

EPPCWC3500SITA

Spare-In-The-Air™ (SITA) Commercial Service and Support Plan (One Year)

for the Epson® ColorWorks® C3500 Inkjet Label Printer

Welcome

Congratulations on your choice to protect and support your Epson ColorWorks C3500 Inkjet Label Printer ("**Product**"). With the purchase of the Epson ColorWorks Spare-In-The-Air Commercial Service and Support Plan (the "**Plan**" or "**Agreement**"), you will receive expert technical support and the convenience of advanced exchange with next business day shipping.

This Plan document, along with your receipt for the purchase of the Plan, governs the service that you will receive from us to protect your Product.

This Plan is only available to customers who meet the program requirements. This Plan is offered to and intended only for our commercial customers of Epson ColorWorks C3500 Inkjet Label Printers.

Please read for important legal Terms and Conditions, including an arbitration provision.

Your cancellation options are set forth in Section F. Term and Cancellation.

We recommend you keep a copy of this Plan document along with a copy of your receipt for the purchase of this service Plan for your records.

Service Plan Highlights

- ★ Advanced exchange with next business day shipping, as described in Section E, Subsection 1a ("**Response Time**")
- ★ One (1)-year Plan (12 months of coverage)
- ★ Two-way shipping included

Term: One (1) year or twelve (12) months from the Plan Start Date, but the Plan could end sooner if your Product reaches the Use Limits.

Use Limits: 6,000,000 carriage passes

Keep this document along with the return acknowledgment, as well as a copy of your receipt for purchase of this Plan and the receipt for purchase of your Product.

Product Code: EPPCWC3500SITA _____

Profile No.: _____

Product Purchase Date: _____

Product Serial No.: _____

Initial Product Installation Date: _____

Terms and Conditions

A. Plan Overview

During the Term of this Plan (as defined in the Service Plan Highlights), Epson America, Inc. ("**Epson**"), or its designee, will provide priority technical telephone support and other services described herein ("**Service**") for the Epson Product for which you have purchased a Plan. Epson will use commercially reasonable efforts to supply a replacement Product in accordance with this Agreement. The Plan's Term is as defined in the Service Plan Highlights.

Epson is the obligor of this Plan and the party that is financially and legally obligated to perform service under this Agreement. Epson's obligations under this Plan are backed by the full faith and credit of Epson, with its principal place of business located at 3131 Katella Ave., Los Alamitos, CA 90720. Epson is the seller of this Plan, but if you purchased this Plan from an Epson dealer, that party is the seller of this Plan and you should keep the name and address of your dealer on file for your records.

B. Plan Fee

The fee for each Plan is payable in full before the Plan will be activated or before the expiration of a Plan then currently in effect. Customer is responsible for any taxes arising from the services provided under this Agreement.

See Section F for cancellation details and applicability of a refund.

C. Eligibility

This Plan is offered to and intended only for our commercial customers. The Plan must be purchased prior to the expiration of the Epson limited warranty or an Epson extended service plan to maintain continuous coverage. The Plan is only available in the United States and Canada. Customer must be prepared to submit proof of original purchase for the first-time purchase of the Plan.

You may purchase five (5) consecutive years of coverage by the year or all at once, or in any other combination so long as coverage for a single serial number does not exceed five (5) years from the initial Product purchase date. This Plan is not available for purchase for Products that exceed the Use Limits¹.

Products in excess of Use Limits or with noncontinuous coverage: If you are interested in purchasing a service plan from Epson and you have not had continuous coverage (i.e., your limited warranty or service plan has expired), or your Product is older than five (5) years, please contact Epson to discuss alternate service options (562-276-1314). At Epson's discretion, Products with noncontinuous coverage, or that are older than five (5) years, may become eligible for service coverage upon passing an operational inspection. Inspection fees apply. Products that are nonoperational may become eligible for service coverage after

repairs have been made at time and materials rates and upon passing an operational inspection. Repair estimates are available at time and materials rates. Please contact Epson if you have eligibility questions.

