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## TERMS AND CONDITIONS OF SALE

**Interpretation, Definitions and Modifications.** The following terms and conditions ("Terms and Conditions") govern the sale of products (each, a "Product") and installation, maintenance and other ancillary services (each, a "Service") by Formetco to the customer set forth in the Proposal/Sales Agreement ("Buyer"). Capitalized terms used but not otherwise defined herein shall have the same meaning as provided elsewhere in the Agreement. As used herein, "Agreement" shall mean the following (including, without limitation, all documents or instruments referenced herein):

- The Proposal/Sales Agreement to which these Terms and Conditions are attached;
- All Change Orders properly executed as set forth herein, in the form attached hereto as Exhibit A and available on Formetco's website at <https://www.formetco.com/terms-and-conditions/>;
- All specifications and drawings attached hereto as Exhibit B;
- The following applicable Warranties (in accordance with Section 14 below):
  - o The Brightness Warranty (attached hereto as Exhibit C-1 and available on Formetco's website at <https://www.formetco.com/brightness-warranty/>);
  - o The 10 Year Limited Parts Warranty (attached hereto as Exhibit C-2 and available on Formetco's website at <https://www.formetco.com/10-year-limited-parts-warranty/>);
  - o The 5 Year Limited Parts Warranty (attached hereto as Exhibit C-3 and available on Formetco's website at <https://www.formetco.com/5-year-limited-parts-warranty/>);
- The Service Agreement, if purchased by Buyer (attached hereto as Exhibit D and available on Formetco's website at <https://www.formetco.com/service-agreement/>).

Once executed, each of these "Contract Documents" will be available on Buyer's secure online Formetco client portal.

**1. Proposal.** The Proposal shall be valid for no more than 15 days, unless otherwise stated therein. The Proposal is subject to change by Formetco at any time upon notice to Buyer. Once accepted by Buyer by written acceptance or acknowledgment (which may be via email), the Proposal shall become the "Sales Agreement".

**2. Change Orders.** The Agreement, including but not limited to the Products and Services, may only be altered, modified, superseded or amended by a written document that specifically references the Agreement, sets forth the change and is signed by an authorized Formetco representative. Such document shall be referred to as a "Change Order" and must be in the form attached hereto as Exhibit A and available on Formetco's website at <https://www.formetco.com/change-orders/>. In the event a Change Order is signed before Formetco ships the Product to Buyer, Formetco will include the additional cost of the Change Order in the sales invoice. In the event a Change Order is signed after Formetco ships the Product to Buyer, Formetco will invoice Buyer for the additional cost of the Change Order separately.

**3. Price; Payment Terms.** Buyer shall purchase the Product and Services from Formetco at the Price and on the Payment Terms set forth in the Sales Agreement. The Deposit is non-refundable. The Price does not include fees for government required inspections, special assessments, permits (including but not limited to installation permits), union costs, tariffs, taxes (including sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any governmental authority on any amounts payable by Buyer), and Buyer shall be responsible for all such charges, costs and taxes; if applicable, upon Formetco's request Buyer shall provide a tax exemption certificate in a form acceptable to Formetco in advance of the delivery of the Product. In addition to all other remedies available under the Agreement (which Formetco does not waive by the exercise of any rights hereunder), Formetco shall be entitled to suspend the delivery of any Product or Service if Buyer fails to pay any amounts when due hereunder and such failure continues for three (3) days following written notice thereof. Buyer shall not withhold payment of any amounts due and payable by reason of any set-off of any claim or dispute with Formetco, whether relating to Formetco's breach, bankruptcy or otherwise, or arising under any other sales or service order or transaction between Formetco and Buyer.

