

CONSULTANT: Smith Fire Systems
CONTACT PERSON: Josh Gooding
ADDRESS: 1106 54th Ave E
Tacoma, WA 98424
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 91-1386377/601046860
TELEPHONE: (253)248-2008
COUNTY DEPT: Facilities and Fleet Management
DEPT. CONTACT PERSON: Anna Morton
TELEPHONE: (425) 388-3896
PROJECT: Fire Systems Inspection and Maintenance
AMOUNT: \$23,100.00
FUND SOURCE: PKMB-1-206-4101/FGW-FM-200-4101
CONTRACT DURATION: NTP through Sept 30, 2025

AGREEMENT FOR PROFESSIONAL SERVICES – AMENDMENT NO.3

THIS AMENDMENT NO.3 to that certain Agreement for Fire Alarm Inspection and Maintenance Services (the “Agreement”) dated June 15, 2023, is made by and between Snohomish County, a political subdivision of the State of Washington (the “County”) and Smith Fire Systems, a Washington corporation (the “Contractor”).

NOW, THEREFORE, for and in consideration of the benefits conferred on both parties and the mutual promises set forth below, the parties agree that the Agreement be amended as follows:

1. Proposals ITM2416 dated April 19, 2024, attached hereto and incorporated herein by this reference, are to perform maintenance on fire extinguishers for the Snohomish County Parks and Snohomish County Fairgrounds and are a one-time use of this Agreement and are not ongoing.
2. AMOUNT: The charges under this Agreement shall not exceed the amount of \$23,100 before tax and fees.

IN WITNESS WHEREOF the parties execute this Amendment No.3 on the date of the last party to sign.

SNOHOMISH COUNTY:

SMITH FIRE SYSTEMS:

Director of Facilities and Fleet Management

Title: Operations Manager ITM/FA

SMITH FIRE SYSTEMS PROPOSAL



Smith Fire Systems
1106 54th Avenue East
Tacoma, WA 98424

Proposal # ITM24-04216
Date: April 19, 2024

Phone Number (253) 248-2000 Fax Number (253) 926-0726

Project Name: Snohomish County Parks Contact Name: William Abram
Address: Various Contact Phone:
City, State, Zip: WA Customer PO#

Clarifications: Smith Fire Systems will provide labor and materials for the following:

Proposal Price: \$11,592.00 excluding Washington State Sales Tax

Explanation of Work:

NC AREA

*Perform 12-year maintenance on (20) ABC fire extinguishers. (19) 5LB & (1) 10LB. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (3) 5LB ABC fire extinguishers. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

TLS AREA

*Perform 12-year maintenance on (15) ABC fire extinguishers. (10) 5LB & (5) 10LB. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (2) 5LB ABC fire extinguishers. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

KP AREA

*Perform 12-year maintenance on (15) ABC fire extinguishers. (11) 5LB & (4) 10LB. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (4) 5LB ABC fire extinguishers. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

*Replace (10) 2.5LB ABC fire extinguishers that are a brand we do not service.

*Inspect/tag (7) 5LB ABC fire extinguishers.

RM AREA

*Perform 12-year maintenance on (16) ABC fire extinguishers. (14) 5LB & (2) 10LB. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (1) 5LB ABC fire extinguishers. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

RENTAL HOMES

*Perform 12-year maintenance on (11) 5LB ABC fire extinguishers. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (2) 5LB ABC fire extinguishers. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

*Replace (4) 2.5LB ABC fire extinguishers that are a brand we do not service.

*Inspect/tag (9) 5LB ABC fire extinguishers.

VEHICLES

*Perform 12-year maintenance on (9) 5LB ABC fire extinguishers. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Replace (10) 2.5LB ABC fire extinguishers that are a brand we do not service.

If additional repairs/services are needed outside of this scope, a separate proposal will be provided for customer approval.

- Exclusions:
- Integrity of Existing system outside scope of work
 - Electrical / Mechanical wiring outside scope of work
 - Washington State Sales Tax

Thank you for the opportunity to submit this proposal. This quotation is valid for thirty (30) days, after which it will be subject to our review. The price quoted is subject to a mutually acceptable subcontract. If you have any questions, or require further clarification, please do not hesitate to contact me.

