

SERVICES AGREEMENT

This Services Agreement (this “**Agreement**”), dated **January 17, 2023** (the “**Effective Date**”), is by and between Siddons Martin Emergency Group, LLC a Texas Limited Liability Company, located at 1362 East Richey Road, Houston, Texas 77073 (“**Service Provider**”) and **Killeen Fire Department** (“**Customer**” and together with Service Provider, the “**Parties**”, and each a “**Party**”).

WHEREAS, Service Provider has the capability and capacity to provide certain maintenance and repair services; and

WHEREAS, Customer desires to exclusively retain Service Provider to provide the said services, and Service Provider is willing to perform such services under the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Service Provider and Customer agree as follows:

1. Services. Service Provider shall provide to Customer the maintenance and repair services (the “**Services**”) set out in **Exhibit A**, attached hereto and incorporated herein. Customer will exclusively use Service Provider for these services for the Term of this Agreement.

2. Customer Obligations. Customer shall:

2.1. Designate one of its employees or agents to serve as its primary contact with respect to this Agreement and to act as its authorized representative with respect to matters pertaining to this Agreement (the “**Customer Contract Manager**”), with such designation to remain in force unless and until a successor Customer Contract Manager is appointed.

2.2. Require that the Customer Contract Manager respond promptly to any reasonable requests from Service Provider for instructions, information or approvals required by Service Provider to provide the Services and cooperate with Service Provider in its performance of Services.

3. Fees and Expenses.

3.1. Customer agrees that the Services performed pursuant to this Agreement will be invoiced at the rates set forth in **Exhibit A**. The rates set forth in **Exhibit A** shall remain in effect for the Term of this Agreement. Unless otherwise provided in the applicable invoice, said fees will be payable within net 30 days of receipt by the Customer of an invoice from Service Provider.

3.2. Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or with respect to, Service Provider’s income, revenues, gross receipts, personnel or real or personal property or other assets.

3.3. In addition to all other remedies available under this Agreement or at law (which Service Provider does not waive by the exercise of any rights hereunder), Service Provider shall be entitled to suspend the provision of any Services if the Customer fails to pay any amounts when due hereunder and such failure continues for thirty (30) days following written notice thereof.

4. Limited Warranty and Limitation of Liability.

4.1. Service Provider warrants that it shall perform the Services:

- (a) In accordance with the terms and subject to the conditions set out in this Agreement.
- (b) Using personnel of required skill, experience and qualifications.
- (c) In a timely, workmanlike and professional manner in accordance with generally recognized industry standards for similar services.

4.2. Service Provider will provide Customer with a warranty for all Services for a period of ninety (90) days from the date of sale or services rendered. If a particular manufacturer offers a warranty beyond 90 days, Service Provider will pass on the same warranty to Customer.

4.3. SERVICE PROVIDER MAKES NO WARRANTIES EXCEPT FOR THAT PROVIDED IN Sections 4.1 and 4.2 ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

5. Term, Termination and Survival.

5.1. This Agreement shall commence as of the Effective Date and shall continue thereafter until the completion of the Services for a period of **one (1) year** (the “**Term**”, not to exceed three (3) years), unless sooner terminated pursuant to Section 5.2 or Section 5.3. The Agreement will automatically renew for successive renewal terms of one (1) year (each a “**Renewal Term**”); however, in no event will the Agreement automatically renew beyond two Renewal Terms unless agreed by both Parties in writing. Upon advanced written notice to Customer, Service Provider may request an increase to the rates set forth in Exhibit A for each Renewal Term not to exceed 10%. If the Term is renewed for any Renewal Term(s) pursuant to this section, the terms and conditions of this Agreement during each such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal, subject to any change in rates agreed to by both Parties.