**4. Delivery, Title, and Risk of Loss.** (a) For all Orders in the Continental USA, the Product is sold FOB Formetco's facility (the "Shipping Point"). Title to the Product passes to Buyer upon Formetco's placement of the Product into the carrier's possession. Formetco will insure the Product from risk of loss until it reaches the destination designated by Buyer (the "Destination"). Formetco will, at its expense, put the Product in possession of a carrier at the Shipping Point, contract with the carrier for the shipment of the Product to the Destination. Buyer bears all other expenses and risks of transportation including, without limitation, loading and unloading, storage and freight. Buyer may not direct the Product to any destination other than that specified in the Agreement without the written permission of Formetco. Delivery or shipping dates are approximate only and merely represent Formetco's best estimate of time required to make delivery or shipment. Shipment dates are contingent on prompt receipt by Formetco of all necessary manufacturing, shipping and delivery information. Formetco is not responsible for failure to meet estimated shipping dates and will not be liable for any loss, cost, damage or expense whatsoever incurred by Buyer or its customers that may result therefrom. (b) For all Orders Outside the Continental USA, the Product is sold FOB the Shipping Point; title to and risk of loss passes to Buyer upon Formetco's placement of the Product into the carrier's possession and Formetco will not insure the Product from risk of loss after placing the Product into the carrier's possession; except as otherwise stated in this Section 4(b), the provisions of Section 4(a) apply.

**5. Services.** With respect to the Services, Buyer shall: (a) cooperate with Formetco in all matters relating to the Services, provide access to the Site and provide such other accommodations as Formetco may reasonably request for the purposes of performing the Services; (b) respond promptly to any request of Formetco for direction, information, approvals, authorizations, or decisions that are reasonably necessary for



Formetco to perform the Services in accordance with the requirements of this Agreement; (c) provide such materials or information as Formetco may request to carry out the Services in a timely manner and ensure that such materials or information are complete and accurate in all material respects; and (d) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Services before the date on which the Services are to start.

**6. Site Access.** Buyer is responsible for providing Formetco with safe access to the location where the Product will be installed or has been installed (the "Site"), either through (X) providing an "Accessible Site", which means the Product is accessible through the use of: (a) a 20 foot or shorter ladder; (b) a secure catwalk or base; and (c) a guard rail or a safety lifeline which is securely attached to the support structure if the Product display is over 6 feet off the ground, or (Y) furnishing the use or bearing the cost of a bucket or broom truck and any other machinery or equipment capable of providing safe access to the Site reasonably requested by Formetco. In the event Formetco arrives to the Site and Buyer has failed to provide an Accessible Site or otherwise provide safe access to the Site as reasonably requested by Formetco, then Buyer will bear the cost of Formetco's demobilization, delay, and remobilization; Formetco will issue Buyer a Change Order including the invoice for such additional cost(s).

**7. Installation and Subsurface Access.** In the event Formetco provides installation Services for the Product on behalf of Buyer at the Site, Buyer must have a representative on the Site prior to Formetco's commencement of foundation work to direct the exact placement of the Product (the "Install"). The Price quote for the Install is based on average bearing soil and assumes the absence of subsurface obstructions or high water levels; in the event Formetco encounters any subsurface obstruction, including but not limited to rock, abnormal soil, high water levels, or other unexpected subsurface conditions, Formetco will suspend all Services related to the Install and will issue a Change Order. Formetco will have no obligation to proceed with the Install until Buyer accepts or acknowledges such Change Order in writing (which may be by email).

**8. Existing Structure.** Except to the extent that Formetco explicitly assumes responsibility for any structural element in accordance with the Agreement, Buyer represents and warrants that the existing structure that will support the Product, including without limitation any existing steel, walls, columns, trusses, footings, hoists attachment points, wiring, or any other foundation or existing structural elements (collectively, the "Existing Structure") shall be adequate to support the weight, size, windload, and all other technical specifications of the Product, and Buyer agrees to indemnify and hold Formetco harmless for any failure of any Existing Structure or any losses, damages, claims or liabilities arising from or relating to any such failure. Formetco recommends that Buyer has the Existing Structure reviewed and certified by a licensed structural engineer. In the event changes to the Existing Structure are required prior to the Install, a Change Order will be required.