In accepting this proposal, Customer agrees to the terms and conditions contained herein including those on the reverse side of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the customer may issue. Any changes in the system requested by the customer after the execution of this agreement shall be paid for by the Customer and such changes shall be authorized in writing. Counterparts/ Facsimile. This agreement may be signed in counterparts with each original being deemed a duplicate original and the duplicate counterparts together being deemed the fully executed Agreement. Signatures received by facsimile or e-mail shall have the same force and effect as original signatures.

ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, IMDEMNITY AND OTHER CONDITIONS ON THE REVERSE SIDE.

Smith Fire Systems

Accepted:

Authorized Signature

Name:

Title:

Date:

By:

Name:

Title:

**SERVICE AGREEMENT
GENERAL TERMS AND CONDITIONS**

These General Terms and Conditions are attached to and an integral part of the contract ("Agreement") consisting of these Terms and Conditions and the attached Service Ticket

1. General Provisions.

1.1 Service Level; Work Times. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Company will performed all work during normal working hours of normal working days (8:00 a.m. – 5:00 p.m., Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement.

1.2 Scope of Work. Company will perform the services as provided in this Agreement ("Services") for one or more system(s) or equipment as described in the Service Requested/Service Performed sections of this Agreement (collectively, "Scope of Work") or the listed attachments ("Covered System(s)"). The Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes the Covered System(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined Company shall be relieved from any and all liability arising therefrom.

1.3 EXCLUSIONS. Unless otherwise specified in this Agreement, any inspection (and, if specified, testing) provided under this Agreement does not include any maintenance, repairs, alterations, replacement of parts, or any field adjustments whatsoever, nor does it include the correction of any deficiencies identified by Company to Customer. Company shall not be responsible for equipment failure occurring while Company is in the process of following its inspection AND SERVICE techniques, where the failure also results from the age or obsolescence of the item or due to normal wear and tear. This Agreement does not cover systems, equipment, components or PARTS THAT are below grade, behind walls or other obstructions or exterior to the building, electrical wiring, and piping.

1.4 Further Agreements. The Customer further agrees to:

1.4.1 Provide Company access to the Covered System(s) to be serviced;

1.4.2 Supply suitable electrical service, heat, heat tracing, and adequate water supply;

1.4.3 Provide a safe work environment, in the event of an emergency or Covered System(s) failure;

1.4.4 Take reasonable safety precautions to protect against personal injury, death, and property damage.

Such measures shall continue until the Covered System(s) are operational. Customer shall notify Company as soon as practical under the circumstances.

2. Repair Services. Where Customer expressly includes repair, replacement and urgent services needed to remedy a situation that could cause significant damages or result in an unprotected building ("Emergency Services") in the Scope of Work sections of this Agreement, such Services apply only to the components or equipment of the Covered System(s). The price designated as the Agreement Price in the black box containing the word TOTAL on the second page of the Service Ticket ("Agreement Price") does not include repairs to the Covered System(s) recommended by Company during the initial inspection, for which Company will submit independent pricing to Customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, are not included under this Agreement.

3. Exclusions/Force Majeure. This Agreement expressly excludes, without limitation, reloading of, upgrading, and maintaining computer software, making repairs or replacements necessitated by reason of negligence or misuse of components or equipment, vandalism, corrosion (including but not limited to micro-bacterially influenced corrosion ("MIC")), power failure, current fluctuation, failure due to non-Company installation, parts, service, attachments, or devices, lightning, electrical storm, or other severe weather, water, accident, fire, acts of God or any other cause external to the Covered System(s). This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. If Emergency Services are expressly included in the Scope of Work, the Agreement Price does not include travel expenses. Company shall not be responsible for delays or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, access not given, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the Company's control.

4. System Equipment. Customer's purchase from the Company of equipment or peripheral devices, (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Customer's failure to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

5. Reports. Where Customer selects inspection and/or test services as part of the Services, Company shall complete such inspection and/or test on Company's then current report form ("Report"), which Company shall give to Customer. Where applicable, Company may submit a copy of such Report to the local authority having jurisdiction. The Report and the Company's recommendations are only advisory and Company and Customer intend them to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected, tested and/or serviced. Company and Customer do not intend them to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

6. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in the Scope of Work.

