

**ADDENDUM TO
EQUIPMENT SERVICE AGREEMENT
WITH
SOUTHWEST COPY SYSTEMS FOR
MAINTENANCE OF SHARP MXM753N**

THIS ADDENDUM TO THE EQUIPMENT SERVICE AGREEMENT is made and entered into this 18 day of June, 2018 by and between the County of Santa Fe, hereinafter referred to as the "County", and Southwest Copy Systems, whose principal address is 4545 McLeod NE, Albuquerque, NM, 87109, hereinafter referred to as "SWCS".

WHEREAS, the County has certain office equipment, a Sharp MXM753N which is in need of maintenance and service from time to time; and

WHEREAS, the County wishes to benefit from SWCS' general maintenance service; and

WHEREAS, SWCS proposes the attached Equipment Service Agreement and General Terms and Conditions which is acceptable in part but requires amendment or revision of certain terms and conditions; and

WHEREAS, both parties desire to enter into the Equipment Service Agreement and General Terms and Conditions with modified terms and conditions as stated in this Addendum.

NOW THEREFORE, it is mutually agreed between the parties that the following provisions shall be incorporated into the Equipment Service Agreement and General Terms and Conditions as if fully set forth therein.

1. Paragraph 2. **TERM**. There will be no automatic renewal of this Equipment Service Agreement. The second sentence in Paragraph 2 is deleted in its entirety and replaced with the following:

This Agreement shall become effective upon due execution by all parties and the term for purposes of compensation payable to the Contractor for services rendered shall commence July 1, 2018 and terminate June 30, 2019, unless earlier terminated pursuant to Section 12 (Termination) or Section 13 (Appropriations). There shall be no pre-payment of services. Services shall be paid in accordance with Section 3 below during the term of this Agreement. After the initial term of this Agreement ending on June 30, 2019, the County shall have the option to extend the term of this Agreement in one-year increments. The County shall notify the Contractor in writing in no less than thirty 30 days before the expiration of the initial term of this Agreement or extension thereof.

2. Paragraph 3. **CHARGES**. The last sentence in this Paragraph 3 is deleted in its entirety and replaced with the following:

The County has 30 days net from the date of receipt of an invoice from Service Provider to issue payment to Service Provider for service provided. In the event County fails to tender payment within 30 days, County shall pay a late payment charge of one and one-half (1.5%) per month, until the amount due is paid in full.

3. Paragraph 7. **CONNECTIVITY & LINE FILTER** is deleted in its entirety as it is not applicable to this Equipment Service Agreement between the County and SWCS.
4. Paragraph 10.**DEFAULT**, is deleted in its entirety and replaced with the following:

10. APPROPRIATIONS AND DEFAULT:

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made, this Agreement shall terminate upon written notice by County to Service Provider. Such termination shall be without penalty to County, and County shall have no duty to reimburse Service Provider for expenditures made in the performance of this Agreement. County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by County. County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by Service Provider.

5. Paragraph 12. **MISCELLANEOUS**. The reference to "Albuquerque, New Mexico" is deleted and replaced with "Santa Fe, New Mexico."

The Equipment Service Agreement is amended by inserting the following provisions as Paragraphs 15, 16 and 17 as follows:

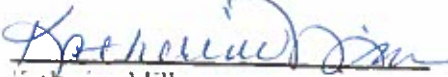
15. TERMINATION: County may, in its discretion, terminate this Agreement at any time for any reason by giving Service Provider written notice of termination. The notice shall specify the effective date of termination, which shall be not less than seven days from the date of mailing a certified notice of termination to Service Provider. County shall pay Service Provider for acceptable service performed in accordance with this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

16. AMENDMENT: This Addendum shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto. Service Provider acknowledges and agrees that County shall not be responsible for any changes to the Equipment Service Agreement unless such changes are set forth in a duly executed written amendment of this Addendum.