D. How to Obtain Service

1. Once the Plan is activated, you may call 562-276-1314 between the hours of 6:00 AM and 6:00 PM, Pacific Time, Monday through Friday, for support. Support hours are subject to change without notice.
2. To obtain service, customer will be asked to provide Epson with the model and serial number of the Product, the address where the Product is located, and a description of the problem. An Epson service technician will provide telephone diagnostic support to determine whether the Product requires exchange. If required, exchange will be provided according to this Agreement.

E. Services Limited

Service described in this Agreement is separate from the limited warranty provided at the time of your Product's original purchase. This Agreement does not modify the terms and conditions of that limited warranty.

1. **What Is Covered:** This Plan covers the Product against defects in workmanship and materials during the Plan coverage period. Each Plan, if used in the United States or Canada, provides coverage for either (i) one (1) year of coverage from the Plan Effective Date, or (ii) until your Product has exceeded the Use Limits, whichever occurs first. A Plan is not transferable. No other coverage is included.
 - a. **Response Time:** If a determination that replacement is required occurs prior to 1:00 PM, Pacific Time, Epson will usually ship a replacement Product to your location within the defined Response Time. If that determination is made after 1:00 PM, Pacific Time, shipment will usually take an additional business day. An adult must be available to accept the Product delivery.
2. **What Epson Will Do to Correct Problems:** Should your Product become inoperable or unable to perform its function according to specifications while it is covered under the Plan, Epson will ship a replacement Product to you using next business day shipping.
3. **What This Plan Does Not Cover:**
 - a. This Plan does not cover damage to the Product caused by parts or supplies not manufactured, distributed, or certified by Epson.

¹See Service Plan Highlights for "Use Limits." Total carriage passes can be viewed on a self-test printout.

- b. This Plan does not cover consumables, supplies, accessories, and other expendable items identified as being replaceable by the user in the online *User's Guide*. Consumables are items that wear out under normal use and must be replaced by the end user as needed.
 - c. This Plan does not cover any cosmetic damage or wear to product casings or covers.
 - d. This Plan does not cover any problem or damage caused by using non-Epson ink in the Product, or any ink delivery system other than the system built into the Product.
 - e. This Plan does not cover any problem or damage due to the quality of media used. This may include, for example, damage to the Product's print head caused by media imperfections such as variations in thickness, improper storage of media before use in the Product, or improper installation or setting of media in the Product.
 - f. This Plan does not cover any problem or damage caused by third-party software, applications, parts, components, or peripheral devices not provided by Epson, or any issues due to using supplies that do not meet Epson specifications.
 - g. This Plan does not cover any problems or damage caused by your failure to perform user-level maintenance as documented in the online *User's Guide*. This includes issues caused by improperly performing user-level maintenance. See the Maintenance section of your online *User's Guide* for in-depth maintenance instructions.
 - h. This Plan does not cover any problem or damage caused by misuse, abuse, improper installation, neglect, improper packing or shipping, fire, flood, lightning, improper electrical currents, disasters, power outages, or acts of God.
 - i. This Plan does not cover any problem or damage due to service performed by other than Epson or its authorized agent; modification of the Product without Epson's written approval; use of the Product outside the United States or Canada; or service if the Product label, logo, rating label, or serial number has been removed.
 - j. This Plan does not cover any color change or fading of printed output, or costs associated with reprinting the materials.
 - k. This Plan does not cover any problem or damage from your failure to procure, install, or have maintenance performed on equipment or items not covered by this Agreement and on all non-Epson communications media and peripherals, including, without limitation, transmission lines, networks, and telephone equipment for the remote transmission of data; any electrical or mechanical work external to the Product; or maintenance, alterations, installation, deinstallation and reinstallation of accessories, attachments, or other devices not furnished by Epson.
 - l. This Plan does not cover any problem or damage from operator or user error, or for accessories, paint, or refinishing of the Product.
 - m. This Plan does not cover installation, deinstallation, or reinstallation of the Product.
 - n. Any damage caused by installing the Printer next to a heat source or directly in the path of an air vent or air conditioner.
 - o. Epson is not obligated to compensate you for the consumption of supplies or maintenance consumables in the course of diagnostics, troubleshooting, maintenance, or repair.
 - p. Service under this Plan does not cover enhancements to the form, fit, or function of the Product that may be represented in products sold by Epson at a later date.
 - q. Any product or parts purchased as used, refurbished, or reconditioned.
- 4. Customer Responsibilities:**
- a. Perform operator maintenance prescribed in the online *User's Guide* on a regular basis. **Failure to complete proper and timely maintenance may result in Product failure. Service to repair the Product due to improper maintenance will be invoiced at time and materials rates.**
 - b. Operate the Product under suitable conditions, in compliance with environmental requirements, and within specification as documented in the online *User's Guide*.
 - c. Unpack and install the replacement Product. Pack your existing Product in the same or similar packaging, and return to Epson using the shipping information supplied with the replacement Product. If you do not ship the Product within seven (7) business days of receipt of the replacement, you may be charged for the full cost of the replacement Product.
 - d. Epson does not provide services if the Product is moved outside of the United States or Canada.
- Note: If a claimed defect cannot be identified or reproduced once your original Product has been received by Epson, you may be held responsible for costs incurred. You agree to be billed at Epson's time and materials rates if excluded