5.2. Either party may terminate this Agreement, effective upon written notice to the other party (the “**Defaulting Party**”), if the Defaulting Party:

- (a) Breaches this Agreement, and such breach is incapable of cure, or with respect to a breach capable of cure, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach.
- (b) Becomes insolvent or admits its inability to pay its debts generally as they become due.
- (c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law.
- (d) Is dissolved or liquidated or takes any corporate action for such purpose.
- (e) Makes a general assignment for the benefit of creditors.
- (f) Has a receiver, trustee, custodian or similar agent appointed by order of any court of competent

jurisdiction to take charge of or sell any material portion of its property or business.

(g) Gives thirty 30 days notice of termination of this agreement.

5.3. Notwithstanding anything to the contrary in Section 5.2(a), Service Provider may terminate this Agreement before the expiration date of the Term on written notice if Customer fails to pay any amount when due hereunder and such failure continues for thirty (30) days after Customer's receipt of written notice of nonpayment.

6. Limitation of Liability. IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE TO CUSTOMER FOR ANY LOSS OF USE, REVENUE OR PROFIT OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION SHALL NOT APPLY TO DAMAGES OR LIABILITIES ARISING FROM PERSONAL INJURY OR DEATH OR DAMAGE TO ANY REAL OR TANGIBLE PERSONAL PROPERTY CAUSED BY SERVICE PROVIDER'S GROSSLY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OR THE GROSSLY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF THE SERVICE PROVIDER IN PERFORMING ITS OBLIGATIONS UNDER THIS AGREEMENT.

7. Entire Agreement. This Agreement, including exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

8. Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "**Notice**", and with the correlative meaning "**Notify**") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 8.

Notice to Customer: Killeen Fire Department

Address: _____

Attention: _____

Notice to Service Provider:

1362 E Richey Road
Houston, Texas 77073

Attention: Legal Department

9. Audit Rights. Service Provider will maintain complete and accurate records relating to the provision of the Services under this Agreement. During the Term, upon Customer's written request, Service Provider shall allow Customer or Customer's representative to inspect and make copies of such records in connection with the provision of the Services; provided that Customer provides Service Provider with at least five (5) business days advance written notice of the planned inspection, and any such inspection shall take place during regular business hours.

10. Severability. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction; provided, however, that if any fundamental term or provision of this Agreement is invalid, illegal or unenforceable, the remainder of this Agreement shall be unenforceable. Upon a determination that any term or provision is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

11. Amendments. No amendment to or modification of this Agreement is effective unless it is in writing, identified as an amendment to this Agreement and signed by an authorized representative of each Party.

12. Waiver. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

13. Assignment. Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section 13 shall be null and void. No assignment or delegation shall relieve the Customer of any of its obligations under this Agreement.

14. Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

15. No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

16. Choice of Law. This Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Texas, without regard 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 Texas. Notwithstanding anything herein to the contrary, the Parties agree the venue is exclusive to Bell County, Texas.

17. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. Notwithstanding anything to the contrary in

Section 8, a signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

18. Force Majeure. The Service Provider shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Service Provider including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 30 days, Customer shall be entitled to give notice in writing to Service Provider to terminate this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

CUSTOMER

By _____

Name: _____

Title: _____

Date: _____

**SIDDONS MARTIN EMERGENCY GROUP,
LLC**

By *Troy Harrison*
Troy Harrison (Jan 18, 2023 07:06 CST)

Name: Troy Harrison

Title: Vice President – Service

Date: _____

Exhibit A
SERVICES & FEES TO BE INCLUDED: Aerial, Pumper, Rescue

500 Hour / 6-Month Chassis Preventative Maintenance: Includes changing engine oil, oil filter(s), air filter, crank case (element only if necessary) check and top off transmission, pump, differential and coolant fluid levels, complete chassis lubrication and 104 point visual inspection with written report and estimates for needed repairs. **Cost: \$2,695**

Annual Aerial Preventative Maintenance: Includes cleaning and lubricating all ladder points, minor cable adjustment, if necessary, top off hydraulic fluids and perform drift test on all cylinders. Operate and inspect all ladder appliances. Replacement of hydraulic filters will be an additional cost and estimate provided to customer prior to completion if necessary.

