

TERMS AND CONDITIONS

1. Unless otherwise agreed to in writing by Customer and Eagle Fire Inc, its affiliates, and subsidiaries (collectively "Eagle"), the inspection, if any, of the fire protection system will be performed substantially in accordance with the written procedures of the manufacturer (the "Procedures"), and the applicable standards of the of the jurisdiction in which the system is located as in effect on the date of the service (the "Standards"). If no such standards exist, the inspection will be performed in accordance with a reasonable community standard of care. For all purposes of this Agreement, the terms "inspection" and "testing" shall have their respective meanings set forth in the applicable National Fire Protection Association Standards. Eagle shall be required to perform only the work agreed to by Customer and Eagle in written Agreement. EAGLE'S OBLIGATIONS UNDER THIS AGREEMENT ARE LIMITED SOLELY TO THE EXPRESSLY DELINEATED SCOPE FOR INSPECTION, TESTING, MAINTENANCE, REPAIR, OR INSTALLATION AS IT MAY APPEAR IN THIS AGREEMENT.
2. The sole purpose of an inspection is to determine the physical condition, on the basis of visual inspection, of the Fire Protection Systems. The sole purpose of testing is to determine the functionality of the Fire Protection Systems. Customer acknowledges and agrees that (i) there are numerous factors which can affect the functioning of Fire Protection Systems, many of which are external to the systems and beyond the control of Eagle, and for this reason Eagle can determine the functionality of the Fire Protection Systems only at the time of testing and Eagle does not assess or guarantee the functionality of the Fire Protection System at any other time, (ii) inspection or testing shall not be deemed a representation by Eagle as to whether any Fire Protection Systems are adequate or conform to any applicable laws, rules, regulations, or codes, (iii) Eagle shall not be liable or accountable for the condition or adequacy of the water supply or any loss or damage relating in any way thereto, and (iv) neither inspection, testing nor any recommendations made by Eagle in connection therewith are to be considered an engineering review of the Fire Protection Systems.
3. Eagle shall not be liable for delays in performance due to causes beyond its reasonable control, including, but not limited to, governmental action or inaction, strikes, labor problems, pandemics, Acts of God, fire or flood, and Eagle's time for performance shall be extended accordingly. Customer agrees that Eagle is not liable for delays in performance due to priorities of performance to other customers, based on time or need or in Eagle's sole discretion. Customer agrees that Eagle is not required to anticipate Customer's requirements for inspection or testing services, that the frequency of inspections or tests under this Agreement is determined at the sole discretion of Customer, that Eagle's agreement to perform inspections or tests in accordance with such specified frequency does not constitute a representation or warranty by Eagle that such frequency is adequate, and that Eagle's sole obligation with respect to frequency of inspections or tests is to perform the requested number of inspections or tests at reasonable intervals over the term of the Agreement, if any.
4. In the event Eagle sells Customer any equipment, Customer grants a purchase money security interest in the equipment to Eagle to secure the payment of the obligations of the Customer as set forth herein and any other sums due and owing from the Customer to Eagle. Customer agrees to execute any and all financing statements which Eagle may, from time to time, wish to file with the appropriate authorities. The Equipment which is subject to this security interest shall be kept at all times at the Customer's place of business as set forth herein and its removal to any other location shall be permitted only with the consent of Eagle in writing in advance of such removal. Until the Equipment is paid for in full, Customer shall maintain adequate fire and extended risk insurance coverage on the Equipment which insurance coverage shall contain a standard loss payee clause in favor of Eagle. Noncompliance with or non-performance of any of the Customer's obligations hereunder shall constitute a default under this provision. Customer shall likewise be in default if bankruptcy or insolvency proceedings are instituted by or against Customer. Upon Customer's default, Eagle may exercise its rights of enforcement under the Uniform Commercial Code in force in the state in which the Equipment is located and in addition to those rights, at Eagle's discretion, enter upon the Customer's premises to take possession of the Equipment which is subject to this security interest or waive any default or remedy any default in any reasonable manner without waiving the default remedies and without waiving any other prior or subsequent default. Customer shall have all the rights and remedies before or after default provided in the Uniform Commercial Code in force in the state in which the Equipment subject to this security interest is located. Upon completion performance of Customer's obligations hereunder, the Seller upon written request from Customer, agrees to file termination statements of security interest with the appropriate authorities.