Addendum to SWCS Equipment Service Agreement
Agreement No. 2018-0390-CSD-KO

17. NEW MEXICO TORT CLAIMS ACT: No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, et seq.

SANTA FE COUNTY



Katherine Miller
Santa Fe County Manager

6-18-18
Date


Approved as to form:



R. Bruce Frederick
Santa Fe County Attorney

6-15-18
Date

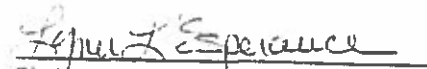
Finance Department:



Stephanie S. Clarke
Finance Director

6/15/18
Date

SOUTHWEST COPY SYSTEMS



Signature

6-18-18
Date

Lynn L. Esperance Administrative Manager
Print name and title

EQUIPMENT SERVICE AGREEMENT

4545 McLeod Ne Albuquerque, NM 87109

INSTALLATION ADDRESS

Client: **SANTA FE COUNTY DWI PROGRAM**
Address: **3052 GAL STEO ST**
City/State: **SANTA FE NM** Zip: **87505**
Phone No: **922-9843** Fax: **902-9855**
Key Operator:
Email Address:

BILLING ADDRESS

Client: **SAME**
Address:
City/State: **NM** Zip:
Phone No: **922-9843** Fax:
Contact:
Email Address:

Installation and Service Agreement Options:

Appropriate categories must be initiated by Client in the block to the left of the option

- ☐ Initial Connectivity Includes at no additional cost the connectivity install on of ALL work stations
- ☐ Connectivity Start-up Includes 30 days of connectivity support beyond the initial installation. (FREE)
- ☐ Connectivity Support Includes one year of connectivity support beyond the initial installation. (\$380/year)
- ☐ Decline Connectivity Current non agreement per call rate is \$175/ hour charge.
- ☐ Compass / Total Care Includes labor, travel, parts and toner. Excludes staples, paper & third-party accessories, i.e. card/coin systems
- ☐ Zero Base Program NO Copies included, pay for all Copies monthly as used
- ☒ General Maintenance Includes labor, travel and parts only. Excludes all toners, staples & paper.
- ☐ Decline Maintenance Current non agreement per call rate is \$150/ hour charge plus parts.
- ☐ Automatic Meters Includes automatic meter. Supply orders and PM's requests from device. Done through clients e-mail system.
- ☐ Line Filler Covers damage from lightning, electrical surges & power problems not covered under above programs (\$135 each)

SERVICE BILLING OPTIONS

☐ Service to be billed with Lease.
(Compass / Total Care Option)
☒ Service to be billed separate

Model	Serial Number	Price	Base Rate Per
SHARP	15000472	\$100.29	<input checked="" type="checkbox"/> MONTH <input type="checkbox"/> Qtr
MXM753N	S1768	\$ 271	<input type="checkbox"/> B & W Allowance <input type="checkbox"/> B & W Overage
		\$103.00	<input type="checkbox"/> No <input checked="" type="checkbox"/> Qtr
			10,000 Images \$ 0.0161 Per Image
			Color Allowance <input type="checkbox"/> Color Overage
			<input type="checkbox"/> No <input type="checkbox"/> Qtr
			Images \$ Per Image

Client Approval

Subject to terms and conditions on reverse side of this page.

By *Katherine Davis*
Signature

Printed _____
Title _____
Date _____ P.O. # _____

SWCS Approval

By *M. Davis*
Signature

Printed _____
Title **MARY JO DAVIS**
Date **2/23/2018**
GOVERNMENT ACCOUNTS

Start Date: **7 1 2018** End Date: **31 30 2019** Placement Date: _____
Contract #: _____ Lease #: _____ C# _____
Start B&W Read: _____
Start Color Read: _____

ANY MODIFICATION TO THIS AGREEMENT MUST BE MADE IN WRITING AND APPROVED BY THE CLIENT AND SWCS MANAGER

Approved as to form
Santa Fe County Attorney

Date: *11-15-18*

Finance Director
6/15/18

TERMS & CONDITIONS

1. **AGREEMENT:** You appoint Service Provider and Service Provider accepts the appointment to provide the services described in this agreement with respect to the equipment listed on the reverse side under "Model" (the "Equipment"). You agree to all of the terms and conditions included in this agreement and in any invoices that Seller may deliver to you under this agreement, which together are a complete statement of the parties' agreement regarding the Equipment (the "Agreement"). This Agreement shall become effective upon execution by the parties.

