

CITY CLERK  
ORIGINAL



C-8641-2  
10/10/2013

KONICA MINOLTA

Standard CPC Maintenance Contract

Sold To: (legal name) City of Glendale Account Number: \_\_\_\_\_ Ship To: City of Glendale Building Safety Account Number: \_\_\_\_\_

Name: City of Glendale Address Line 1: Suite 330 Address Line 2: Materials Management Street Address: 5850 W. Glendale Ave City: Glendale State: AZ Zip: 85301

Name: City of Glendale Building Safety Address Line 1: \_\_\_\_\_ Address Line 2: 2nd Floor Street Address: 5850 W. Glendale Ave City: Glendale State: AZ Zip: 85301

Tax Exemption  No  Yes (Certificate required) Tax Exemption Number: \_\_\_\_\_

PO Required  No  Yes (Copy required) PO Number: \_\_\_\_\_ PO Expiration Date: \_\_\_\_\_

Standard CPC Maintenance Plan

Cost Per Copy  With Supplies  Without Supplies - Purchased Separately Effective Date: \_\_\_\_\_

Billing for CPC contract:  Monthly  Quarterly  Annually Contract Term (Months):  12  24  36  48  60

Overages billed:  Monthly  Quarterly  Annually

Digital Support Service:  Digital Support Service (DSS) through the Digital Solution Center (DSC) at a rate of \$10.00 per serial number monthly will automatically be added to the base payment below unless customer declines DSS coverage by checking the following box:

Product Covered Under Contract:

Item	Model Description	Serial Number	Type	Start Meter Read	Monthly Min Volume	CPC	Monthly Min \$	Overage CPC
1	Bizhub C554e		C		N/A	\$ 0.02717		\$ 0.02717
			B/W		Unlimited		\$ 63.44	
2			C					
			B/W					
3			C					
			B/W					
4			C					
			B/W					
5			C					
			B/W					
6			C					
			B/W					

Comments: Mohave Contract 10I-KMBS-0127

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

Customer Name: Brian Friedman KMBS Representative: Chip Ryan 10/29/2013  
 Signature: [Signature] Date: 11/7/14 KMBS Manager: [Signature] Date: 10/29/2013  
 Title: Exec. Director, CEO Authorized Representative of Customer

FOR INTERNAL USE

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

PE #: \_\_\_\_\_ Agreement #: 10I-KMBS-1027 Customer Code 1: \_\_\_\_\_  
 Promotion #: \_\_\_\_\_ Price Plan #: \_\_\_\_\_ Customer Code 2: \_\_\_\_\_  
 Subfleet #: \_\_\_\_\_ Customer Code 3: \_\_\_\_\_

Key Operator Contact: Justine Phone: 623-930-3128 Email Addr: Jcornelius@glendaleaz.com  
 Meter Read Contact: Justine Cornelius Phone: 623-930-3128 Email Addr: Jcornelius@glendaleaz.com  
 Accounts Payable Contact: Pamela Wertz Phone: 623-930-2983 Email Addr: pwertz@glendaleaz.com

Special Instructions: \_\_\_\_\_ 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 - 602-798-7341	chip.ryan@kmbs.konicaminolta.us
Order Taking:	9416847		
Servicing:	9416847		

Contract Processed:  Windsor, CT  Branch Phoenix (Branch Name) Sales District: 94109

## 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 assets 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) demand payment of the amount due and, without prejudice to any other remedies KMBS may have. If Customer fails to make any payment 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. Arrearages, including court costs, shall be recoverable by KMBS in the event of default. **NO CASH PAYMENTS ACCEPTED.** Accepted methods 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 serviced based on estimated meter readings, KMBS may obtain or estimate them and Customer agrees to pay for maintenance. Each 6 1/4" 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 as twice the rate of original copies. For models equipped with binary printing capabilities, the following meter click charges shall apply: 18" x 27" = 3 clicks; 27" x 36" = 4 clicks; 36" x 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 and electrical wiring, remodeling, and noise and vibration control. Any electrical work external to the equipment (i.e., associated peripheral equipment, power, transmission and phone lines, and modems) and equipment that is 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 purpose of performing maintenance services. Customer shall arrange and insure that one of its employees is present at all times when KMBS personnel perform maintenance services. The use of any electrical equipment is not covered by this maintenance Agreement. This service, when requested, will be at the then latest 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 warranty as a continuous maintenance Agreement. KMBS will invoice the customer and they will be in addition to the price set forth on the front hereof.

**5. ADDITIONAL EQUIPMENT:** No maintenance services 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 INCLUDES:** 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 Service includes labor and/or routine repairs and preventive maintenance service as well as remedial parts and Consumable 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. Over-time 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 discontinue 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 more at the same time as routine 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. REMOTE MONITORING:** KMBS will deploy and enable the vCare Solution, which is a Device Relationship Management (DRM) system that interacts with KMBS products for the purpose of automated remote real-time individual performance monitoring, consumable and supply-level monitoring for replenishment, and product status (and as described in KMBS Digital Asset Analysis). Should Customer opt-out of utilizing vCare, KMBS reserves the right to access an In-terminal inventory file not to exceed only the 20 files (20) per device.

**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 in 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 the bargain and shall not be enforceable against KMBS.