**9. Software.** To the extent Buyer utilizes any Formetco control or management software applications that are available on the Product (the "Software"), Formetco grants to Buyer, for so long as Buyer owns Product and agrees to the Apparitix Terms of Use available at <https://www.formetco.com/apparitix-terms-of-use/>, a limited, nontransferable, nonexclusive, non-sublicenseable license to (a) use the Software only as installed on and in connection with the Product and Formetco's ownership thereof; and (b) use the user documentation provided by Formetco in connection with the Software as reasonably necessary for Buyer's authorized use of the Software. In addition, Formetco will provide standard support for such Software for one (1) year from the date of shipment of the Product from Formetco's facility, at no additional cost to Buyer. Buyer will not, directly or indirectly, (i) license, sell, redistribute, lease or otherwise transfer or assign the Software; (ii) alter or permit a third party to alter any part of the Software; (iii) use or permit the use of the Software for any unlawful purpose; (iv) reverse engineer or otherwise attempt to derive source code or other trade secrets from the Software; (v) use the Software in a way that could harm Formetco's network (including by transmitting or uploading any viruses, worms, Trojan horses or other malicious code); or (vi) use the Software to try to gain unauthorized access to any service, data, account or network by any means. Buyer may elect to license and use third-party software in connection with the Product. Except as otherwise set forth in a separate agreement with respect to such third-party software (which may be electronic terms of use or service that must be accepted by Buyer prior to installation or use of such third-party software), Formetco shall have no obligations or liabilities with respect to such third-party software or Buyer's use or operation thereof. Formetco may terminate the licenses granted under this Section 9 immediately upon written notice of any material breach of the terms of this Section 9.

**10. Intellectual Property.** All drawings, know-how, designs, specifications, inventions, devices, developments, processes, copyrights and other information or intellectual property disclosed or otherwise provided to Buyer by Formetco and all rights therein (collectively, "Intellectual Property") will remain the property of Formetco and its licensors or suppliers and will be kept confidential by Buyer in accordance with these Terms and Conditions. Other than the limited licenses granted herein with respect to the Software (if installed), Buyer has no claim to, nor ownership interest in, any Intellectual Property, and all such Intellectual Property, in whatever form and any copies thereof, shall be promptly returned to Formetco upon its request or, if it is subject to a limited license hereunder, upon termination of such license in accordance with these Terms and Conditions.

**11. Graphics.** Buyer must approve all elements of custom graphics to be affixed to the Product no later than three (3) weeks prior to the Product's scheduled shipping date. If Buyer fails to meet this deadline, Formetco will issue a Change Order including an invoice for the cost of the delay.

**12. IBC Risk Designation.** Formetco's structural engineering specifications for the Product comply with IBC Risk Category 1 requirements and the Price quote for the Product is based on this compliance level. Accordingly, if Buyer requires compliance with a higher risk category for any reason, then Buyer must notify Formetco to obtain a new Price quote prior to engineering the Product. Any change to the IBC Risk Designation after Formetco's commencement of engineering the Product will require a Change Order.

**13. Security Interest.** As collateral security for Buyer's full payment to Formetco of all amount(s) that may become due under this Agreement, Buyer hereby grants Formetco a lien on and security interest in and to all of the right, title and interest of Buyer in, to and under the Product, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Buyer hereby irrevocably authorizes Formetco at any time and from time to time while such security interest is in effect to file in any filing office in any Uniform Commercial Code jurisdiction any initial financing statements and amendments necessary to perfect the foregoing security interest.

**14. Warranties.** Formetco warrants the following to Buyer, as applicable (collectively, the "Warranties"):



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- (a) For FTX, the "Brightness Warranty", attached hereto as Exhibit C-1 and available at <https://www.formetco.com/brightness-warranty/> (the "Brightness Warranty");
- (b) For FTX, the "10 Year Limited Parts Warranty", attached hereto as Exhibit C-2 and available at <https://www.formetco.com/10-year-limited-parts-warranty/> (the "10 Year Limited Parts Warranty");
- (c) For FSI, the "5 Year Limited Parts Warranty", attached hereto as Exhibit C-3 and available at <https://www.formetco.com/5-year-limited-parts-warranty/> (the "5 Year Limited Parts Warranty"); and
- (d) For FSO, the 5 Year Limited Parts Warranty.