services are necessary to restore your original Product to working condition and to pay such charges upon receipt of invoice.

5. **Charge for Matters Not Covered:** Epson is obligated to provide service only within the terms stated in this Plan. Any labor, parts, or expenses used or incurred by Epson to provide service beyond these terms shall be paid by you at Epson's time and materials rates. Epson shall invoice you in such case and each invoice is due 30 days from receipt.

F. Term and Cancellation

The Term of the Plan shall begin, as applicable, either on the purchase date of the Plan, the expiration date of your existing Epson service plan, or for non-continuous coverage, the purchase date of your Plan indicated on the receipt ("**Plan Start Date**"). The Plan shall expire on the one-year anniversary of such Plan Start Date. See Section C. Eligibility for the total possible aggregate number of years you may purchase.

1. You may not assign or transfer this Agreement without the prior and express written consent of Epson. Please contact Epson (email customer.inquires@ea.epson.com or call 562-276-1314) to request consent. Any other purported transfer or assignment shall be void.
2. The right to cancel only applies to the original purchaser of this Plan and may not be transferred or assigned.
3. You may cancel this Plan by submitting your cancellation request in writing to the Epson dealer that sold you this Plan, or to Epson if you purchased this Plan directly from Epson.

a. Cancellation of plans: For written notice of cancellation received on or before the thirtieth day after the Plan Start Date, customer will receive a 100% refund minus the cost of any service provided. Costs of service shall be determined based on Epson's time and materials rates ("**Service Costs**"). For written notice of cancellation received after the thirtieth day following the Plan Start Date, customer will receive a pro rata refund based on the number of months remaining in the Plan's Term, minus any Service Costs and discounts received.

4. Epson may also cancel this Plan. In that case, Epson shall provide you with a written notice no fewer than 30 days prior to such cancellation at your last known address, with the effective date for the cancellation and the reason for cancellation. Prior notice is not required if the reason for cancellation is nonpayment of the purchase price of the Plan, a material misrepresentation, or substantial breach of duties by you relating to the covered property or its use. If Epson cancels the Plan, you will receive a pro rata refund of what you paid for the Plan (for example, for a cancellation occurring halfway into the Plan's Term, you will be refunded one-half the amount you paid).

