

Customized Professional Maintenance Program Terms and Conditions II

1. Customer shall permit Contractor free and timely access to areas and equipment, and allow Contractor to start and stop the equipment as necessary to perform required services. All planned work under this Agreement will be performed during the Contractor's normal working hours.
2. In case of any failure to perform its obligations under this Agreement, Contractor's liability is limited to repair or replacement at its option and such repair or replacement shall be Customer's sole remedy. This warranty is conditioned upon proper operation and maintenance by Customer and shall not apply if the failure is caused or contributed to by accident, alteration, abuse or misuse, and shall not extend beyond the term of this Agreement.
3. The annual Agreement price is conditioned upon the system(s) covered being in a maintainable condition. If the initial inspection or initial seasonal start up indicates repairs are required, a firm quotation will be submitted for Customer's approval. Should Customer not authorize the repairs, Contractor may either remove the unacceptable system(s), component(s) or part(s) from its scope of responsibility and adjust the annual agreement price accordingly or cancel this Agreement.
4. The annual Agreement price is subject to adjustment on each commencement anniversary to reflect increases in labor, material and other costs.
5. Customer shall be responsible for all taxes applicable to the services and/or materials hereunder.
6. Customer will promptly pay invoices within thirty (30) days of receipt. Should a payment become thirty (30) days or more delinquent, Contractor may stop all work under this Agreement without notice and/or cancel this Agreement, and the entire Agreement amount shall become due and payable immediately upon demand. All past due amounts shall accrue interest at the maximum rate permitted by applicable law.
7. If there is any alteration to, or deviation from, this Agreement involving extra work, the cost of materials and/or labor will become an extra charge (fixed price amount to be negotiated or on a time and material basis at Contractor's rates then in effect) over the sum stated in this Agreement.
8. Contractor will not be required to move, replace or alter any part of the building structure in the performance of this Agreement.
9. Customer shall permit only Contractor's personnel or agent to perform the work included in the scope of this Agreement. Should anyone other than Contractor's personnel perform such work, Contractor may, at its option, cancel this Agreement or eliminate the involved items of equipment from inclusion in this Agreement.
10. In the event Contractor must commence legal action in order to recover any amount payable under this Agreement, Customer shall pay Contractor all court costs and attorneys' fees incurred by Contractor.
11. Any legal action against the Contractor relating to this Agreement, or the breach thereof, shall be commenced within one (1) year from the date of the work.
12. Contractor shall not be liable for any delay, loss, damage or detention caused by unavailability of machinery, equipment or materials, delay of carriers, strikes, including those by Contractor's employees, lockouts, civil or military authority, priority regulations, insurrection or riot, action of the elements, forces of nature, or by any cause beyond its control.