



SHERWOOD/*Dallas Co.*

921 N. Bowser Rd. Richardson TX 75081
(972) 437-4650 Fax (972) 437-4669

Equipment Service Contract **TERMS AND CONDITIONS**

1. **TERMS:** This Maintenance Agreement shall become effective upon acceptance by both parties. The terms shall be for the period defined on the face hereof.
2. **FULL SERVICE AND MAINTENANCE:** Except as otherwise provided herein, Sherwood/Dallas Co. agrees to perform all necessary repair on the equipment listed on Addendum 1 (the "Equipment"). This service includes all parts and labor necessary to maintain the equipment in operation in according to specifications as well as travel charges to and from customer site. Parts supplied under this agreement will be new or reconditioned to meet Sherwood/Dallas Co. specifications for the equipment and will be in exchange for the parts replaced. Consumable supplies and accessories are not included under this agreement, but may be purchased separately. Excluded from coverage under this Agreement are services and parts required as a result of:
 - a. Customer abuse, misuse, neglect, accident, or other causes beyond Sherwood/Dallas Co. control;
 - b. Modifications or attachments to Equipment without prior written authorization from Sherwood/Dallas Co.;
 - c. Service of covered equipment by a contractor other than Sherwood/Dallas Co. personnel without prior written authorization from Sherwood/Dallas Co.
 - d. Use of hardware, firmware and/or software not approved in writing by Sherwood/Dallas Co.
3. **PREVENTIVE MAINTENANCE:** Except as otherwise provided herein, Sherwood/Dallas Co. agrees to perform one (1) standard preventive maintenance service on Equipment listed on Addendum 1 (the "Equipment"). This service includes maintenance visits necessary to calibrate and align the Equipment in operation according to specifications. Parts supplied under this Agreement will be new or reconditioned to meet Sherwood/Dallas Co. specifications for the equipment. Consumable supplies parts and accessories are not included under this Agreement but may be purchased separately. Excluded from coverage under this Agreement are services and parts required as a result of conditions as set forth in item 2 above.
4. **SERVICE HOURS:** All service provided hereunder will be preformed at mutually agreeable times during normal working hours (8:00 AM to 5:00 PM, Monday through Friday, holidays excluded). Customer requests for service outside normal working hours as defined above will not be provided under this Agreement, and Customer agrees that for such requests it will pay for travel and labor times, and a two (2) hour minimum charge, plus expenses. Charges for such services provided outside normal working hours will be at 150% of the published service rates then in effect for the equipment.
5. **PAYMENT:** Sherwood/Dallas Co. will invoice Customer for periodic charges (if any) in advance and for any additional charges for special services rendered. Invoices shall be due and payable within thirty (30) days after date of invoice unless previously agreed and in writing. Past due invoices will carry a late charge of 1 ½ % per month.
6. **INDEMNIFICATION:** Each party shall indemnify, defend and hold the other party, its affiliates and their respective trustees, governors, directors, officers, employees, contractors, subcontracts and agents (collectively, the "Indemnified Parties") harmless from and against any and all liabilities, suits, actions, claims, demands, damages, losses, expenses, and costs of every kind and character (including, without limitation, reasonable attorney fees, court costs and expert witness fees) suffered or incurred by or asserted or imposed against the party seeking indemnification (or its Indemnified Parties) to the extent resulting from, connected with or arising out of any negligent or wrongful act or omission by the indemnifying party (or its Indemnified Parties).
7. **FORCE MAJEURE:** "Force Majeure" means the occurrence of any unforeseen event beyond the reasonable control of Customer or Sherwood/Dallas Co. which disrupts, hinders, or otherwise delays Customers or Sherwood/Dallas Co. performance of their contractual obligations. In such case, the party prevented from performing its obligations shall notify the other party without delay of the nature and anticipated duration of such hindrances and shall keep the other party informed of events. During the continuance of circumstances constituting Force Majeure and preventing performance of this Agreement, this Agreement shall be suspended and neither party shall be in breach for such suspension of performance, which shall extend until the affected party is free from the Force Majeure, and is able to resume its performance.
8. **DEFAULT:** In the event either party fails to observe or perform any term or condition or make any payment required by this Agreement, and such default continues for a period of twenty (20) days after written notice thereof, the non-defaulting party shall have the right to declare this Agreement terminated, which right shall be in addition to and other right provided hereunder or at law.
9. **CANCELLATION:** This maintenance agreement may be terminated by either party giving at least 30 days prior written notice or cancellation. Refund of sums paid in advance will be made to customer in amount equal to the balance remaining after from such advance payment of the greater of (a) the advance payment multiplied by the percentage of elapsed time under the agreement, or (b) the amount the Customer would have been charged for parts or service at prices in effect at the time of cancellation in the absence of this agreement. If cancellation is effected by Sherwood/Dallas Co. without fault of the customer, then the amount will be the lesser of the sums set forth in items (a) and (b) above.

10. **NOTICE:** All written notices required or permitted hereby shall be sent by registered mail and shall be sent to the address set forth on the face of this Agreement.
11. **WAVER:** Waiver by either party of any default under this Agreement by the other shall not be deemed a waiver by such party of any other default.
12. **ENTIRE AGREEMENT:** This document supersedes all prior negotiations, commitments and writings with respect to the services to provided hereunder.
13. **GOVERNING LAW AND CHOICE OF FORUM:** This agreement shall be governed by the laws of the state of Texas and all legal and equitable actions brought in relation hereto shall be filed in the appropriate State or Federal office in Texas unless Sherwood/Dallas Co. elects to file an action in any other State or Federal Court or otherwise waives this provision.