CITY CLERK ORIGINAL

C-8656-1
07/29/2014

KONICA MINOLTA

Advantage CPC Maintenance Contract

Sold To: (legal name)

Name: City of Glendale Water Services Account Number: 1265642
Address Line 1.
Address Line 2:
Street Address 7070 W. Northern Ave
City: Glendale State: AZ Zip 85303

Ship To:

Name: Same Account Number: 1265642
Address Line 1
Address Line 2:
Street Address.
City: State: Zip:

Tax Exemption ☑ No ☐ Yes (Certificate required) Tax Exemption Number

PO Required ☑ No ☐ Yes (Copy required) PO Number: None PO Expiration Date:

Advantage CPC Maintenance Plan

Cost Per Copy
☑ With Supplies ☐ Without Supplies - Purchased Separately

Effective Date: 7/1/14-6/30/15

Billing for CPC contract: ☐ Monthly ☐ Quarterly ☑ Annually
Overages billed: ☐ Monthly ☐ Quarterly ☑ Annually

Contract Term (Months): ☐ 12 ☐ 24 ☑ 36 ☐ 48 ☐ 60

Product Covered Under Contract:

Item	Model Description	Serial Number	Type	Start Meter Read	Monthly Min Volume	CPC	Monthly Min $	Overage CPC
1			C		2,000	$ 0 05000	$100.00	$ 0.05000
	Bizhub C652	A0P0011005819	B/W		Unlimited	N/A	$149 74	
2			C					
			B/W					
3			C					
			B/W					
4			C					
			B/W					
5			C					
			B/W					
6			C					
			B/W					

Comments:
Maintenance renewal includes all supplies including toner, staples, repairs Purchase order not required Total annual bill will be $2,996 88 plus any color overages exceeding 24,000.

Customer's signature below acknowledges receipt and consent to KMBS Advantage Maintenance Terms and Conditions "Schedule A" dated 02-01-10. Not binding on KMBS until signed by KMBS Manager.

Customer Name: THOMAS RELUCIO (Please Print)
Signature: (Authorized Representative of Customer) Date: 7/21/14
Title: Sr. MANAGEMENT ASST.

KMBS Representative: Chip Ryan Date: 6/17/2014
KMBS Manager: Steve Fields Date: 6/17/2014

FOR INTERNAL USE

☐ New Customer ☐ Maintenance w/ Equipment Order ☑ Maintenance Only ☑ Maintenance Billed by KMBS ☐ Maintenance Billed by Lease Company ☐ Dealer Serviced

PE #
Promotion #
Agreement #: ADSPO12-015851
Price Plan #:
Subfleet #:
Customer Code 1:
Customer Code 2:
Customer Code 3:

Key Operator Contact:	Thomas Relucio	Phone:	623-930-4124	Email Addr.	trelucio@glendaleaz.com
Meter Read Contact	Same	Phone:		Email Addr:	
Accounts Payable Contact:	Sally Melling	Phone:	623-930-4124	Email Addr:	spmelley@glendaleaz.com

Special Instructions:
Purchase order not required.

Additional Documents Attached:
☐ Price Exception ☐ Tax Exempt Certificate
☐ Purchase Order ☐ Credit Application

	Sales Rep Number	Sales Rep Name (Please Print)	Sales Rep Email Address
Originating:	9416847	Chip Ryan	chip.ryan@kmbs.konicaminolta.us
Order Taking:	9416847	602-798-7341	
Servicing:	9416847		

Contract Processed ☑ Windsor, CT ☐ Branch Phx (Branch Name) Sales District: 94109

KONICA MINOLTA

June 16, 2014

Purchase Order Renewal Notice

CITY OF GLENDALE
7070 W NORTHERN AVE
GLENDALE AZ 85303

Dear Valued Customer:

Please be advised that your Purchase Order NOT REQUIRED with Konica Minolta Business Solutions will expire on 06/30/2014. In order to avoid an interruption in the provision of service and supplies, please provide a renewal purchase order prior to expiration. Your Renewal Purchase Order should reflect an expiration date of 06/30/2015, as well as reference the data below. If your purchase order includes units that are not referenced below, please include them on your renewal. The pricing below does not include tax, if applicable:

Model	Serial #	Meter Type	Meter Freq.	Freq Allowable Copies	Ovg. Rate	Annual Base Rate	Base Freq
**bizhub C652 Printer/C	A0P0011005819	Black	ANN	No minimum		1,796.88	ANN
		Color	ANN	No minimum	0.05000	0.00	ANN

In the event your Purchase Order lapses, all service and supplies will be charged at then current Konica Minolta rates and will require a credit card for processing.

To avoid a lapse in coverage, please complete this form and return to the address, fax, or Email listed below.

If you are renewing, please check one of the following and include your Purchase Order, if required:

1 _____ PO for maintenance coverage is attached.

2 ✓ Process renewal - Maintenance PO is not required.

3 _____ Maintenance is not desired - agree to pay for service and supplies at then current Konica Minolta rates.

Signature is required for option 2 or 3.

Customer Signature	Title	Date
	Sr. MANAGEMENT ASST.	7/21/2014

KMBS STANDARD MAINTENANCE TERMS AND CONDITIONS "SCHEDULE A"

(Revised 02-01-10)

The following terms and conditions apply to the provision of maintenance services by Konica Minolta Business Solutions U.S.A., Inc. ("KMBS") to Customer during the term of this Agreement:

1. **PAYMENT:** Payment is due within thirty (30) days from the date of the invoice. Should the customer fail to make any payment due hereunder, or be or become insolvent or be a party to or acquiesce in any bankruptcy or receivership proceeding or any similar action affecting the affairs or property of Customer, or violate any aspect of this Agreement, KMBS may (1) refuse to continue to service the equipment or provide Consumable Supplies and may enter Customer's premises to recover any property or equipment owned by KMBS or (2) furnish service on a time, travel and material basis, without prejudice to any other remedies KMBS may have. If Customer fails to make any payment when due pursuant to this Agreement, there will be a service charge of one and one-half percent (1 1/2%) per month of the total amount due or the maximum legal interest rate allowed by law, whichever is less. Reasonable costs, including counsel fees, shall be recoverable by KMBS in the event collection activities, including litigation, are required to collect outstanding amounts due under this Agreement. NO CASH PAYMENTS ACCEPTED. Acceptad manners of payment are by major credit card or checks made payable to KMBS

2. **METER READINGS:** Customer will provide accurate and timely meter readings at the end of each billing period in a manner prescribed by KMBS KMBS charges for each copy or print, performed by the KMBS equipment included in this Agreement. A copy or print shall be defined as the generation of any document or image on the KMBS equipment. For purposes of this Agreement, all such uses of KMBS equipment shall be referenced herein as a "copy" KMBS shall have access to monitor the meter readings and if meter readings are not received in a timely manner, KMBS may obtain or estimate them and Customer agrees to pay for maintenance services based on estimated meter readings Customer shall not alter or attempt to alter actual meter reading. Each 8½" x 11" copy will be recorded as a single meter click. Each 11" x 17" copy will be recorded as a double meter click. Duplexed copies shall be counted at twice the rate of simplexed copies. For models equipped with banner printing capabilities, the following meter click charges shall apply 18" to 27" = 3 clicks, 27" to 36" = 4 clicks, 36" to 47" = 5 clicks.

