

---

# MEMO

APPROVED  
4/4/2022



---

DATE: March 30, 2022  
FROM: Matney M. Ellis  
Procurement Director  
TO: Board of County Commissioners  
SUBJECT: Agreement – OMECorp

A handwritten signature in black ink, appearing to read "Matney M. Ellis", with a long horizontal flourish extending to the right.

Submitted for your approval and execution is the attached Maintenance Agreement between the Board of County Commissioners on behalf of the Tulsa County Election Board and OMECorp Genesis Business Systems for annual maintenance of product model IM306BASE, serial number ZE02942, located in the Election Board.

This maintenance agreement shall run July 1, 2022 through June 30, 2023 at an annual cost of \$2,098.80 as further described in the attached.

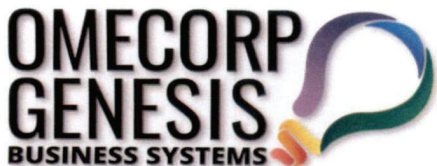
Respectfully submitted for your approval and execution.

MME /wld

SUBMITTED FOR: The April 4, 2022 BOCC meeting agenda.

CMF# 20220582

APPROVED  
4/4/2022



### OMECorp Maintenance Agreement

#### Installation Information

Customer Name (Full Legal Name): TULSA COUNTY ELECTION BOARD		
Installation Address: 555 N DENVER AVE		
Installation City: TULSA	State: OK	Zip: 74103
Installation Contact Name: GARY FISHER	Phone: 918-596-5882	
Installation Contact Title: DIRECTOR	Fax:	
Email Address: <a href="mailto:GFISHER@TULSACOUNTY.ORG">GFISHER@TULSACOUNTY.ORG</a>		
Additional Contact Names:		

#### Billing Information (If Different than Installation Information)

Customer Name (Full Legal Name): SAME		
DBA:		
Billing Address:		
Billing City:	State:	Zip:
Billing Contact Name:	Phone:	
Billing Contact Title:	Fax:	
Email:	PO #:	

#### Equipment to Be Covered by This Maintenance Agreement

PRODUCT MODEL #	SERIAL #	SERVICE TO BEGIN DATE (WARRANTY EXPIRES)	ANNUAL RENEWAL (INVOICING DATE)	ANNUAL FEE
IM306BASE	ZE02942	01/15/22	JULY	\$2,098.80

CMF# 20220582

#### Special Maintenance Terms and Conditions:

FISCAL YEAR JULY 1 <sup>ST</sup> TO JUNE 30 <sup>TH</sup> . 1 <sup>ST</sup> YEAR M/A FREE.

Your signature constitutes an offer to enter into the OMECorp Maintenance Agreement and, acknowledges that you have received, read, and agree to the Terms and Conditions as included below (version - OMEMA-V04-02-20) , and that you are authorized to sign the agreements on behalf of the Customer identified above. The applicable agreements will become binding on the Customer (identified above) only after an authorized OMECorp individual accepts our offer by signing below, or when the equipment is delivered to the Installation Address.

	APPROVAL	
	Karen Keith	4/4/2022
Authorized Customer Signature	Print Name and Title	Date Accepted
	Susie O'Neal Office Manager	03-10-2022
Authorized OMECorp Genesis Signature	Print Name and Title	Date Accepted

OMECorp Genesis Business Systems - 5125 S Garnett Road #F - Tulsa, OK 74146 - [www.omecorp.com](http://www.omecorp.com)  
OMECorp Maintenance Agreement Revision OMEMA-V03-18

APPROVED AS TO FORM:

Nicholas Williams  
ASSISTANT DISTRICT ATTORNEY

Digitally signed by Nicholas Williams  
Date: 2022.03.29

Attest: Chief Deputy



**OMECORP MAINTENANCE AGREEMENT TERMS AND CONDITIONS**  
**VERSION - OMEMA-V04-02-20**

Thank you for purchasing a Maintenance Agreement from OMECorp LLC., or its affiliate, OMECorp Genesis Business Systems (collectively “OMECorp”). This document is a part of your Maintenance Agreement with OMECorp and it provides additional details regarding OMECorp’s Maintenance Agreement covering the hardware and software of the equipment covered by the OMECorp Maintenance Agreement and listed on the OMECorp Maintenance Agreement (“Products”).

