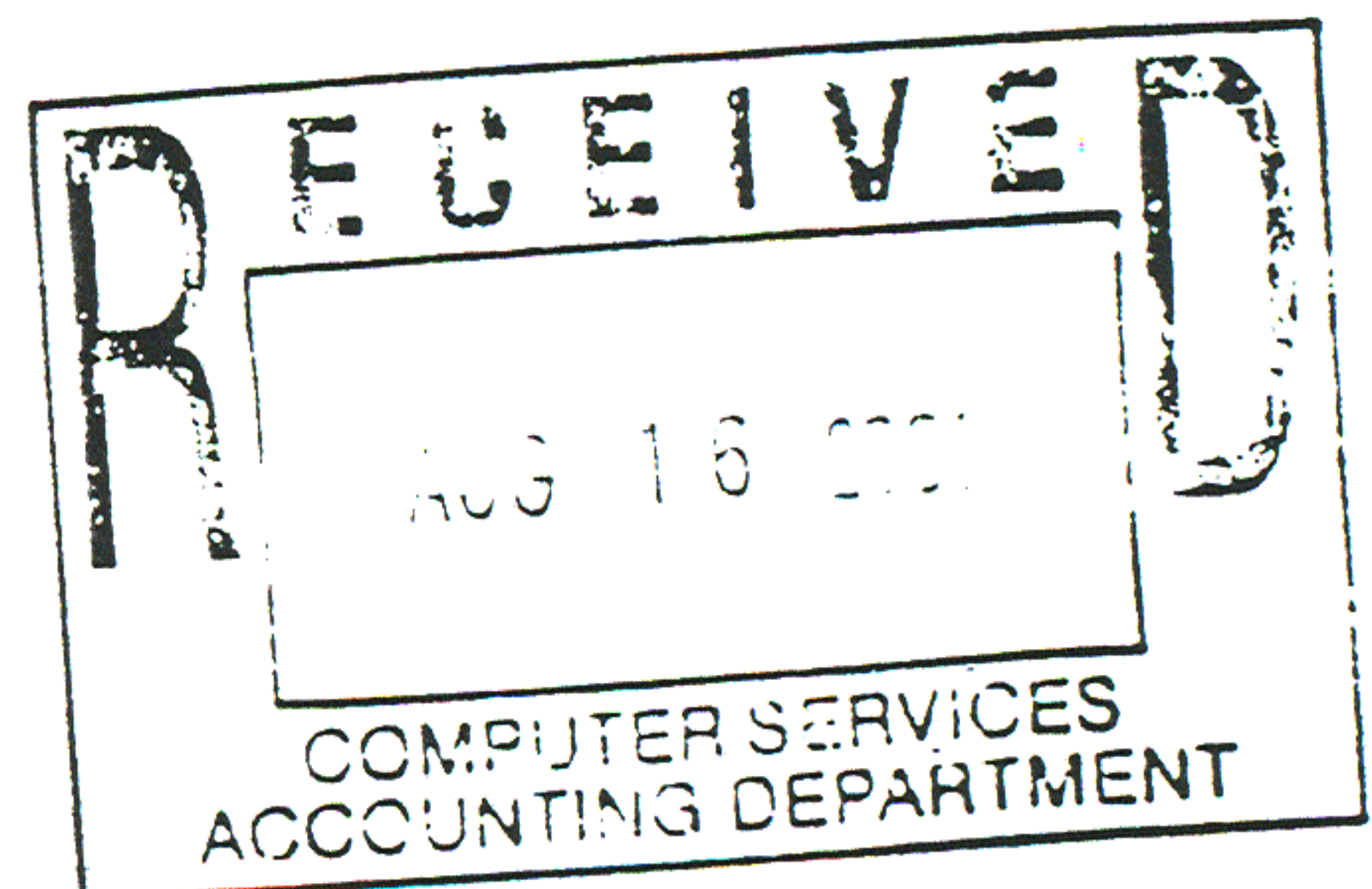
INFO PRNT LTD  
VID 0000000243 LOC

Acct

7887

7869

7825



8905 0000 08-82 -610 0000

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IBM CORPORATION  
2929 N Central Ave  
Phoenix AZ 85012  
Phone 377-426-6006