3 **SITE PREPARATION & ACCESS:** Customer shall ensure that equipment is placed in an environment that conforms with the manufacturer's specifications and requirements and will bear all cost and expense for any additional necessities required for installation such as telephone and electrical wiring, remodeling, and noise and power filters. Any electrical work external to the equipment (i.e associated peripheral equipment, power, transmission and phone lines, and modems) and equipment line cord are not covered by this Agreement. Customer shall provide KMBS' personnel with free and full access to the equipment and any necessary operating time for the purposes of furnishing maintenance services Customer shall arrange and insure that one of its employees is present at all times when KMBS personnel perform maintenance services. Relocation or make ready shipment of equipment is not covered by this maintenance Agreement. This service, when requested, will be at the then billable rate of KMBS

4 **COMMENCEMENT OF SERVICE** The equipment must be in good condition on the commencement date of this Agreement. KMBS charges for parts and labor required to place the equipment in such condition unless covered under any applicable warranties or a continuous maintenance Agreement. KMBS will invoice the customer and this will be in addition to the price set forth on the front hereof

5. **ADDITIONAL EQUIPMENT** No maintenance service for additional or substituted equipment will be provided by KMBS until it is accepted by KMBS, in writing, for coverage KMBS reserves the right to adjust the coverage period for any additional or substituted equipment to assure common renewal dates.

6 **SERVICE INCLUDED:** KMBS' obligations under this Agreement is to provide Basic Maintenance Service on the equipment covered by this Agreement. Basic Maintenance Service is defined as that level of maintenance necessary to maintain the equipment in normal operating condition as set forth in the equipment specifications Basic Maintenance Services includes labor and/or routine remedial and preventive maintenance service as well as remedial parts and Consumables Supplies, if this option is selected, as defined in section 24 All part replacements shall be on an exchange basis with new or refurbished items Emergency service calls will be performed at no extra charge during normal business hours. Unless otherwise indicated, normal business hours are 8:30 a m to 5:00 p m., Monday through Friday, exclusive of holidays observed by KMBS Overtime charges, at KMBS' then current rate, will be charged for all service calls outside normal business hours. In addition to any other rights hereunder, KMBS reserves the right to delete discontinued equipment from this Agreement if parts become unavailable for discontinued equipment.

7. **PREVENTIVE MAINTENANCE:** Preventive Maintenance shall be performed on the equipment at the intervals defined by the Technical Service Manuals for the particular model. Preventive Maintenance will include cleaning, lubrication, adjustment, and may be made at the same time remedial service is being performed. KMBS technicians do not carry or deliver consumable supplies (toner, developer, etc.) It is the Customer's responsibility to have the necessary supplies available for the Technician's use.

8. **vCARE MONITORING.** KMBS will deploy and enable its vCARE Solution, which is a Device Relationship Management (DRM) system that interacts with KMBS product(s) for the purpose of automated meter reading, technical performance monitoring, consumable and supply-level monitoring for replenishment, and product status (and as described in KMBS' Digital Needs Analysis). Should Customer opt-out of utilizing vCARE, KMBS reserves the right to assess an incremental invoicing fee not to exceed twenty five dollars ($25) per invoice.

9 **SELLER'S AGENTS:** Customer acknowledges that it has been advised that no agent, employee, or representative of KMBS has any authority to bind KMBS to any affirmation, promise, representation, or warranty concerning any of the equipment or services Unless an affirmation, promise, representation, or warranty is specifically set forth in this Agreement it does not form a basis of this bargain and shall not be enforceable against KMBS

10. **DISCLAIMER:** This Agreement does not cover service required due to malfunction of parts, attachments, or supplies of non-KMBS manufacture. When the use of a particular supply item may cause machine damage or require excessive servicing, KMBS, upon notice to Customer, will not continue remedial or preventive service for that equipment By introducing supplies of differing manufacture into the KMBS equipment Customer accepts the responsibility to pay for any remedial or corrective service required. Any alterations, modifications or changes to the equipment by someone other than KMBS, including Customer, may result in termination of this Agreement. Without prior authorization, this Agreement does not apply to any equipment which ceases to be at the customer location described on the front side hereof This Agreement does not apply to any equipment lost or damaged through accident, abuse, misuse, theft, neglect, acts of third parties, fire, water, casualty or any other natural force, and any loss or damage occurring from any of the foregoing is specifically excluded from this Agreement. Customer warrants and represents that the equipment will be used for business purposes, and not for personal, family, or household purposes