7. Hazardous Materials. Customer represents that, except to the extent that Customer has given Company written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no (a) "Permit confined space," as defined by OSHA; (b) Risk of infectious disease; (c) Need for air monitoring, respiratory protection, or other medical risk; or (d) Asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement (collectively, "Hazardous Conditions").

7.1 Company's Right to Rely. Company shall have the right to rely on Customer's representations listed above. If the Company encounters Hazardous Conditions during the course of Company's work, Company's discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the Hazardous Conditions exist until Customer has made the area safe as certified in writing by an independent testing agency. Customer agrees to pay disruption expenses and re-mobilization expenses as determined by Company.

7.2 Cost of Disposal. This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

8. Payment. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement. Further, if this Agreement is executed on a "price not to exceed" basis, the price to Customer shall be lesser of: (a) the limit price quoted; or (b) the actual cumulative billing based on the aforementioned prevailing rate. If this Agreement extends beyond one year, the Company may increase prices upon notice to the Customer. Unless otherwise agreed in writing the Customer and the Company, Customer shall pay Company within thirty (30) days of the date of this Agreement. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, however designated, levied or based on the service charges pursuant to this Agreement. Company shall have the right, at Company's sole discretion, to stop performing any Services if Customer fails to make any payment when due, until the account is current. The Customer's failure to make payment when due is a material breach of this Agreement until the account is current.

9. Limitation of Liability; Limitations of Remedy.

9.1 No Warranty. The Customer understands and agrees that Company is not an insurer and that the Customer shall obtain insurance coverage, if any. The Customer further understands and agrees that amounts payable to Company under this Agreement (a) are based upon the value of the Services and the scope of liability set forth in this Agreement and (b) are unrelated to the value of the Customer's property and the property of others located on the premises in which Company performed the Services. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage if any loss or injury arises in connection with the Services. Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or Services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or Service was designed to detect or avert.

9.2 Limitation on Damages. The Customer understands and agrees that it is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from Company's failure to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. If Company is found liable in a court of law for any loss, damage or injury arising from a failure of the equipment or Services in any respect, the Customer agrees that the Company's liability shall be limited to the Agreement Price Customer has paid under this Agreement (as increased by the Agreement Price for any additional work) or Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Such sum shall be Customer's complete and exclusive remedy against the Company. If Customer desires Company to assume greater liability, the Customer and the Company shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount the Customer will pay for the Company's assumption of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer.

9.3 ALTERATION. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM (S) OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM (S) TO PERFORM.

9.4 Benefit. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

10. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. Where Company provides product or equipment of others, Company will warrant the product or equipment only to the extent warranted by such third party. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER.

11. Indemnity; Insurance

11.1 Customer Indemnity of Company. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, including claims brought by Customer's employees, and further including specifically any damages resulting from the exposure of workers to Hazardous Conditions whether or not Customer pre-notifies Company of the existence of such Hazardous Conditions, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action.

11.2 MUTUAL NEGOTIATION. THE CUSTOMER ACKNOWLEDGES THAT BY ENTERING INTO A CONTRACT WITH COMPANY, IT HAS MUTUALLY NEGOTIATED THE ABOVE INDEMNITY PROVISION. MOREOVER, THE CUSTOMER SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY UNDER THE WORKERS COMPENSATION LAWS OF THE STATE OF WASHINGTON, CHAPTER 51 RCW INDUSTRIAL INSURANCE.

11.3 Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insured on Customer's general liability policies.

12. Miscellaneous.

12.1 One-Year Limitation of Actions. Customer and Company agree that no suit, or cause of action or other proceeding shall be brought against either Customer or Company more than one (1) year after the accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract, or any other legal theory.

12.2 Choice of Law. The laws of the state of Washington shall govern the validity, enforceability, and interpretation of this Agreement.

12.3 Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement to an affiliate without obtaining Customer's consent.

12.4 Final Agreement. Customer and Company intend this Agreement, together with any attachments, to be the final, complete and exclusive expression of their agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions of sale for all equipment and services.

12.5 Modification. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an authorized representative of Company.

12.6 Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

12.7 Attorneys Fees and Costs. If either the Company or the Customer shall consult an attorney to enforce their rights under this Agreement, the prevailing party shall be entitled to recover from the other party all reasonable legal fees incurred in connection with enforcing the terms and conditions of this Agreement.