THE WARRANTIES ARE MADE EXPRESSLY IN LIEU OF ANY AND ALL EXPRESS OR IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT, AND ALL OTHER WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED.

#### 15. Limitation of Liability.

(a) IN NO EVENT SHALL FORMETCO BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES WITH RESPECT TO THE PRODUCTS, SERVICES OR THIS AGREEMENT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT FORMETCO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IN NO EVENT SHALL FORMETCO'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO FORMETCO FOR THE GOODS AND SERVICES WITH RESPECT TO THE PRODUCTS OR SERVICES HEREUNDER, OR THE PURCHASE PRICE OF THE PRODUCT, WHICHEVER IS LESS.

(c) The limitation of liability set forth herein shall not apply to (i) liability resulting from Formetco's gross negligence or willful misconduct and (ii) amounts paid or payable to third parties arising from death or bodily injury resulting from Formetco's gross negligence or willful misconduct.

**16. Indemnity.** To the greatest extent permitted by law, Buyer shall indemnify, defend and hold harmless Formetco and its subsidiaries, officers, directors, shareholders, partners, representatives, employees, agents, insurers, successors and assigns of each of the foregoing from any and all losses arising out of or relating to (i) any negligent act or omission by Buyer or its personnel, agents, subcontractors, or others engaged by Buyer or under their control, or (ii) any claim against Formetco by reason of or alleging any unauthorized or infringing use by Formetco of any copyright, trademark, or other intellectual property right in any material, information, technology, process or data provided by Buyer and used by Formetco at Buyer's direction.

**17. Delay, Force Majeure.** Any period for delivery or service provided for in the Agreement is approximate and not a guarantee of a particular date or time frame. Under no circumstances will Formetco be liable or responsible to Buyer for any failure or delay in fulfilling or performing any term of this Agreement when and to such extent such failure is caused or results from acts or circumstances beyond the reasonable control of Formetco including, without limitation, fire, flood, earthquake, act of God, explosion, governmental action, war, invasion or hostilities (whether war is declared or not), or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, 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 or telecommunication breakdown or power outage. In such circumstances Formetco has the right to extend the date of delivery for a reasonable period of time after the period of delay (but in no case for less than the period of delay) and the right to apportion its products among its customers in a manner it deems equitable. Buyer is not relieved from accepting delivery at the agreed price when the causes interfering with delivery are removed.

**18. Use of Image.** Formetco may use Buyer's name along with images of the Product and the Site for marketing and promotional purposes including but not limited to website and marketing materials, without compensation to Buyer.

**19. FCC CLASS A NOTICE.** The Product complies with Part 15 of the FCC Rules. Operation of Product is subject to the following conditions: (a) the Product may not cause harmful interference; and (b) the Product must accept any interference received, including interference that may cause undesired operation. Any modifications made to the Product that are not approved by Formetco may void the authority granted to the user by the FCC to operate this Product.

**20. Entire Agreement.** This Agreement contains the entire agreement between the parties, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These Terms and Conditions prevail over any of Buyer's general terms and conditions of purchase regardless whether or when Buyer submits its purchase order or such terms, and fulfillment of Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend these Terms and Conditions.

**21. Severability.** In the event one or more of the provisions of this Agreement are for any reason held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, those provisions will not invalidate or otherwise affect any other provisions, and the Agreement will be construed as if the invalid, illegal or unenforceable provision was never a part of the Agreement.

**22. Applicable Law, Limitations.** This Agreement is governed by the laws of the state of Georgia. In the event of any dispute arising out of or



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relating to this Agreement, Buyer hereby submits to the exclusive personal jurisdiction and venue of the Superior Court of Gwinnett County, Georgia or the United States District Court for the Northern District of Georgia with respect to such dispute and agrees to waive any defenses to venue and jurisdiction including forum non conveniens. Notwithstanding the foregoing, Formetco will have the right, and in addition to all other remedies available to it at law, in equity or under this Agreement, to affirmative or negative injunctive relief from a court of competent jurisdiction in the event Buyer violates or threatens to violate the terms of Sections 9 or 10. Buyer acknowledges that a violation of Sections 9 or 10 would cause irreparable harm and that all other remedies are inadequate. Any legal action pertaining to this Agreement, other than Buyer's failure to pay any amount(s) owed to Formetco, must be commenced within one (1) year of the event giving rise to the cause of action.