11 **AUTOMATIC RENEWAL:** Service on individual equipment shall automatically be extended for successive one year terms at the rates being charged by KMBS at the time of renewal unless Customer or KMBS provides the other party thirty (30) days written notice before the end of the current term of its intention not to renew this Agreement. Upon renewal, either party may cancel this Agreement, with or without cause, upon thirty (30) days written notice to the other party Upon cancellation pursuant to this paragraph, Customer will be billed for service through the effective date of cancelation In the event this Agreement is canceled or not renewed, Customer shall return any unused Consumable Supplies to KMBS. Should the Customer fail to return any unused Consumable Supplies, KMBS reserves the right to charge for any unused Consumable Supplies at the then current rate for such supplies

12. **ESCALATION: At the end of the first year of this agreement and once each successive twelve month period, we may increase your payment and the cost per copy charge over the pages included (overage) by a maximum of 10% of the existing charge.**

13. **EARLY TERMINATION CHARGE:** In the event Customer terminates prior to the expiration of the initial term of this Agreement without cause or in the event KMBS terminates this Agreement prior to the end of the initial term due to Customer's material breach, KMBS will bill and Customer will be responsible to pay an early termination charge as liquidated damages, and not as a penalty Early termination charges will be calculated in the following manner i) KMBS will average the three (3) most recent billing periods of KMBS maintenance to arrive at an average maintenance figure, then ii) multiply that figure by the number of remaining billing periods in the remaining unexpired term, and then iii) divide that number by two (2)

14. **NETWORK INTEGRATION:** If Network Integration services are provided by KMBS, Customer warrants that the KMBS Digital Needs Analysis ("DNA") has been accurately completed and KMBS may rely on the information contained in the DNA in providing network integration services KMBS reserves the right to assess additional charges for service due to Customer's modification of its network, software, or operating system(s).

15. **ASSIGNMENT:** Customer may not assign this Agreement, without KMBS' express written consent. In the event that KMBS assigns or subcontracts any of its obligations under this Agreement, KMBS shall remain primarily responsible to perform those obligations Any claim or defense Customer may have relating to those obligations must be asserted only against KMBS and not its assignee. KMBS may assign, without notice to Customer, any of its rights under this Agreement.

16. **NOTICES.** All notices required to be given under this Agreement shall be in writing and shall be sent by U.S. first class mail to the parties as follows To Customer at the address listed on the front of this Agreement and to KMBS, at 100 Williams Drive, Ramsey, NJ 07446, Attention. Office of Direct Administration

17 **INDEMNIFICATION:** Customer shall bear all risk of theft, loss or damage not caused by KMBS employees or agents, to all Equipment delivered and accepted under this Agreement. Customer agrees to indemnify, defend and hold harmless KMBS, its officers, directors, employees and agents from all loss, liability, claims or expenses (including reasonable attorney's fees) arising out of Customer's use of the equipment, including but not limited to liabilities arising from illegal use of KMBS equipment as well as bodily injury, including death, or property damage to any person, unless said injuries, death or property damage was caused solely as the result of a negligent or intentional act or omission by KMBS

18. **WARRANTY:** KMBS WARRANTS THAT THE SERVICES SHALL BE PERFORMED IN ACCORDANCE WITH THE MANUFACTURER'S RECOMMENDATIONS AND SPECIFICATIONS FOR THE EQUIPMENT. KMBS MAKES NO OTHER WARRANTIES WHATSOEVER EXPRESS OR IMPLIED WITH REGARD TO THE SERVICE. THE SOFTWARE INCLUDED WITH THE EQUIPMENT OR ITS INSTALLATION, AND MAINTENANCE, AND EXPRESSLY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