5. If you purchased this Plan directly from Epson and cancel the Plan in accordance with the terms of this Agreement and applicable law, Epson must remit a refund to you within 30 days. If Epson exceeds 30 days, then Epson is also required to pay you a penalty of ten percent (10%) per month for the unpaid amount due and owed to you. The right to cancel and receive a refund and this penalty payment only applies to the original purchaser of this Plan and may not be transferred or assigned.

G. ARBITRATION

ANY DISPUTE, CLAIM, OR CONTROVERSY ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR THE BREACH, TERMINATION, ENFORCEMENT, INTERPRETATION, OR VALIDITY THEREOF, INCLUDING THE DETERMINATION OF THE SCOPE OR APPLICABILITY OF THIS AGREEMENT TO ARBITRATE, SHALL BE DETERMINED BY ARBITRATION IN ORANGE COUNTY, CALIFORNIA, BEFORE ONE ARBITRATOR. THE ARBITRATION SHALL BE ADMINISTERED BY JAMS PURSUANT TO ITS COMPREHENSIVE ARBITRATION RULES AND PROCEDURES OR PURSUANT TO JAMS' STREAMLINED ARBITRATION RULES AND PROCEDURES, AS APPLICABLE. THE ARBITRATOR SHALL FOLLOW ANY APPLICABLE FEDERAL LAW AND CALIFORNIA STATE LAW IN RENDERING AN AWARD. JUDGMENT ON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THIS CLAUSE SHALL NOT PRECLUDE PARTIES FROM SEEKING PROVISIONAL REMEDIES IN AID OF ARBITRATION FROM A COURT OF APPROPRIATE JURISDICTION.

H. REMEDIES; DISCLAIMER OF WARRANTIES

EPSON'S SOLE AND EXCLUSIVE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR EPSON'S FAILURE TO PERFORM IS THAT EPSON WILL, AT EPSON'S OPTION, REPERFORM THE SERVICE. THE WARRANTY AND REMEDY PROVIDED ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESSED OR IMPLIED WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. SOME LAWS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES. IF THESE LAWS APPLY, THEN ALL EXPRESS AND IMPLIED WARRANTIES ARE LIMITED TO THE TERM OF THIS AGREEMENT. UNLESS STATED HEREIN, ANY STATEMENTS OR REPRESENTATION MADE BY ANY OTHER PERSON OR FIRM ARE VOID. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG IMPLIED WARRANTIES LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

- I. **EXCLUSION OF DAMAGES; EPSON'S MAXIMUM LIABILITY**
IN NO EVENT SHALL EPSON OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOST PROFITS OR REVENUE, COST OF SUBSTITUTE EQUIPMENT, DOWNTIME, DIMINUTION OF VALUE, LOST DATA, CLAIMS OF THIRD PARTIES, INCLUDING END USERS OR CUSTOMERS, OR

INJURY TO PROPERTY, RESULTING FROM THE USE OR INABILITY TO USE THE EPSON PRODUCT OR OBTAIN SERVICE UNDER THIS AGREEMENT, WHETHER RESULTING FROM BREACH OF WARRANTY, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT EPSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL EPSON OR ITS AFFILIATES BE LIABLE FOR DAMAGES OF ANY KIND IN EXCESS OF THE ORIGINAL PURCHASE PRICE OF THE PLAN. SOME STATES DO NOT ALLOW EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

J. Other Provisions

1. **Force Majeure:** No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted party's ("**Impacted Party**") reasonable control, including, without limitation, the following force majeure events: (a) acts of God; (b) flood, fire, earthquake, or other potential disasters or catastrophes, such as epidemics, pandemics, quarantines, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) government order, law, or actions; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) shortage of adequate power or transportation facilities; and (i) any other similar events or circumstances beyond the reasonable control of the Impacted Party.
2. **Other Rights You May Have:** The Agreement gives you specific legal rights, and you may also have other rights, which vary from jurisdiction to jurisdiction. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.
3. **Choice of Law:** This Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of California including its statutes of limitations and Cal. Civ. Code § 1646.5, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of California.