**23. Assignment.** Buyer may not assign any of its obligations under the Agreement without the written consent of Formetco. Any attempted assignment not in conformity with this Section 23 is void.

**24. Fees.** Buyer shall be liable for any and all costs and expenses (including attorney's fees) incurred by Formetco in enforcing any provision of this Agreement, including, without limitation, any costs of collection of amounts due to Formetco hereunder.

**25. No Waiver.** All remedies of Formetco hereunder are cumulative and may, to the extent permitted by law, be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed to be an election of such remedy or to preclude the exercise of any other remedy. Any failure by Formetco to enforce or exercise any provision of this Agreement or our related rights shall not constitute a waiver of that right or provision.



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LIST OF EXHIBITS

Exhibit A	CHANGE ORDER
Exhibit B	SPECIFICATIONS AND DRAWINGS
Exhibit C-1	BRIGHTNESS WARRANTY
Exhibit C-2	10 YEAR LIMITED PARTS WARRANTY
Exhibit C-3	5 YEAR LIMITED PARTS WARRANTY
Exhibit D	SERVICE AGREEMENT



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**EXHIBIT A**

**CHANGE ORDER**

Change Order #: \_\_\_\_\_

Buyer: \_\_\_\_\_

Product Sales Order #: \_\_\_\_\_

1. Description of Change:
  
2. Reason for Change:
  
3. Reference Documentation:
  
4. Assumptions & Dependencies:
  
5. Dates of work, delivery of Change:
  
6. Funding of Change:
  
7. Specific Terms & Conditions:

Signed:

BUYER:	FORMETCO:
By:	By:
Date:	Date:



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EXHIBIT B

**SPECIFICATIONS AND DRAWINGS**

(see attached)



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## EXHIBIT C-1

### BRIGHTNESS WARRANTY

This Brightness Warranty (the "Brightness Warranty") is part of and incorporated into the terms and conditions of sale applicable to the Product (the "Terms and Conditions"). Capitalized terms used and not defined herein have those meanings set forth in the Terms and Conditions. Subject to the terms and conditions set forth herein and in the Terms and Conditions, Formetco warrants to Qualified End-User that the FTX LED Digital Screen identified on the Sales Agreement (the "Product") shall maintain an uncorrected average brightness level of at least 5,000 NIT for ten (10) years from the date of shipment from Formetco's facility (the "Brightness Warranty Period"). "Qualified End-User" means (i) the original purchaser of the Product from Formetco or an authorized Formetco distributor or (ii) a purchaser to whom this Warranty has been properly assigned pursuant to Formetco's Warranty Assignment and Transfer Agreement, available at <https://www.formetco.com/transfer-agreement/>. This Brightness Warranty is valid only in the United States or Canada and applies only when the Product is used in the country in which it was purchased.

### WARRANTY CLAIMS AND PROCEDURES

Proof of the original purchase date, the Product sales order number, full payment and compliance with all terms of the Agreement, and full payment of all amounts owed to Formetco pursuant to any other agreement and compliance with all terms of any such agreement, is required to obtain support under this Brightness Warranty. Qualified End-User must notify Formetco in writing within seven (7) days of discovering a suspected defect in the Product, and such notice must be received by Formetco before the expiration of the Brightness Warranty Period. Failure to comply with this requirement may void this Warranty.

Upon Formetco's receipt of notice of suspected defect, Formetco shall use commercially reasonable efforts to test the Product (using the procedures described below) within ninety (90) days to confirm presence of such defect, on a date mutually agreeable to Qualified End-User and Formetco. Formetco's determination as to whether the Product is defective and whether the defect is covered under this Brightness Warranty is final.