Customer Number  
1949606-02

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W984712 08/01/2001

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1 of 1



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Customer reference

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TERM LEASE C00963738

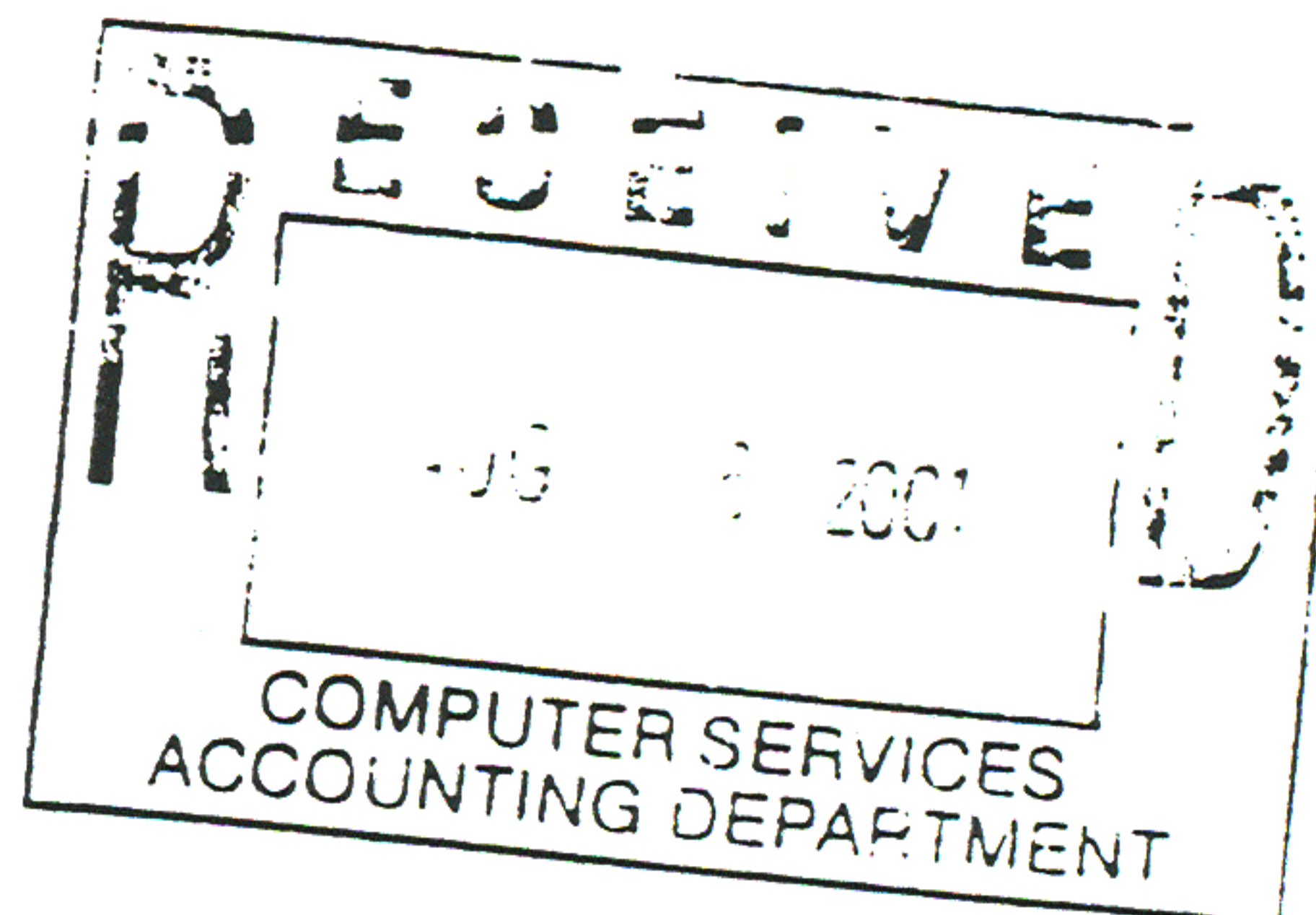
Please remit payments to

PO Box 61000 Dept 1896  
San Francisco CA 94161

Terms PAYMENT IS DUE BY THE FIRST  
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TYPE/DESCRIPTION MOD/SERIAL	LSE OPT	FROM DATE	THRU DATE	PERIODIC CHARGE	TAX AMOUNT	NET AMOUNT EXCLUDING TAXES
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2710 INFOPRINT 2000						
NP1 0000235	G'	07/12/01	07/31/01	4,185.00	212.74	2,790.00
NP1 0000225	G'	07/12/01	07/31/01	3,760.00	<del>200.53</del> 191.13	2,506.60
TOTALS						5,296.60
STATE AND LOCAL TAX						413.27
LOCATION TOTAL FOR CUSTOMER NUMBER: 3554085-01						5,709.87
CUMULATIVE TOTALS						5,709.87