12.8 Counterparts. This Agreement may be signed in counterparts with each original being deemed a duplicate original and the duplicate counterparts together being deemed the fully executed Agreement. Signatures received by facsimile or e-mail shall have the same force and effect as original signatures.

SMITH FIRE SYSTEMS PROPOSAL



Smith Fire Systems
1106 54th Avenue East
Tacoma, WA 98424

Proposal # ITM24-04216
Date: April 19, 2024

Phone Number (253) 248-2000 Fax Number (253) 926-0726

Project Name: Snohomish County Fair Contact Name: William Abram
Address: 14405 179th Ave SE Contact Phone:
City, State, Zip: Monroe WA 98272 Customer PO#

Clarifications: Smith Fire Systems will provide labor and materials for the following:

Proposal Price: \$11,508.00 excluding Washington State Sales Tax

Explanation of Work:

*Perform 12-year maintenance on (112) ABC fire extinguishers. (49) 5LB & (63) 10LB. (Every 12-years, stored pressure fire extinguishers shall be hydrostatically tested to the pressure specified per NFPA)

*Perform 6-year maintenance on (11) ABC fire extinguishers. (4) 5LB & (7) 10LB. (Every 6-years, stored pressure fire extinguishers that require a 12-year hydrostatic test shall be emptied and subjected to the applicable maintenance procedures per NFPA)

*Replace (9) fire extinguishers that are a brand we do not service. (8) 6L K Class and (1) 2.5LB ABC fire extinguishers.

*Inspect/tag (39) 5LB ABC fire extinguishers.

If additional repairs/services are needed outside of this scope, a separate proposal will be provided for customer approval.

Exclusions:

Integrity of Existing system outside scope of work

Electrical / Mechanical wiring outside scope of work

Washington State Sales Tax

Thank you for the opportunity to submit this proposal. This quotation is valid for thirty (30) days, after which it will be subject to our review. The price quoted is subject to a mutually acceptable subcontract. If you have any questions, or require further clarification, please do not hesitate to contact me.

In accepting this proposal, Customer agrees to the terms and conditions contained herein including those on the reverse side of this Agreement and any attachments or riders attached hereto that contain additional terms and conditions. It is understood that these terms and conditions shall prevail over any variation in terms and conditions on any purchase order or other document that the customer may issue. Any changes in the system requested by the customer after the execution of this agreement shall be paid for by the Customer and such changes shall be authorized in writing. Counterparts/ Facsimile. This agreement may be signed in counterparts with each original being deemed a duplicate original and the duplicate counterparts together being deemed the fully executed Agreement. Signatures received by facsimile or e-mail shall have the same force and effect as original signatures.

ATTENTION IS DIRECTED TO THE LIMITATION OF LIABILITY, WARRANTY, IMDEMNITY AND OTHER CONDITIONS ON THE REVERSE SIDE.

Smith Fire Systems

Accepted: _____
Authorized Signature

Name: _____

Title: _____

Date: _____

By: _____

Name: Christi Bender

Title: ITM NPS Sales/Office Manager

**SERVICE AGREEMENT
GENERAL TERMS AND CONDITIONS**

These General Terms and Conditions are attached to and an integral part of the contract ("Agreement") consisting of these Terms and Conditions and the attached Service Ticket

1. General Provisions.

1.1 Service Level; Work Times. Customer has selected the service level desired after considering and balancing various levels of protection afforded, and their related costs. Company will performed all work during normal working hours of normal working days (8:00 a.m. – 5:00 p.m., Monday through Friday, excluding Company holidays), as defined by Company, unless additional times are specifically described in this Agreement.

1.2 Scope of Work. Company will perform the services as provided in this Agreement ("Services") for one or more system(s) or equipment as described in the Service Requested/Service Performed sections of this Agreement (collectively, "Scope of Work") or the listed attachments ("Covered System(s)"). The Customer shall promptly notify Company of any malfunction in the Covered System(s) which comes to Customer's attention. This Agreement assumes the Covered System(s) are in operational and maintainable condition as of the Agreement date. If, upon initial inspection, Company determines that repairs are recommended, repair charges will be submitted for approval prior to any work. Should such repair work be declined Company shall be relieved from any and all liability arising therefrom.