If Formetco's testing confirms a defect covered under this Brightness Warranty, then Formetco shall waive all service charges associated with such testing and shall make available replacement LED tiles at a discounted price, with the discount calculated as follows: (i) the original purchase price of the LED tiles, as set forth in the Sales Agreement for the Product, multiplied by (ii) a percentage equal to the number of days remaining in the Brightness Warranty Period as of (but not including) the testing date, divided by 3,650 days (10 years). Replacement LED tiles will be the same pixel pitch and comparable in function and performance to the original tiles. Replacement tiles will carry the original Brightness Warranty, which will expire at the end of the original Brightness Warranty Period. The provision of additional parts will not extend the original Brightness Warranty Period. Formetco will ship the replacement LED tiles at Qualified End-User's risk and expense.

If Formetco's testing confirms the absence of any defect covered under this Brightness Warranty, then Formetco will invoice Qualified End-User for the expense of the testing at Formetco's then-current service rates.

All fees and charges are exclusive of taxes and are due within thirty (30) days of the invoice date.

### BRIGHTNESS MEASUREMENT METHOD

Qualified End-User must clean the Product within the thirty (30) day period prior to the date of the Product's test, in accordance with the Product's Owner's Manual located at <https://www.formetco.com/owners-manual/> (the "Owner's Manual") and any other written instructions furnished by Formetco. At the test, Formetco will measure the brightness level of the Product with a calibrated NIT gun, which measures brightness per square meter in NIT. Formetco will determine the angle and location of the NIT measurement based on the LED technology being measured.

### PRODUCT OPERATING REQUIREMENTS

Prior to shipment, the Product is set not to exceed 7,500 NIT. The Product's maximum daytime brightness cannot exceed 7,500 NIT and nighttime brightness must be maintained at or lower than 5% of the daytime brightness (375 NITs). Formetco reserves the right to increase the Product's LED current (measured in milliamps) over time. Proper operation of the Product to avoid screen "burn-in" caused by continuous static (non-moving, non-motion) images requires changing the content and colors on an average of 50% of the LEDs on at any one time, with even use of the three colors at least every 20 seconds. Failure to operate the Product in accordance with its Owner's Manual and any other written instructions furnished by Formetco will void this Brightness Warranty.



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## EXHIBIT C-2

### 10 YEAR LIMITED PARTS WARRANTY

This Limited Parts Warranty (the "Limited Warranty") is part of and incorporated into the terms and conditions of sale applicable to the Product (the "Terms and Conditions"). Capitalized terms used but not otherwise defined herein have those meanings set forth in the Terms and Conditions. Subject to the terms and conditions set forth herein and in the Terms and Conditions, Formetco warrants that the FTX LED Digital Screen identified on the Sales Agreement (the "Product") shall, for ten (10) years from the date of shipment from Formetco's facility (the "Limited Warranty Period"), (i) materially conform to the specifications designated in the Proposal/Sales Agreement (as amended by any Change Orders), subject to Formetco's standard manufacturing variations, tolerances and classifications, and (ii) be free from material defect in material and workmanship. This Limited Warranty is valid only in the United States or Canada and applies only when the Product is used in the country in which it was purchased.

