



SMART WATER SYSTEMS LLC
P.O. BOX 905
TAOS, NM 87571
575.741.0602

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MAINTENANCE AGREEMENT

Owner:

Date:

Address:

Phone Number:

Model #: Koi RTF/MB 16/12

Whereas, this maintenance agreement, made and executed by and between _____, (hereinafter referred to as "Owner"), and **Smart Water Systems LLC** (SWS), or its assigns (hereinafter referred as SWS) sets forth the responsibilities of the parties with respect to the above referenced Wastewater Treatment installation.

1. **RECITALS**

A. Owner has the responsibility for operation, maintenance, and inspection of the above referenced wastewater treatment system (hereinafter referred to as "SYSTEM"), consisting of various components and any other related accessories that may be part of the wastewater treatment process. The SYSTEM is located at:_____

B. SWS is engaged in the maintenance, inspection, and servicing of wastewater treatment systems.

C. Owner desires SWS to perform certain duties of Owner as herein set forth. SWS is ready, willing, and able to perform said duties for consideration, and under the terms and conditions set forth in this agreement.

2. **TERM OF AGREEMENT**

A. The term of this agreement shall commence on the date of installation of the SYSTEM. Owner agrees that this service agreement shall be operative for the life of the SYSTEM unless terminated by either of the parties. This agreement shall be binding upon Owner's successors or assigns.

B. This agreement may be terminated by the parties hereto in the event either party fails to perform its obligations as required by this agreement. Either party seeking to terminate this agreement agrees to notify the other party and the appropriate authority of its intentions at least 30 days prior to termination. Prior to termination of this agreement owner agrees to contract with a replacement certified maintenance service provider and to notify the appropriate authorities of the new maintenance entity. Upon termination both parties agree to notify the appropriate authorities of the change in operating responsibility for the system.

3. **DUTIES OF OWNER**

A. Owner agrees to use its best efforts to comply with all the guidelines for proper SYSTEM operations as set forth in Owner's Guidelines for Operation (Exhibit A).

B. In the event of a mechanical failure of the SYSTEM unit, Owner agrees to use its best efforts to implement water conservation methods until such time as the SYSTEM is again operational but in no case shall this period exceed 72 hours. OPERATOR agrees to notify OWNER if such measures need be undertaken.

C. Owner agrees to grant to SWS, its assigns and their successors, access for maintenance and monitoring.

D. If Owner is a Homeowner's Association, should the Association cease to exist, the obligations contained in this contract revert to the individual homeowner.

E. Should the ownership interest in the property change, it is the Owner's responsibility to notify SWS of the new Owner's name and address.

4. **DUTIES OF MAINTENANCE ENTITY**

A. SWS, or its authorized agent, will inspect and adjust SYSTEM according to manufacturer's recommendations.

B. SWS, or its authorized agent, may periodically perform operational samples and tests as may be required to assure the performance of the SYSTEM. Operational samples and tests are not the same as permit compliance samples and tests that are addressed in Section 5 E below.

- C. SWS will provide emergency repair capability to owner.

- D. SWS will report to Owner each defect or problem observed in the course of its inspections and make recommendations for repair or replacement, as necessary. SWS will furnish materials and labor necessary for such repair or replacement during warranty period. Materials and labor after warranty period will be provided at Owner's expense.

- E. SWS will consult with any and all state and local officials having jurisdiction over SYSTEM when requested by such officials or as required by law or regulation. The New Mexico Liquid Waste Regulations require Maintenance Service Providers (MSP) to comply with these regulations:

20.7.3.902 OPERATION AND MAINTENANCE REQUIREMENTS AND INSPECTION REQUIREMENTS AT TIME OF TRANSFER.

20.7.3.903 MAINTENANCE SERVICE PROVIDERS (MSP) FOR CONVENTIONAL AND ADVANCED ON-SITE LIQUID WASTE SYSTEMS.

- A. The owner of an on-site liquid waste system, including systems existing prior to the effective date of this regulation, shall be responsible for properly operating and maintaining the system in accordance with the recommendations of the manufacturer or designer of the system.
- B. The owner of an advanced treatment system installed after the effective date of this regulation shall enter into a department approved maintenance contract with a maintenance service provider that will assure maintenance of the system in accordance with the recommendations of the manufacturer or designer of the system. A maintenance contract shall be in effect at all times.

- C. The MSP shall notify the department within 5 working days of any failed system.

5. COST OF INSPECTION AND MAINTENANCE

- A. The cost of the basic inspection and maintenance is \$_____ per month (\$_____ per year), plus tax if applicable, payable as per C. below. Costs thereafter will be established annually by Owner and SWS. Changes in Federal, State, or local regulatory requirements that increase costs or changes in the required scope of work shall be passed along to Owner.

- B. All repairs not covered by warranty will be billed at rates in effect at the time of repair.

- C. Payment of this contract is to be made for the initial year of service at the time this agreement is signed and the SYSTEM is operational. All contract payment periods run one full year from the date of the signing. Successive years will be paid on same date as the signing. Owner will be billed at least 30 days prior to the date payment is due.

D. Failure to pay maintenance fee shall result in notification of appropriate governmental officials that SYSTEM is not operational (a "failed system" under New Mexico Liquid Waste Regulations) as well as enforcement under the rights of this contract. Unpaid balances as a result of failure to pay may be attached as a lien to the property. In addition, the system is operated by copyrighted software which includes a feature that must be reset periodically by SWS to remain operational. The fee paid includes an amount due to the copyright holder. If the system ceases to operate due to failure to pay the maintenance fee, and additional \$ 200 fee will be charged to restart the system.

E. Cost of pumping and removing sludge from any component tanks and laboratory fees for compliance testing (including re-testing) required by any regulatory authority is not included in this maintenance agreement. These costs will be billed separately by SWS. Current costs for laboratory testing for permit compliance purposes at the date of execution of this document are \$ 150/quarter or as frequently as required by permit. Any increases in laboratory fees will be passed along to Owner after at least 30 days prior notification.

6. MISCELLANEOUS

A. Notices required or permitted hereunder shall be deemed delivered if mailed, certified mail, return receipt requested, postage prepaid, addressed to the parties, even if the mail is refused, at the Owner's address provided above and SWS's address below. Said addresses may be changed by notice in writing by either party to the other, giving such change of address, mailed in the manner set forth above.

B. The legal description of the property on which the wastewater treatment system is located that is subject to this contract is the property described in the document attached hereto as Exhibit "B".

Owner's Signature: _____

Date: _____

SMART WATER SYSTEMS LLC
P.O. BOX
TAOS, NM 87571 575.741.0602

Signature: _____ Date: _____