2. **TERM:** The term of the Agreement begins on the date that you sign the Agreement and will continue from the first day of the following month for 1 year. Upon expiration of any term, this Agreement shall automatically renew for an additional term of 1 year at prevailing rates in effect at the time of renewal unless either party provides written notice of termination to the other party at least 30 days before the end of any term.

3. **CHARGES:** Service Provider will mail to you an invoice that describes the total amount that you owe to Service Provider for services provided under this agreement. Unless you have elected to pay quarterly or annually, Service Provider will mail the invoice to you monthly. **Zero Base Program:** If you have elected to participate in the Zero Base Program, you shall pay Service Provider for each image made by the Equipment during the applicable billing period. The amount charged for each black and white image is the amount listed on the reverse side under B&W Overage. The amount charged for each color image is the amount listed on the reverse side under Color Overage. **Compass / Total Care Program:** If you have elected to participate in the Compass/Total Care Program, you shall pay to Service Provider the amount listed on the reverse side under "Base Rate." If you exceed the number of images allowed for the period, you shall pay Service Provider the amount listed under B&W Overage/Color Overage for each image in excess of the allowed number of images. Charges for maintenance services not covered under this Agreement shall be invoiced using the Service Provider's standard parts and labor rates in effect at the time the service is performed. If you have delinquent invoices, Service Provider may refuse to provide service to you and terminate the Agreement. You agree to pay Service Provider all costs of collection, including reasonable attorney fees.

4. **GENERAL MAINTENANCE:** If you selected the General Maintenance Package, Service Provider shall provide all general maintenance for the Equipment in accordance with the terms of this Agreement ("General Maintenance"). Service Provider shall provide General Maintenance services during its regular business hours (8 a.m. to 5 p.m., Monday through Friday, excluding holidays). General Maintenance shall include service for the Equipment, including labor, parts and travel expenses. General Maintenance also includes scheduled preventative maintenance as specified by the manufacturer. Service Provider will notify you upon its discovery that, in its opinion, the Equipment exhibits the need for chronic, excessive repair ("Nonconforming Equipment"). Service Provider will not be required to provide any services under this Agreement if it determines that the Equipment is Nonconforming Equipment.

5. **EQUIPMENT INSPECTION:** Equipment to be covered under this Agreement is to be in safe and normal operating condition. Service Provider is responsible for inspecting each item of Equipment within 60 days of assuming service responsibility. If the inspection reveals an item of Equipment that is not in safe or in normal operating condition, Service Provider will notify you within the next 30 days (or such shorter period as is necessary to avoid material risk or personal injury or property damage), and you are responsible for bringing that item of Equipment into safe and normal operating condition. If you request, Service Provider will make necessary repairs in accordance with its standard rates then in effect for such service. If you fail to bring that item of Equipment into safe and normal operating condition, Service Provider will not be required to provide maintenance services to that item of Equipment.

6. **COMPASS / TOTAL CARE PACKAGE:** If you selected the Total Care Package, you receive the General Maintenance services and a reasonable supply of toner. You are responsible for purchasing staples and paper. Upon request, Service Provider will deliver to you a reasonable amount of toner at no charge. If Service Provider determines in its sole discretion that you have requested an excessive amount of toner, Service Provider reserves the right to charge you for the excess toner. COMPASS Program includes all of the above with the addition of coverage on Listed Laser Printers.