(25 Hour per OEM) **Cost: \$2,395**

(50 hour per OEM) **Cost: \$3,495**

(50 & 400 hour per OEM) **Cost: \$4,495**

AC Maintenance: Includes evacuate system and weigh refrigerant level. Replace OEM drier(s), clean compressor screen, clean evaporator screens, vacuum test system, recharge with refrigerant and perform system leak test. Repair estimate to be provided for any necessary repairs upon completion. **Cost: \$895**

TAK 4 Suspension Maintenance: Includes inspection and checks on all TAK-4 components including proper ride height and adjustments required. **Cost: \$475**

T3 Rear Axle (All-Steer) Maintenance: Includes inspection and checks on all T3 components, torque verification and complete system lubrication. **Cost: \$1,495**

Husky Foam System Only Maintenance: Includes removal and replacement of all filters, drain and refill fluids. Operate and inspect all system operation upon service completion. **Cost: \$500**

Wheels off Brake Inspection: Includes removal all wheels/tires; performing an inspection off all brake components for wear and/or damage. Inspection fee will be credited should brake repairs be needed and approved at time of inspection. **Cost: \$425**

Hydraulic Generator Service: Includes removal and replacement of all filters, drain and refill fluids. Operate and inspect all system operation upon service completion. **Cost: \$750**

Annual Pump Testing: Perform annual certification pump testing with written report **Cost: \$425**

LABOR RATE

Labor is calculated on an hourly rate per job and broken down by individual labor operations. Labor rates are the same regardless of make, model or manufacturer of apparatus. Normal business hours are 7:30 a.m. to 4:30 p.m.

In-Shop Labor Rate: \$157.50

Field Service Labor Rate: \$167.50

After Hours Labor Rate: \$167.50

TRAVEL RATE:

All work for above pricing is to be performed at a Siddons-Martin service center. Travel to and from customer location per customer request will be charged at \$170.00 per round trip.

PARTS

Parts will be charged to the Killeen Fire Department (“**Customer**”) at standard Siddons-Martin retail price with a 10% discount. This cost factor remains the same regardless of origin of the part. Shipping and freight charges will be billed as an additional charge and indicated on invoices as such.

Siddons-Martin strives to use our volume purchasing to reduce costs of commonly acquired parts, supplies and miscellaneous items used in the repair of apparatus. Any discounts received are used to determine the cost to be charged to the Customer.

LOCATION(S) THAT SERVICES AND REPAIRS WILL BE PERFORMED.

Any repairs able to be completed at the customers location will be done so upon customer request. Any repair or service that requires more space, time, or specialized equipment will be performed at the Manor service center. Additionally, we employ multiple field service technicians in the area that are available to respond to road service calls.

Note: Any heavy engine, transmission, driveline, and body work must be performed in a shop.

SCHEDULING/RESPONSE TIME

Siddons-Martin will work with the customer to schedule each apparatus for 500-hour/6-Month and annual maintenance, including needed pump testing and ladder certification, and other repairs as required. The dates and times of such service will be agreed to by Siddons-Martin and Customer per apparatus.

If an apparatus is out of service and in need of repair, the Customer will contact the assigned account contact or the service manager for the Manor Service Center and a coordination of providing diagnosis, evaluation and repairs will be scheduled as soon as possible. If after normal business hours, please contact the emergency phone number.

For immediate or emergency repairs during normal circumstances, Siddons-Martin will dispatch, upon notice from the customer, a field technician to evaluate and diagnose any issues within 2 hours from the time Siddons-Martin is notified. Field technicians are available for emergency response 24 hours a day.

Siddons-Martin will provide an estimate for repair costs within 24 hours of diagnostic and evaluation submittal.


Killeen - SMEG Service Contract Proposal (AP)


Final Audit Report


2023-01-18


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