5. Customer agrees to maintain in safe condition the access to, and the area surrounding, the Fire Protection Systems.
6. Eagle shall not be liable for damages attributable in whole or in part to any Fire Protection System unless caused solely by Eagle's gross negligence. Customer agrees to protect, defend, indemnify and hold Eagle harmless from all claims, demands, liabilities and costs including attorney's fees and opinion witness' fees, arising in whole or part from any Fire Protection System, unless caused solely by Eagle's gross negligence.
7. Any order placed shall constitute an acceptance of all terms and conditions contained in the Agreement and the Terms and Conditions, except terms and conditions to which Customer shall except by specific written objection to which Eagle has agreed in writing. Any request for services issued by Customer shall confirm the Agreement and the Terms and Conditions and not add to, delete from or change them.
8. The parties hereto each covenant and agree that if either party hereto acquires any right or rights to bring any action, suit or proceeding against the other party relating in any way to the Agreement or the Terms and Conditions, the party acquiring such right or rights shall be conclusively deemed to have waived and relinquished the same unless such action, suit or proceeding is commenced within one year after such right or rights arose.
9. **EXCLUSION OF WARRANTIES.** WITH RESPECT TO ALL SERVICES TO BE PERFORMED PURSUANT TO THE AGREEMENT, EAGLE DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR IMPLIED WARRANTY OF WORKMANLIKE SERVICES. WITH RESPECT TO FIRE PROTECTION SYSTEMS INSPECTED PURSUANT HERETO, EAGLE MAKES NO WARRANTY, EXPRESS OR IMPLIED, AS TO THE QUALITY, SUITABILITY OR FITNESS OF ANY FIRE PROTECTION SYSTEM.
10. **LIMITATION ON LIABILITY.** IN NO EVENT SHALL EAGLE BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, STATUTORY OR EXEMPLARY DAMAGES, WHETHER THE ACTION IS BASED ON CONTRACT, NEGLIGENCE, OR STRICT LIABILITY, INCLUDING, BUT NOT LIMITED TO, DAMAGE TO OR LOSS OF THE USE OF PROPERTY; BUSINESS LOSSES OR LOSS OF PROFITS AND OTHER ECONOMIC LOSSES. EAGLE SHALL NOT BE LIABLE TO CUSTOMER FOR CONTRIBUTION OR INDEMNIFICATION, WHATEVER THE CAUSE. THE PARTIES AGREE THAT THE CUSTOMER'S REMEDIES PROVIDED FOR IN THIS SECTION ARE EXCLUSIVE. EAGLE'S MAXIMUM LIABILITY TO CUSTOMER FOR ANY REASON ARISING OUT OF OR RELATED TO THE AGREEMENT OF WHICH THESE TERMS AND CONDITIONS ARE A PART SHALL BE THE AMOUNT OF MONEY PAID BY CUSTOMER TO EAGLE UNDER THAT AGREEMENT.
11. **TERMINATION BY EAGLE.** Eagle may terminate this Agreement upon thirty (30) days written notice to Customer which may be provided by certified mail, return receipt requested, or e-mail transmitted to Customer accounts on file. Such notice shall be deemed received by the Customer upon transmission if no delivery failure or 'bounce' notice has been received. Upon termination, Customer shall be entitled to refund of any prepaid amounts if Customer is not in default of obligations hereunder. If Customer has failed to make payments, neglects to schedule services, fails to provide a safe working environment, or otherwise breaches any term, condition, or customer responsibility, they shall be in default.
12. There are no rights, warranties or conditions, express or implied, statutory or otherwise, other than those contained herein or in the Agreement. The Agreement and the Terms and Conditions contain the entire agreement between Customer and Eagle and can be modified or rescinded only by a writing signed by both parties. No waiver of any provision shall be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted and unless expressly made generally applicable shall only apply to the specific case for which the waiver is given. Each paragraph and provision of the Agreement and the Terms and Conditions is severable from the remainder thereof, and if any such provision shall be held invalid the remainder of the Agreement shall remain in full force and effect. The Agreement shall be governed by the laws of the Commonwealth of Virginia without regard to its choice of law principles.