19. **REMEDY LIMITATIONS:** The equipment may not be returned to KMBS without KMBS' written consent. CUSTOMER'S EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE REPAIR OF THE EQUIPMENT OR REPLACEMENT OF A NONCONFORMING PART, AT THE OPTION OF KMBS. THE PARTIES WAIVE THEIR RESPECTIVE RIGHTS TO SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES FOR ANY PROVEN BREACH OF THIS AGREEMENT (INCLUDING WARRANTY) THE PARTIES RESERVE THE RIGHT TO RECOVER CONTRACT DAMAGES ALLOWED VIA THIS AGREEMENT KMBS' LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE COVER DAMAGES ON THE COST OF ALTERNATE MAINTENANCE SERVICES AND/OR CONSUMABLES PURCHASED BY THE CUSTOMER. KMBS SHALL NOT BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES DUE TO LOSS OF DATA OR INFORMATION OF ANY KIND. LOSS OF OR DAMAGE TO REVENUE, PROFITS OR GOODWILL, DAMAGES DUE TO ANY INTERRUPTION OF BUSINESS, DAMAGE TO CUSTOMER'S COMPUTERS OR NETWORKS, EVEN IF KMBS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES

20. **APPLICABLE LAW:** This Agreement shall be governed by the laws of the State of New York without regard to choice of law principles. In the event of litigation or other proceedings by KMBS to enforce or defend any term or provision of this Agreement, Customer agrees to pay all costs and expenses sustained by KMBS, including but not limited to, reasonable attorney's fees. Customer further agrees to litigate any dispute concerning this matter in the courts of the state of New Jersey, consents to jurisdiction in that forum and waives the right to jury trial

21. **FORCE MAJEURE:** Neither party shall be responsible for delays or failure in performance of this Agreement (other than failure to make payment) to the extent that such party was hindered in its performance by any act of God, civil commotion, labor dispute, or any other occurrence beyond its reasonable control

22. **WAIVER & SEVERABILITY:** Failure by KMBS to enforce any provisions of this Agreement or any rights hereunder, or failure to exercise any election provided for herein, shall in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the party's right to later enforce or exercise the same or other provisions, rights, or elections it may have under this Agreement. If any provision of this Agreement shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of the remaining provisions of this Agreement.

23 **ORIGINAL DOCUMENT:** Customer further agrees (a) that facsimile or electronic signatures shall be accepted as original signatures, and (b) that this Agreement or any document created pursuant to this Agreement, may be maintained in an electronic document storage and retrieval system, a copy of which shall be considered an original. KMBS may accept orders electronically from Customer pursuant to this Agreement. Neither party shall raise any objection to the authenticity of this Agreement or any document created hereunder, based on either the use of a facsimile signature or the use of a copy retrieved from an electronic storage system

24 **SUPPLIES INCLUDED IN THE BASE/PRINT CHARGE:** If this option has been selected, KMBS (or designated servicer) will provide Customer with certain types and quantities of Consumable Supplies. Consumable Supplies are defined as the toner, developer, copy cartridges and PM kits necessary to ensure that the equipment operates within the equipment specifications throughout the term of this Agreement. Customer agrees that the Consumable Supplies are KMBS property until used by Customer Customer will use Consumable Supplies only with the contracted equipment and run them to their cease-function point. Customer shall not remove the Consumable Supplies from the location designated as Customer's address on the first page of this Agreement. Customer shall not sell, resell or otherwise transfer any Consumable Supplies to any other entity Customer will return any unused Consumable Supplies to KMBS at the end of this Agreement. Customer shall use reasonable care to store and protect KMBS Consumable Supplies located at Customer's location for Customer's convenience. Customer bears risk of loss of KMBS unused Consumable Supplies in the event of theft, fire or other mishap Should Customer's use of Consumable Supplies exceed the Manufacturer Recommended Yields for the applicable unit by more than 6% in any given month, or should KMBS, in its reasonable discretion, determine that Consumable Supplies are being abused in any fashion, Customer agrees that KMBS shall have the right to charge for any such excess or improper usage. The Manufacturer's Recommended Yields for the Consumable Supplies are set forth in http://kmbs.konicaminolta.us. Audit Rights During the term of this Agreement and during the Sixty (60) day period immediately following the Term, KMBS shall have the right, upon reasonable notice or in connection with a maintenance call, to audit Customer's usage of Consumable Supplies The audit will be conducted by comparing the records generated by the equipment to the Manufacturer's Recommended Yields If the audit reveals that Customer has exceeded the Manufacturer's Recommended Yield for the applicable unit, then Customer shall promptly pay to KMBS an amount for the excess Consumable Supplies usage, based on the then current rate for the applicable Consumable Supply KMBS reserves the right to charge Customer for shipping and handling charges incurred by KMBS for the delivery of any excess Consumable Supplies delivered to Customer