**WHAT’S COVERED?**

Maintenance Services, as described herein, will be provided for the Products at the location listed under the Installation Information section of the OMECorp Maintenance Agreement (“Installation Location”). OMECorp agrees to provide the parts and labor needed for the ordinary maintenance of the Products as required due to normal wear, tear, and usage ("Maintenance Services"). Maintenance Services do not include Excluded Services (as defined below) as defined solely by OMECorp. Maintenance Services may include preventative maintenance and inspections from time to time, as determined by OMECorp. Software Maintenance Services include the installation of updates for program(s), associated supporting documentation made generally available by OMECorp, and commercially reasonable efforts to correct any incidents. The OMECorp Software Maintenance Services Agreement is not a software license agreement. OMECorp may, at its option, designate a third party to provide Maintenance Services. OMECorp, in its sole discretion, may service the Products by replacing the Product with new or like-new Products; provided that such replacement products are substantially similar to the Products listed on the OMECorp Maintenance Agreement. Maintenance Services will be provided during normal business hours excluding OMECorp observed holidays. Any parts or Products that are replaced by OMECorp while performing Maintenance Services shall become the property of OMECorp.

## **WHAT ARE THE MAINTENANCE SERVICES FEES AND WHEN ARE THEY DUE?**

### **For Purchased Products:**

Customer shall commence paying for the Maintenance Services upon delivery of the Products to the Installation Location. All fees for Maintenance Services ("Maintenance Fees") on the Products are invoiced annually, in advance.

### **For Leased Products:**

If the Products are being leased ("Leased Products") and the Maintenance Fees are included in the lease payment amount, then Maintenance Services will be provided at no extra cost, except for the Additional Charges (as defined below), during the initial term of the lease, provided the Customer is current with all lease payments. Customer shall commence paying for the Maintenance Services on Leased Products, where Maintenance Fees are included in the lease payment, on the date the lease commences. During any renewal term, Customer agrees to pay the then-current fee for Maintenance Services.

### **For Depot Service Agreements:**

**For contracts signed under a Depot Service Plan, all Covered Services remain the same. The only addition is the customers responsibility to ship the covered equipment as directed by OME Service for repairs. OMECorp will provide return shipping to the installation location as part of the agreement. If onsite service is required the travel charges will be billed per the current market rate at the time of service.**

### **Additional Charges:**

In addition to the Maintenance Fees, Customer agrees to pay for (a) labor, parts, and expenses for Excluded Services performed by OMECorp; (b) travel expenses and any on-site maintenance services that in the opinion of OMECorp is not deemed necessary; (c) an increased Maintenance Fee during the initial maintenance term for Products that are regularly used by more than one shift of personnel per business day, or exceed Product recommended usage; (d) OMECorp may increase the Maintenance Fees during and at the end of the initial maintenance term (as defined below) and

any renewal term; (e) equipment refurbishment required for Products that are in excess of annual or lifetime volume thresholds as solely defined by OMECorp; and (f) OMECorp approved power protection device(s) to assist in preventing electrical issues and damage to Products. In the event Customer's account is greater than 30 days past due, the OMECorp Maintenance Agreement may be suspended and Maintenance Services placed on a billable/per call basis and Customer agrees to pay the then-current fee for Maintenance Services until Customer's account is brought back to current and the OMECorp Maintenance Agreement reinstated. At OMECorp's sole discretion the Customer may be required to obtain a final customer visit to perform Excluded Services in order to complete a termination of OMECorp Maintenance Agreement. All additional charges shall be at OMECorp's then-current rates for time and materials. Charges for labor shall include travel expenses including travel time, gas, tolls, mileage, etc. Customer agrees to make payments to the address specified on OMECorp invoices, or at any other place designated in writing by OMECorp, within thirty (30) days of the date of invoice. If OMECorp does not receive a payment in full on or before its due date, Customer shall pay a fee equal to 5% of the amount that is late, or twenty dollars (\$25), whichever is greater; but in no event, shall Customer pay more than the maximum amount allowed by law. In addition, Customer agrees to pay OMECorp the then-current fee for checks returned unpaid and for ACH direct debit transactions which are rejected. **All payments for Maintenance Services and additional charges are nonrefundable.**

## **WHAT ARE THE TERMS & CANCELLATION PROCEDURES OF MAINTENANCE SERVICES?**

### **For Purchased Products:**

Unless otherwise specified in the OMECorp Maintenance Agreement, the initial term of OMECorp Maintenance Agreement is one (1) year and unconditionally non-cancellable by Customer. Unless Customer provides at least ninety (90) days written notice to OMECorp prior to the end of the initial term, or any renewal term, the OMECorp Maintenance Agreement may be renewed upon mutual, written agreement of the parties ~~shall automatically renew~~ for an additional one (1) year term at OMECorp's then-current fee for Maintenance Services.