1.3 EXCLUSIONS. Unless otherwise specified in this Agreement, any inspection (and, if specified, testing) provided under this Agreement does not include any maintenance, repairs, alterations, replacement of parts, or any field adjustments whatsoever, nor does it include the correction of any deficiencies identified by Company to Customer. Company shall not be responsible for equipment failure occurring while Company is in the process of following its inspection AND SERVICE techniques, where the failure also results from the age or obsolescence of the item or due to normal wear and tear. This Agreement does not cover systems, equipment, components or PARTS THAT are below grade, behind walls or other obstructions or exterior to the building, electrical wiring, and piping.

1.4 Further Agreements. The Customer further agrees to:

1.4.1 Provide Company access to the Covered System(s) to be serviced;

1.4.2 Supply suitable electrical service, heat, heat tracing, and adequate water supply;

1.4.3 Provide a safe work environment, in the event of an emergency or Covered System(s) failure;

1.4.4 Take reasonable safety precautions to protect against personal injury, death, and property damage.

Such measures shall continue until the Covered System(s) are operational. Customer shall notify Company as soon as practical under the circumstances.

2. Repair Services. Where Customer expressly includes repair, replacement and urgent services needed to remedy a situation that could cause significant damages or result in an unprotected building ("Emergency Services") in the Scope of Work sections of this Agreement, such Services apply only to the components or equipment of the Covered System(s). The price designated as the Agreement Price in the black box containing the word TOTAL on the second page of the Service Ticket ("Agreement Price") does not include repairs to the Covered System(s) recommended by Company during the initial inspection, for which Company will submit independent pricing to Customer and as to which Company will not proceed until Customer authorizes such work and approves the pricing. Repair or replacement of non-maintainable parts of the Covered System(s) including, but not limited to, unit cabinets, insulating material, electrical wiring, structural supports, and all other non-moving parts, are not included under this Agreement.

3. Exclusions/Force Majeure. This Agreement expressly excludes, without limitation, reloading of, upgrading, and maintaining computer software, making repairs or replacements necessitated by reason of negligence or misuse of components or equipment, vandalism, corrosion (including but not limited to micro-bacterially influenced corrosion ("MIC")), power failure, current fluctuation, failure due to non-Company installation, parts, service, attachments, or devices, lightning, electrical storm, or other severe weather, water, accident, fire, acts of God or any other cause external to the Covered System(s). This Agreement does not cover and specifically excludes system upgrades and the replacement of obsolete systems, equipment, components or parts. If Emergency Services are expressly included in the Scope of Work, the Agreement Price does not include travel expenses. Company shall not be responsible for delays or failure to render services due to causes beyond its control, including but not limited to material shortages, work stoppages, access not given, fires, civil disobedience or unrest, severe weather, fire or any other cause beyond the Company's control.

4. System Equipment. Customer's purchase from the Company of equipment or peripheral devices, (including but not limited to smoke detectors, passive infrared detectors, card readers, sprinkler system components, extinguishers and hoses) shall be subject to the terms and conditions of this Agreement. If, in Company's sole judgment, any peripheral device or other system equipment, which is attached to the Covered System(s), whether provided by Company or a third party, interferes with the proper operation of the Covered System(s), Customer shall remove or replace such device or equipment promptly upon notice from Company. Customer's failure to remove or replace the device shall constitute a material breach of this Agreement. If Customer adds any third party device or equipment to the Covered System(s), Company shall not be responsible for any damage to or failure of the Covered System(s) caused in whole or in part by such device or equipment.

5. Reports. Where Customer selects inspection and/or test services as part of the Services, Company shall complete such inspection and/or test on Company's then current report form ("Report"), which Company shall give to Customer. Where applicable, Company may submit a copy of such Report to the local authority having jurisdiction. The Report and the Company's recommendations are only advisory and Company and Customer intend them to assist Customer in reducing the risk of loss to property by indicating obvious defects or impairments noted to the system and equipment inspected, tested and/or serviced. Company and Customer do not intend them to imply that no other defects or hazards exist or that all aspects of the Covered System(s), equipment, and components are under control at the time of inspection. Final responsibility for the condition and operation of the Covered System(s) and equipment and components lies with Customer.

6. Code Compliance. Company does not undertake an obligation to inspect for compliance with laws or regulations unless specifically stated in the Scope of Work.