The attached Addendum are this document are

25. **ENTIRE AGREEMENT:** This is the entire Agreement between Customer and KMBS on the subject matter hereof and supersedes any proposal or prior agreement, oral or written, or any other communications relating to maintenance services for KMBS equipment and it may not be released, discharged, changed, or modified except by an instrument in writing signed by a duly authorized representative of each party Customer agrees that any Purchase Order or other documentation issued to KMBS covering the equipment or maintenance is issued for purpose of authorization and Customer's internal use only, and any terms and conditions contained therein shall not modify or add to the terms and conditions of this Agreement. This Agreement will not be effective until accepted by an authorized representative of KMBS Notice of acceptance is hereby waived by Customer

26. **DIGITAL SUPPORT SERVICE (DSS):** If this option has been selected, DSS provides Customer access to KMBS Digital Solution Center (DSC) telephonically or by electronic access. DSS includes technical support on items specified on the DSS Supported Products List including Digital Multi-Function Devices, General Office Applications, Graphic and Design Applications and Desktop Operating Systems Customer may access expert level support by telephone or electronically DSC support is available during the hours of 8 00a m to 6:00p.m Eastern Time, Monday through Friday, excluding KMBS observed holidays DSC hours are subject to change by KMBS. Customer system(s) must be in good working condition DSS does not include parts or labor related to network/computer problems not directly involved in the printing or scanning network or fax workflow Customer network changes, attachments or additions may require additional DSS charges. KMBS reserves the right to terminate DSS services in the event that any of Customer changes, alterations or attachments makes it impractical for KMBS to provide DSS. Customer is responsible for performing normal operator functions, system backups, virus scans, and network security functions on a regular basis

ADDENDUM

The City of Glendale, Arizona ("City") and KMBS, Inc. ("Contractor") further agree as follows:

I. Conflicts. The **KMBS Standard Maintenance Terms and Conditions "Schedule A"** (the "Agreement") between the parties is subject to cancellation for conflicts of interest under the provisions of Arizona Revised Statutes ("A.R.S.") § 38-511.

II. Immigration Law Compliance.

A. Contractor, and on behalf of any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to their employees as well as compliance with A.R.S. § 23-214(A) which requires registration and participation with the E-Verify Program.

B. Any breach of warranty under subsection (A) above is considered a material breach of the Agreement and is subject to penalties up to and including termination of the Agreement.

C. City retains the legal right to inspect the papers of Contractor or subcontractor employee who performs work under the Agreement to ensure that Contractor or any subcontractor is compliant with the warranty under subsection (A) above.

D. City may conduct random inspections, and upon request of the City, Contractor shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. Contractor agrees to keep papers and records available for inspection by the City during normal business hours and will cooperate with City in exercise of its statutory duties and not deny access to its business premises or applicable papers or records for the purposes of enforcement of this **Paragraph II**.

E. Contractor agrees to incorporate into any subcontracts under the Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of the City. Contractor also agrees to require any subcontractor to incorporate into each of its own subcontracts under the Agreement the same obligations above and expressly accrue those obligations to the benefit of the City.

F. Contractor's warranty and obligations under this **Paragraph II** to the City are continuing throughout the term of the Agreement or until such time as the City determines, in its sole discretion, that Arizona law has been modified in that compliance with this section is no longer a requirement.

G. The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

Contractor

City

6/16/2014
Date

7-22-14
Date

ATTEST:

City Clerk

Approved as to form

City Attorney