7. **CONNECTIVITY & LINE FILTER:** If you selected the Connectivity Package, Service Provider shall provide 1 year of Connectivity Support beyond the initial installation. Connectivity Support includes installation and configuration of future workstations or servers for print/scan/fax software, reinstallation and troubleshooting of compatibility issues, and end user training. Connectivity Support does not include any network transport media issues, server or workstation operating system configuration or modification, custom integration with any third party software or hardware, or support for any workstation not physically located at your site. If you purchased a Line Filter, your rights and remedies relating to your use of the Line Filter are provided by the manufacturer's warranty, a copy of which will be included with your purchase of the Line Filter.

8. **SERVICE EXCLUSIONS:** Service Provider may decline to provide maintenance services with respect to the following: (a) any service for equipment not identified on the reverse side under "Model" or not subsequently approved by us in writing for coverage under this Agreement; (b) any Nonconforming Equipment; (c) any maintenance or repair service to be provided by you; (d) your moving the Equipment to a location deemed unreasonable by Service Provider; (e) any service or downtime caused by (i) a condition that was triggered or subject to a product recall, (ii) a design, specification or instruction provided by you or your representative, (iii) your failure to fulfill your responsibilities under this Agreement, (iv) the failure of anyone other than the Service Provider to comply with Service Provider's written instructions or recommendations, (v) your combining the Equipment with any incompatible item, (vi) any alteration or improper storage, handling, use or maintenance of any part of the Equipment by anyone other than Service Provider, (vii) design or manufacturing defects in any item of others, (viii) anything external to the Equipment not being serviced by Service Provider, including without limitation a building, structure deficiency, power surge, fluctuation or failure, and air conditioning failure, or (ix) anything beyond our reasonable control other than service necessitated by normal Equipment usage.

9. **YOUR OBLIGATIONS:** Throughout the term of this Agreement, you shall: (a) notify Service Provider immediately if you determine that the Equipment is in need of repair or replacement; (b) permit Service Provider to enter the property where the Equipment is located to inspect it at any reasonable time; and (c) provide Service Provider with a reasonable amount of space to make any necessary inspections or repairs.

10. **DEFAULT:** If you default in the performance of any of your obligations under this Agreement or any other agreement with Service Provider, Service Provider may (a) enforce this Agreement, (b) recover damages for the default, and (c) exercise any other remedy available by law. If Service Provider refers this Agreement to an attorney for collection, you agree to pay Service Provider's reasonable attorney's fees and actual court costs. You agree that any delay or failure by Service Provider to enforce its rights under this Agreement does not prevent Service Provider from enforcing any rights at a later time. No remedy set out in this paragraph is intended to be exclusive; each shall be cumulative but only to the extent necessary for Service Provider to recover from you those monies for which you are liable.

11. **DISCLAIMER OF WARRANTY:** SERVICE PROVIDER EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, RELATED TO THE PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR RELATED TO THE LINE FILTER, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

12. **MISCELLANEOUS:** You shall not assign any of your rights or obligations under this Agreement without the prior written permission of Service Provider. This Agreement shall be governed by and construed in accordance with New Mexico law, without giving effect to any principle of conflicts of law or choice of law that would otherwise make the law of any other jurisdiction govern this Agreement. The parties agree that the venue for any legal action arising out of this Agreement shall be in Albuquerque, New Mexico. If any provision of this Agreement is declared unenforceable, the other provisions in the Agreement shall remain in effect.

13. **THIRD PARTY SOFTWARE:** Despite any other terms and conditions of the Agreement, you agree that this Agreement does not provide service for any Third Party Software that may be delivered with or installed on the Equipment. You agree that your use of such Third Party Software is governed by the terms and conditions of the end user license agreement for the Third Party Software.

14. **AUTOMATIC METERS:** Allows SWCS to automatically receive e-mailed meter reads, supply orders and PM (preventive maintenance) requests from connected device. Under this program you will not be called, faxed or e-mail for meter read submission. Machine will need access to e-mail server and information from Your IT dept to complete set-up.