### **For Leased Products:**

The initial term of the OMECorp Maintenance Agreement for Leased Products will be equal to the initial term of the lease and unconditionally non-cancellable by Customer. If a Customer elects to execute an early termination of the lease, and Maintenance Service is not included in the termination quote in the lease, OMECorp will invoice the Customer for the remaining months of the initial or renewal term of the OMECorp Maintenance Agreement. The OMECorp Maintenance Agreement may be renewed upon mutual, written agreement of the parties ~~shall automatically renew~~ upon renewal of the lease at OMECorp's then-current fee for Maintenance Service.

## **HOW DO I REQUEST MAINTENANCE SERVICE?**

In order to receive Maintenance Services on the Products, the Customer must notify OMECorp of a need for service by contacting OMECorp in the manner directed by OMECorp. OMECorp may, at its sole discretion, attempt to resolve Product(s) performance issues through remote support procedures. If OMECorp determines that on-site service is necessary, OMECorp shall provide such on-site service in accordance with the terms set forth herein.

## **WHAT'S NOT COVERED BY THE OMECORP MAINTENANCE PROGRAM?**

Maintenance Services do not include the following ("Excluded Services"):

1. Supplies (e.g. ink, roll tape, labels, etc.)
2. De-installation of the Products, moving of the Products, re-installation of Products or damage caused by relocation of the Products not conducted by OMECorp;
3. Additional Product training for current or new Product operators outside of the 90-day period from the date of purchase or lease of the Product;
4. Re-installation of job programs, templates, print drivers, account codes, software, etc.; including recovery of any customer data stored within OMECorp Products or the maintaining of any back-up data;
5. Services provided before 8:00 a.m. or after 5:00 p.m. local time due to (i) the location of the Product(s) (ii) or local servicing agent observed holidays;
6. Running of applications or material greater than the adequate need to insure Product performance;

7. Customer network or IT related issues, (i.e. firewall, antivirus, port availability, hardware restrictions, environmental challenges, etc.), including unreasonable time waiting onsite for Customer to correct the network or IT issue;
8. Damage caused by intermittent or constant electrical or unclear power not meeting or exceeding the published specifications found in the operator's or service guide for the Product;
9. Maintenance or repairs made necessary by the failure of Customer to maintain or use the Products in accordance with OMECorp's specifications, or Customer's refusal of remote support procedures;
10. Maintenance or repairs made necessary by (i) changes in the design of the Products made by the Customer, (ii) changes in the mechanical, electrical, or electronic interconnections made by the Customer, or (iii) the attachment of other parts or components to the Products by Customer;
11. Maintenance or repairs made necessary by accidents, negligence of Customer, or natural disasters;
12. Maintenance or repairs made necessary by the unauthorized maintenance by Customer or any third party other than OMECorp or its authorized service representatives;
13. Maintenance or repairs made necessary by Customer's use of parts, consumables, or other supplies that are not authorized in writing or supplied by OMECorp;
14. Customer requested back up or spare parts not recommended by OMECorp's authorized service technician;
15. Travel expenses and on-site labor as a result of Customer (i) using out of specification material or change in material not approved by OMECorp and/or (ii) is unable to provide material to diagnose the performance issues of the Products;
16. Any (a) configuration services that may be required to utilize new versions of a program; (b) services that are required due to a change in Customer requirements or Customer computing environment; (c) program(s) modified without OMECorp's written consent; (d) programs installed on an operating platform that is inconsistent with the specifications required by the program; (e) third party software not embedded in the program(s) or provided by OMECorp to Customer; or (f) outdated versions of the program.

All of the foregoing are "Excluded Services." In the event Customer requests OMECorp to perform an Excluded Service, Customer shall pay OMECorp its then-current hourly rate for those services,

including travel time, gas, tolls, mileage, etc., as well as OMECorp's then-current price for any parts or equipment required in connection with such services.

## **WHAT OTHER RESPONSIBILITIES DO I HAVE?**

**CUSTOMER'S MAINTENANCE OBLIGATIONS:** Customer agrees to maintain the Products in accordance with OMECorp's specifications. Customer shall not perform, or permit third parties to perform, maintenance or repair on the Products not in accordance with OMECorp's specifications or approved in writing by OMECorp.

**FIRST LEVEL SUPPORT:** OMECorp will provide first level support to the designated support contacts via email, telephone, or other commercially reasonable means during normal business hours. First level support may require remote connection to your Product or software program(s).

**COPIES OF DATA:** Customer is solely responsible for all data stored on the Products and making copies of all such data prior to OMECorp performing Maintenance Services.

**USE OF OMECORP SUPPLIES:** If the Customer uses other than OMECorp provided supplies without the expressed written consent of OMECorp, and if such supplies cause service calls, service problems, or damage to Products, OMECorp may, at its option, assess a surcharge or terminate the OMECorp Maintenance Agreement. In this event, the Customer may be offered service on a "billable/per call" basis based upon published rates.