7. Hazardous Materials. Customer represents that, except to the extent that Customer has given Company written notice of the following hazards prior to the execution of this Agreement, to the best of Customer's knowledge there is no (a) "Permit confined space," as defined by OSHA; (b) Risk of infectious disease; (c) Need for air monitoring, respiratory protection, or other medical risk; or (d) Asbestos, asbestos-containing material, formaldehyde or other potentially toxic or otherwise hazardous material contained in or on the surface of the floors, walls, ceilings, insulation or other structural components of the area of any building where work is required to be performed under this Agreement (collectively, "Hazardous Conditions").

7.1 Company's Right to Rely. Company shall have the right to rely on Customer's representations listed above. If the Company encounters Hazardous Conditions during the course of Company's work, Company's discovery of such materials shall constitute an event beyond Company's control and Company shall have no obligation to further perform in the area where the Hazardous Conditions exist until Customer has made the area safe as certified in writing by an independent testing agency. Customer agrees to pay disruption expenses and re-mobilization expenses as determined by Company.

7.2 Cost of Disposal. This Agreement does not provide for the cost of capture, containment or disposal of any hazardous waste materials, or hazardous materials, encountered in any of the Covered System(s) and/or during performance of the Services. Said materials shall at all times remain the responsibility and property of Customer. Company shall not be responsible for the testing, removal or disposal of such hazardous materials.

8. Payment. Work performed on a time and material basis shall be at the then-prevailing Company rate for material, labor, and related items, in effect at the time supplied under this Agreement. Further, if this Agreement is executed on a "price not to exceed" basis, the price to Customer shall be lesser of: (a) the limit price quoted; or (b) the actual cumulative billing based on the aforementioned prevailing rate. If this Agreement extends beyond one year, the Company may increase prices upon notice to the Customer. Unless otherwise agreed in writing the Customer and the Company, Customer shall pay Company within thirty (30) days of the date of this Agreement. Customer agrees to pay all taxes, permits, and other charges, including but not limited to state and local sales and excise taxes, however designated, levied or based on the service charges pursuant to this Agreement. Company shall have the right, at Company's sole discretion, to stop performing any Services if Customer fails to make any payment when due, until the account is current. The Customer's failure to make payment when due is a material breach of this Agreement until the account is current.

9. Limitation of Liability; Limitations of Remedy.

9.1 No Warranty. The Customer understands and agrees that Company is not an insurer and that the Customer shall obtain insurance coverage, if any. The Customer further understands and agrees that amounts payable to Company under this Agreement (a) are based upon the value of the Services and the scope of liability set forth in this Agreement and (b) are unrelated to the value of the Customer's property and the property of others located on the premises in which Company performed the Services. Customer agrees to look exclusively to the Customer's insurer to recover for injuries or damage if any loss or injury arises in connection with the Services. Customer releases and waives all right of recovery against Company arising by way of subrogation. Company makes no guaranty or warranty, including any implied warranty of merchantability or fitness for a particular purpose that equipment or Services supplied by Company will detect or avert occurrences or the consequences therefrom that the equipment or Service was designed to detect or avert.

9.2 Limitation on Damages. The Customer understands and agrees that it is impractical and extremely difficult to fix the actual damages, if any, which may proximately result from Company's failure to perform any of its obligations under this Agreement. Accordingly, Customer agrees that, Company shall be exempt from liability for any loss, damage or injury arising directly or indirectly from occurrences, or the consequences therefrom, which the equipment or service was designed to detect or avert. If Company is found liable in a court of law for any loss, damage or injury arising from a failure of the equipment or Services in any respect, the Customer agrees that the Company's liability shall be limited to the Agreement Price Customer has paid under this Agreement (as increased by the Agreement Price for any additional work) or Customer's time and material payments to Company. Where this Agreement covers multiple sites, liability shall be limited to the amount of the payments allocable to the site where the incident occurred. Such sum shall be Customer's complete and exclusive remedy against the Company. If Customer desires Company to assume greater liability, the Customer and the Company shall amend this Agreement by attaching a rider setting forth the amount of additional liability and the additional amount the Customer will pay for the Company's assumption of such greater liability, provided however that such rider shall in no way be interpreted to hold Company as an insurer.

