Konica Minolta Business Solutions U.S.A., Inc.

KONICA MINOLTA

Mohave Educational Services Cooperative Contract 10i-KMBS-0127

KMBS CPC Service & Maintenance Agreement

Sold To: (legal name)

Name: Gila County Account Number:

Address Line 1: Finance Department

Address Line 2: Joseph Heatherly

Street Address: 1400 East Ash Street

City: Globe State: AZ Zip: 85501

Ship To:

Name: Gila County Account Number:

Address Line 1: Finance Department

Address Line 2: Joseph Heatherly

Street Address: 1400 East Ash Street

City: Globe State: AZ Zip: 85501

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

PO Required ☐ No ☑ Yes (Copy required) PO Number: PO Expiration Date:

Advantage CPC Maintenance Plan

Cost Per Copy

☑ With Supplies ☐ Without Supplies - Purchased Separately

Effective Date: 90 DAY WARRANTY

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	ZERO	ZERO	$ 0.02820	ZERO	$ 0.02820
	Bizhub C-652		B/W	Zero	ZERO		$ 84.22	
2			C					
			B/W				Annual BASE	Includes Toner
3			C				$1,010.65	Includes Staples
			B/W					Unlimited B&W
4			C					Flat Rate
			B/W					
5			C					
			B/W					
6			C					
			B/W					

Comments

This agreement incorporates Schedule A-1 KMBS Modified Standard Maintenance Terms and Conditions for Mohave Educational Services Cooperative (MESC), a copy of which is available upon request. Not binding on KMBS until signed by KMBS Manager.

Customer Name: Tommie C. Martin (Please Print)

Signature: 9/20/2011 (Authorized Representative of Customer / Date)

Title: Chairman, Board of Supervisor

KMBS Representative: Jay W. Douglas 9/21/11 (Date)

KMBS Manager: Gordon C. Ward 9/21/11 (Date)

FOR INTERNAL USE

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

PE #: 825104-R072711 Agreement #: 40038415 Customer Code 1:

Promotion #: Price Plan #: 10i-KMBS-0127 Customer Code 2:

Subfleet #: Customer Code 3:

Key Operator Contact: Phone: Email Addr:

Meter Read Contact: Phone: Email Addr:

Accounts Payable Contact: Phone: Email Addr:

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:	9415280	Jay W. Douglas	jdouglas@kmbs.konicaminolta.us
Order Taking:	9415280	Jay W. Douglas	jdouglas@kmbs.konicaminolta.us
Servicing:	9415280	Jay W. Douglas	jdouglas@kmbs.konicaminolta.us

Contract Processed: ☑ Windsor, CT ☐ Branch (Branch Name)

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SCHEDULE A - 1

KMBS MODIFIED STANDARD MAINTENANCE TERMS AND CONDITIONS for MOHAVE EDUCATIONAL SERVICES COOPERATIVE (MESC)

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 of 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. 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. Accepted 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 "8 ½ 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 paced 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

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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, it 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 pm., 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).

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

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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:** Intentionally deleted.

12. **ESCALATION:** Intentionally deleted.

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.

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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 Arizona 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 roses 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 Arizona, consents to jurisdiction in that forum.

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.

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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, Shari in no way he 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 snail 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.

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25. **ENTIRE AGREEMENT**: The entire Agreement between Customer and KMBS on the subject matter, inclusive of RFP 10I-0930, any best and final offer, and the Member's purchase order, 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 the Agreement. This Agreement will not be effective until accepted by an authorized representative of KMBS. Notice of acceptance is hereby waived by Customer. This does not include any stand-alone lease agreement entered into by the Members.

26. **DIGITAL SUPPORT SERVICE (DSS):** It 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. and 6:00 p.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. The monthly rate for DSS is $10 per serial number.

GILA COUNTY:

GILA COUNTY BOARD OF SUPERVISORS

_____

Tommie C. Martin, Chairman, Board of Supervisors

09/20/2011

Date

ATTEST:

_____

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

_____

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

KONICA MINOLTA:

Jay W. Douglas

Individual Authorized to Sign

Jay W. Douglas

Print Name

KMBS Representative

Title

9/7/11

Date

Anti-Terrorism Warranty: Pursuant to **A.R.S. §35-397** the Supplier certifies that it does not have scrutinized business operations in Iran or Sudan and that they are in compliance with the Export Administration Act and not on the Excluded Parties List.

Legal Arizona Workers Act Compliance: Firm hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to Firm's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Firm shall further ensure that each subcontractor who performs any work for Firm under this contract likewise complies with the State and Federal Immigration Laws.

County shall have the right at any time to inspect the books and records of Firm and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Firm's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, shall be deemed to be a material breach of this Contract subjecting Firm to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Firm shall be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, (subject to County approval if MWBE preferences apply) as soon as possible so as not to delay project completion.

Firm shall advise each subcontractor of County's rights, and the subcontractor's obligations, under this Article by including a provision in each subcontract substantially in the following form: "Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor will be deemed to be a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Cancellation: This agreement is subject to cancellation pursuant to A.R.S. §38.511.

GILA COUNTY:

GILA COUNTY BOARD OF SUPERVISORS

Tommie C. Martin, Chairman

09/20/2011
Date

ATTEST:

Marian Sheppard, Chief Deputy Clerk of the Board

APPROVED AS TO FORM:

Bryan B. Chambers, Chief Deputy County Attorney
***for* Daisy Flores, County Attorney**

KONICA MINOLTA:

Jay W. Douglas

Individual Authorized to Sign

Jay W. Douglas
Print Name

KMBS Representative
Title

9/2/2011
Date