**10. DISCLAIMER:** This Agreement does not cover service required due to malfunctions 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's location described on the front side hereof. This Agreement does not apply to any equipment lost or damaged through accident, theft, misuse, theft, neglect, acts of third parties, fire, water, casualty or any other external 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 RENEWALS:** Service on individual equipment that automatically is extended for successive one year terms at the rate 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 amend 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 cancellation. 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 every such successive twelve month period, we may increase your payment and the cost per copy charge over the pages included (average) 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 be and Customer will be responsible to pay an early termination charge as outlined hereunder, and not as a penalty. Early termination charge 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 Asset Analysis ("DAA") has been accurately completed and KMBS may rely on the information contained in the DAA in providing Network Integration services. KMBS reserves the right to access additional charges for services 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 assignees. 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 07946, Attention: Office of Direct Administration.

**17. INDEMNIFICATION:** Customer shall bear all risk of theft, loss or damage not caused by KMBS equipment 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 litigation arising from legal use of KMBS equipment as well as bodily injury, including death, or property damage to any person, unless such injury, 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 SOFTWARES INCLUDED WITHIN THE EQUIPMENT ARE ITS INITIAL STATE AND MAINTENANCE AND PROPERLY EXCLUDES ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**19. REMEDY LIMITATION:** 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 UNDER THIS AGREEMENT. KMBS LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE COVERED DAMAGES OR 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 CREDIT, OR 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 Jersey, without regard to choice of law principles. In the event of litigation or other proceedings by KMBS to enforce or defend any terms or provisions of this Agreement, Customer agrees to pay all costs and expenses incurred 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 disputes, 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 the Agreement. If any provision of this Agreement shall be unenforceable, void or for any reason unenforceable, then that provision shall be deemed severable from the 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 rely on a facsimile signature for 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 service) 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 case/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, resale 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's recommended yield for the applicable unit by more than 5% 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 Yield for the Consumable Supplies are set forth in <http://www.konicaminolta.us>, Audit Rights. During the term of this Agreement and during the sixty (60) day period 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 Yield. 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 used. The 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.

**25. CUSTOMER ACCEPTANCE:** The initial use of equipment and this document are the subject matter hereof and supersede any proposal or prior agreement, oral or written, or any other communications relating to maintenance services for KMBS equipment and it may not be revised, 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 in KMBS covering the equipment or maintenance is issued for purpose of substitution 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 accepted, 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 support level support by telephone or electronically. DSC support is available during the hours of 8:00 a.m. to 6:00 p.m., Eastern Time, Monday through Friday, and excluding KMBS observed holidays. DSC hours are subject to change by KMBS. Customer systems must be 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 the workflow. Customer network changes, adjustments 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 equipment 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 TO KMBS TERMS AND CONDITIONS  
FOR THE KMBS MAINTENANCE AGREEMENT  
BETWEEN KMBS, INC.  
AND THE CITY OF GLENDALE, ARIZONA.**

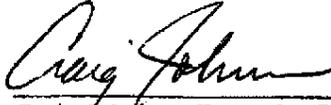
KMBS further agrees as follows as of the Effective Date:

- I Immigration Law Compliance.**
- A. KMBS, and on behalf any subcontractor, warrants, to the extent applicable under A.R.S. § 41-4401, compliance with all federal immigration laws and regulations that relate to its 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 this Agreement and is subject to penalties up to and including termination.
  - C. Customer retains the legal right to inspect the papers of KMBS or subcontractor employee who performs work under this Agreement to ensure that KMBS or any subcontractor is compliant with the warranty under subsection (A) above.
  - D. Customer may conduct random inspections, and upon request of the Customer, KMBS shall provide copies of papers and records demonstrating continued compliance with the warranty under subsection (A) above. KMBS agrees to keep papers and records available for inspection by the Customer during normal business hours and will cooperate with Customer 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 Section I.
  - E. KMBS agrees to incorporate into any subcontracts under this Agreement the same obligations imposed upon itself and expressly accrue those obligations directly to the benefit of Customer. KMBS also agrees to require any subcontractor to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of Customer.
  - F. KMBS' warranty and obligations under this Section I to Customer are continuing throughout the term of this Agreement or until such time as Customer 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.
- II. Conflicts.** This Agreement is subject to cancellation for conflicts of interest under the provisions of A.R.S. § 38-511.

*By signing on the following page, the Customer and KMBS acknowledge the contents of this Addendum, the changes made in paragraphs 20 and 25 of the "KMBS Standard Maintenance Terms and Conditions 'Schedule A,'" all as attached and incorporated herein.*

"Customer":

CITY OF GLENDALE, an Arizona  
municipal corporation



Craig Johnson, Executive Director, Water  
Services

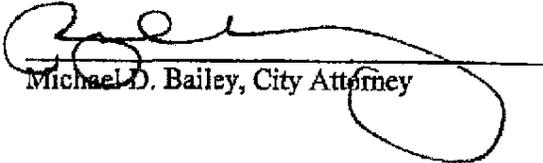
Date: 10/10/13

ATTEST:



Pamela Hanna, City Clerk (SEAL)

APPROVED AS TO FORM:



Michael D. Bailey, City Attorney

"KMBS":

KONICA MINOLTA BUSINESS  
SOLUTIONS U.S.A., INC., a New York  
corporation authorized to do business in Arizona



Printed Name: ANDREW MARTIN

Its: Representative

Date: 10/9/13