**ENVIRONMENT/ELECTRICAL:** Customer shall provide a suitable environment for Products as specified by the manufacturer. In order to ensure optimum performance of the Products, it is mandatory that specific models be plugged into a dedicated line that complies with manufacturer electrical specifications.

**COMPLETE SYSTEM COVERAGE:** All OMECorp components (hardware and software) used



in a system must be covered under an OMECorp Maintenance Agreement ("Complete System Coverage"). For example, a customer may not obtain an OMECorp Maintenance Agreement only for a mailing machine if it is used with an integrated scale. In that case, the Customer would also need to enter into an OMECorp Maintenance Agreement for the scale. If a customer refuses to obtain Complete System Coverage, OMECorp may terminate the OMECorp Maintenance Agreement on any Product that is otherwise covered by such an OMECorp Maintenance Agreement.

**ACCESS TO PRODUCTS:** Customer shall allow OMECorp full and free access to the Products and the use of necessary data communications facilities and equipment at no charge to OMECorp.

**PRODUCT MODIFICATIONS:** Customer shall not cause modifications or interconnections to be made, or accessories, attachments, or features to be added to the Products without OMECorp's prior written approval.

#### **WHAT ELSE DO I NEED TO KNOW?**

**OMECorp may terminate the OMECorp Maintenance Agreement, without written notice to Customer, if:**

- 1. Customer defaults on any payment due under this Agreement;**
- 2. The Products exceed the maximum annual or lifetime cycle counts for such Products;**
- 3. The Products are modified, damaged, altered or serviced by personnel other than the OMECorp authorized personnel;**
- 4. Parts, accessories, consumables, supplies, or components not meeting Product specifications are used with the Products;**
- 5. Customer refuses to obtain Complete System Coverage;**
- 6. Any services are necessary because Customer failed to have OMECorp (or OMECorp approved party) perform a required Excluded Service;**
- 7. Customer decides not to proceed with any reconditioning that is deemed necessary by OMECorp.**

**Furthermore, if the Products are being leased, and Maintenance Services are included in lease, this Agreement shall automatically terminate as to any Products covered by the lease on the date such lease expires or is terminated.**

ANY PARTS SUPPLIED IN ACCORDANCE WITH THE OMECORP MAINTENANNCE AGREEMENT SHALL BE FREE FROM MANUFACTURING DEFECTS IN MATERIAL AND WORKMANSHIP UNDER NORMAL USE FOR A PERIOD OF NINETY (90) DAYS AFTER SAME ARE SUPPLIED TO CUSTOMER.

THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. IN CASE OF ANY BREACH OF THIS WARRANTY, OME'S OBLIGATIONS SHALL BE LIMITED TO THE REPAIR OR REPLACEMENT OF ANY DEFECTIVE PART WITHOUT CHARGE. OME SHALL NOT BE LIABLE, IN ANY EVENT, FOR ANY INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES IN CONNECTION WITH SERVICE, PARTS OR LABOR PROVIDED HEREUNDER OR RESULTING FROM ANY USE OR FAILURE OF PRODUCTS, INCLUDING WITHOUT LIMITATION, LIABILITY FOR CUSTOMER'S EXPENSES OR LOSS OF INCOME WHILE PRODUCTS ARE OUT OF OPERATION.

Customer represents that Customer is not a party to, or bound by any, contract, agreement, commitment, or obligation, a breach or default of which would be triggered by Customer's execution and delivery of the OMECorp Maintenance Agreement. ~~Customer shall indemnify and hold harmless OMECorp for any loss and expenses incurred by OMECORP as a result of Customer's breach of this representation.~~

This OMECorp Maintenance Agreement Terms and Conditions and the OMECorp Maintenance Agreement constitutes the entire agreement between the parties hereto, and supersedes all previous negotiations, commitments and agreements, with respect to its subject matter. OMECorp resevers the right to change the OMECorp Maintenance Terms and Conditions and OMECorp Maintenance Agreement upon 30 day notice within any business communication to customer..The terms of this OMECorp Maintenance Agreement Terms and Conditions and the OMECorp Maintenance Agreement shall control and prevail over any inconsistent terms appearing on any purchase orders or acknowledgements submitted by Customer. ~~Should any legal proceedings be instituted by OMECorp to recover any monies due hereunder, Customer shall pay a reasonable sum as~~

~~attorney's fees.~~ Neither this OMECorp Maintenance Agreement Terms and Conditions, the OMECorp Maintenance Agreement nor any rights hereunder may be assigned by Customer without the prior written consent of OMECorp.