9.3 ALTERATION. IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY DAMAGE, LOSS, INJURY, OR ANY OTHER CLAIM ARISING FROM ANY SERVICING, ALTERATIONS, MODIFICATIONS, CHANGES, OR MOVEMENTS OF THE COVERED SYSTEM (S) OR ANY OF ITS COMPONENT PARTS BY THE CUSTOMER OR ANY THIRD PARTY. COMPANY SHALL NOT BE LIABLE FOR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO DAMAGES ARISING FROM THE USE, LOSS OF THE USE, PERFORMANCE, OR FAILURE OF THE COVERED SYSTEM (S) TO PERFORM.

9.4 Benefit. The limitations of liability set forth in this Agreement shall inure to the benefit of all parents, subsidiaries and affiliates of Company, whether direct or indirect, Company's employees, agents, officers and directors.

10. Limited Warranty. COMPANY WARRANTS THAT ITS WORKMANSHIP AND MATERIAL FURNISHED UNDER THIS AGREEMENT WILL BE FREE FROM DEFECTS FOR A PERIOD OF NINETY (90) DAYS FROM THE DATE OF FURNISHING. Where Company provides product or equipment of others, Company will warrant the product or equipment only to the extent warranted by such third party. EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES PERFORMED OR THE PRODUCTS, SYSTEMS OR EQUIPMENT, IF ANY, SUPPORTED HEREUNDER.

11. Indemnity; Insurance

11.1 Customer Indemnity of Company. Customer agrees to indemnify, hold harmless and defend Company against any and all losses, damages, costs, including expert fees and costs, and expenses including reasonable defense costs, arising from any and all third party claims for personal injury, death, property damage or economic loss, including claims brought by Customer's employees, and further including specifically any damages resulting from the exposure of workers to Hazardous Conditions whether or not Customer pre-notifies Company of the existence of such Hazardous Conditions, arising in any way from any act or omission of Customer or Company relating in any way to this Agreement, including but not limited to the Services under this Agreement, whether such claims are based upon contract, warranty, tort (including but not limited to active or passive negligence), strict liability or otherwise. Company reserves the right to select counsel to represent it in any such action.

11.2 MUTUAL NEGOTIATION. THE CUSTOMER ACKNOWLEDGES THAT BY ENTERING INTO A CONTRACT WITH COMPANY, IT HAS MUTUALLY NEGOTIATED THE ABOVE INDEMNITY PROVISION. MOREOVER, THE CUSTOMER SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY UNDER THE WORKERS COMPENSATION LAWS OF THE STATE OF WASHINGTON, CHAPTER 51 RCW INDUSTRIAL INSURANCE.

11.3 Insurance. Customer shall name Company, its officers, employees, agents, subcontractors, suppliers, and representatives as additional insured on Customer's general liability policies.

12. Miscellaneous.

12.1 One-Year Limitation of Actions. Customer and Company agree that no suit, or cause of action or other proceeding shall be brought against either Customer or Company more than one (1) year after the accrual of the cause of action or one (1) year after the claim arises, whichever is shorter, whether known or unknown when the claim arises or whether based on tort, contract, or any other legal theory.

12.2 Choice of Law. The laws of the state of Washington shall govern the validity, enforceability, and interpretation of this Agreement.

12.3 Assignment. Customer may not assign this Agreement without Company's prior written consent. Company may assign this Agreement to an affiliate without obtaining Customer's consent.

12.4 Final Agreement. Customer and Company intend this Agreement, together with any attachments, to be the final, complete and exclusive expression of their agreement and the terms and conditions thereof. This Agreement supersedes all prior representations, understandings or agreements between the parties, written or oral, and shall constitute the sole terms and conditions of sale for all equipment and services.

12.5 Modification. No waiver, change, or modification of any terms or conditions of this Agreement shall be binding on Company unless made in writing and signed by an authorized representative of Company.

12.6 Severability. If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement will continue to be valid as to the other provisions and the remainder of the affected provision.

12.7 Attorneys Fees and Costs. If either the Company or the Customer shall consult an attorney to enforce their rights under this Agreement, the prevailing party shall be entitled to recover from the other party all reasonable legal fees incurred in connection with enforcing the terms and conditions of this Agreement.

12.8. Counterparts. This Agreement may be signed in counterparts with each original being deemed a duplicate original and the duplicate counterparts together being deemed the fully executed Agreement. Signatures received by facsimile or e-mail shall have the same force and effect as original signatures.