International Business Machines Corporation

Please direct inquiries and correspondence to

Customer Number

Invoice Number

Invoice date

Page

245 CONSUMERS RD 3FL  
NORTH YORK, ONT. M2J1R3  
CANADA

1949606-DB

558786S

OCT. 17, 2001

1

Or call IBM at: (800) 341-3661  
EMAIL: HSI@CA.IBM.COM



Installed at

COUNTY OF FRESNO  
1821 FULTON ST  
FRESNO CA 93721-1014

COUNTY OF FRESNO  
BUSINESS OFF  
1821 FULTON ST  
FRESNO CA 93721-1014

Customer reference

MARTIN 5594555029

Please remit payments to

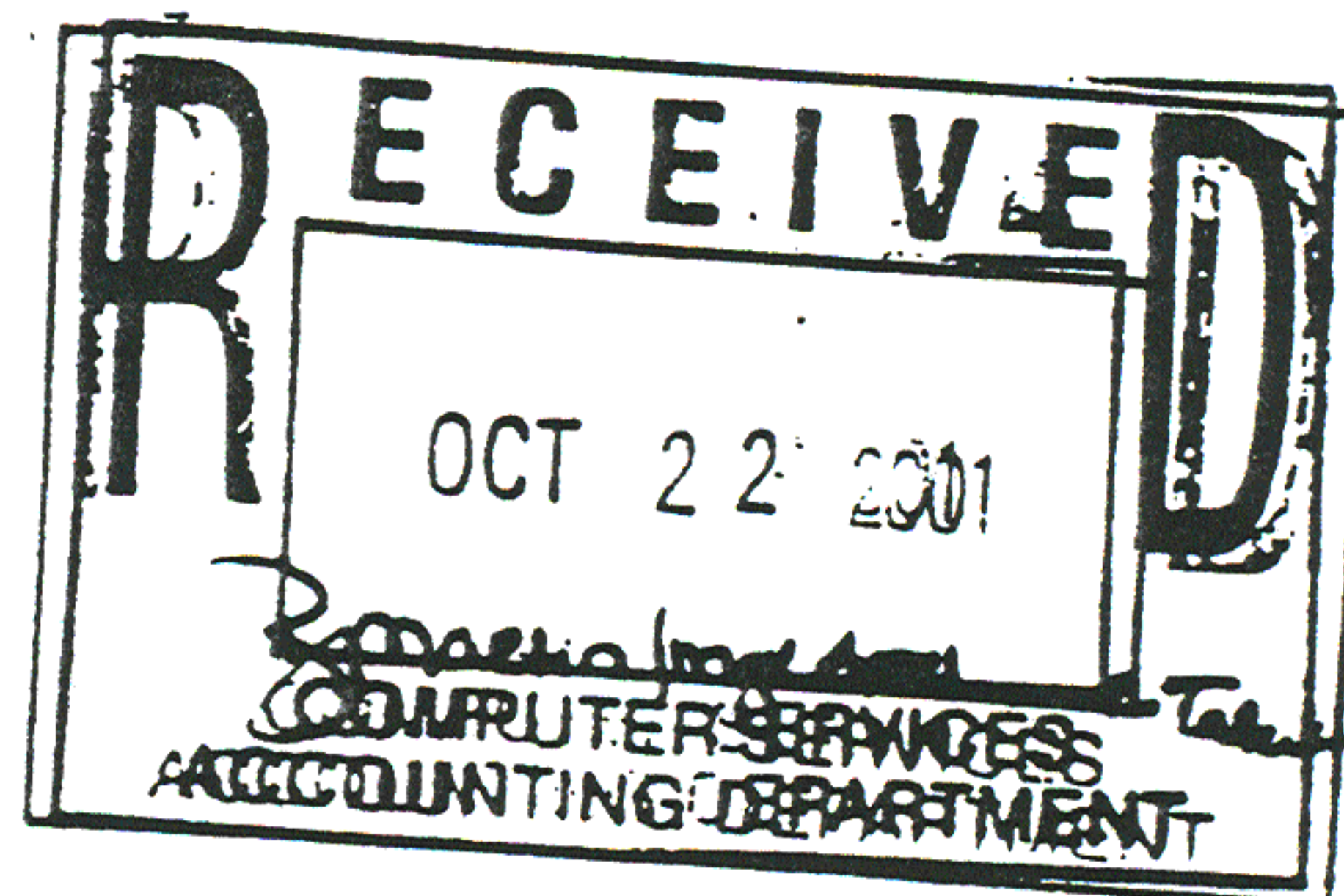
Terms

PAYMENT DUE UPON RECEIPT OF  
INVOICE - LATE PAYMENT FEE  
MAY APPLY

FILE 47250  
LOS ANGELES, CA 90074-7250

INVOICE FOR SERVICE AND/OR PARTS

TYPE/SERIAL DESCR./PART NUMBER	DATE	BILLABLE START STOP	HRS/ QTY	UNIT RATE/ PRICE	AMOUNT
2710 0000235 INFOPRINT 2000					
SERVICE-OUTSIDE IBM HOURS	10/15	7.7 8.0	0.3	372.00	111.60
MINIMUM CHARGE APPLIES					64.40
SERVICE-INSIDE IBM HOURS		8.0 9.5	1.5	322.00	483.00
MINIMUM CHARGE APPLIES					64.40
EXPENSES (E.G., MILEAGE, PARKING, TOLLS)					10.88
SERVICE DESCRIPTION: PREVENTATIVE MAINTENANCE					
TOTAL					669.88



RIGHTS TO PAYMENT WITH RESPECT TO THIS INVOICE MAY HAVE BEEN ASSIGNED TO IBM RECEIVABLES  
MASTER TRUST I.

EFFECTIVE JULY 31 2001, IBM WILL REQUIRE CREDIT CARD INFORMATION PRIOR TO  
SCHEDULING SERVICE CALLS ON EQUIPMENT NOT UNDER WARRANTY OR MAINTENANCE  
AGREEMENT. MORE INFORMATION AT [WWW.IBM.COM/SERVICES/ITS/US/MAINTFAQ.HTML](http://WWW.IBM.COM/SERVICES/ITS/US/MAINTFAQ.HTML)