WHO / WHAT IS COVERED	WHO / WHAT IS NOT COVERED
A "Qualified End-User" of the Product, which means (i) the original purchaser of the Product from Formetco or an authorized Formetco distributor or (ii) a purchaser to whom this Warranty has been properly assigned pursuant to Formetco's Warranty Assignment and Transfer Agreement, available at <a href="https://www.formetco.com/transfer-agreement/">https://www.formetco.com/transfer-agreement/</a> .	Any user of the Product other than a Qualified End-User.
The Product's LED video screen (including LED tiles, power supplies, data received cards, photo cell, cabinetry and connecting cables).	All third-party components of the Product, including computer, router, modem, video equipment, sound system, video cameras, and webcam (which are subject only to their respective original manufacturer's warranty, which Formetco will administer for a two (2) year period from the date of shipment from Formetco's facility).
Offsite labor for repairs covered under this Limited Warranty.	Onsite servicing (see Service Agreement, if purchased, for onsite repair service terms).
Compatibility with cellular technology available at the date of shipment from Formetco's facility.	Compatibility with cellular technology developments that become available after the date of shipment from Formetco's facility.
It is a condition precedent to Formetco's obligations hereunder that the Product is properly installed, operated and maintained in accordance with its Owner's Manual available at <a href="https://www.formetco.com/owners-manual/">https://www.formetco.com/owners-manual/</a> (the "Owner's Manual") and any other written instructions furnished by Formetco, including but not limited to the requirement that the use of the Product may not exceed 7,500 NITS.	Any installation, operation or maintenance of the Product in violation of its Owner's Manual or any other written instructions furnished by Formetco, or other misuse of the Product, any of which will void this Limited Warranty.
Damage resulting from use of the Product with the Software furnished by Formetco.	Damage resulting from use of the Product with software other than the Software furnished by Formetco.
If greater than 0.5% of the total number of pixels in the entire LED Video Screen become Defective LEDs within a one (1) year period during the Limited Warranty Period, Formetco will replace the Defective LED pixels so long as the failure is not otherwise excluded from coverage. A "Defective LED" is defined as an LED pixel that ceases to emit light.	Normal wear and natural aging of parts, including but not limited to LED lamps, connecting devices, shades, sockets, etc., as well as natural reduction in brightness and/or color under normal operation, slight difference in brightness and color without compromising the Product functionality and screen "burn in" caused by continuous static (non-moving, non-motion) images. Brightness of LED tiles is covered under the Brightness Warranty.
Defective parts.	Replenishment of spare parts.
	Damage from accident, power surge or failure, flood, fire, acts of God, war, terrorist activities, riot, civil disturbance, vandalism, and other causes beyond Formetco's reasonable control.

## REQUIREMENTS

Proof of the original purchase date, the Product sales order number, full payment and compliance with all terms of the Agreement, and full payment of all outstanding accounts receivable with Formetco pursuant to any other agreement (and compliance with the terms of such agreement(s)) is required to obtain support under this Limited Warranty.



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In the event the Qualified End-User desires to relocate the Product, the Qualified End-User must provide prior written notice to Formetco and permit Formetco to supervise the dismantling, packing, and unpacking of the Product, and inspect the reinstalled the Product at the new display location. The Qualified End-User shall bear the cost of Formetco's labor and materials spent in supervising and inspecting the Product's relocation at Formetco's then-current rates. This Warranty will be suspended from the commencement of dismantling the Product, until the installation of the Product at the new display location is deemed acceptable to Formetco as it relates to the satisfaction of its obligations hereunder.

### **WARRANTY CLAIMS AND PROCEDURES**

The Qualified End-User must notify Formetco in writing within seven (7) days of discovering a suspected defect in the Product, and such notice must be received by Formetco before the expiration of the Limited Warranty Period; failure to comply with this requirement may void this Limited Warranty, at Formetco's discretion. Formetco reserves the right to test and inspect the Product on a date mutually agreeable to the Qualified End-User and Formetco.

If Formetco determines the reported problem is covered by this Limited Warranty, Formetco will, at its sole option, repair or replace the defective the Product or credit the Qualified End-User an amount based on the Product's prorated value of the original purchase price, and will issue a case number to the Qualified End-User. Formetco's determination as to whether a the Product is defective and whether the defect is covered under this Limited Warranty is final.

In the event that Formetco instructs the Qualified End-User to return the Product, the Qualified End-User must maintain insurance on the Product and properly pack the Product with double-layer packaging recommended materials like foam and similar protective packaging materials, with the case number clearly displayed on the packaging. Any unauthorized return or returns will be rejected. Costs for shipping the return the Product to Formetco shall be borne by the Qualified End-User. Formetco is not liable for any damage that occurs during return delivery. Formetco will bear the costs for delivering the repaired or replaced the Product back to the Qualified End-User and will choose the method of transportation at its sole discretion.

In the event that Formetco issues a replacement part for the Product, Formetco will ship the replacement parts with a return shipping label, return shipping instructions and an invoice for cost of the part with a due date of sixty (60) days from the original ship date. When the replaced part is received by Formetco, Formetco will credit the invoice. The Qualified End-User must return the replaced part to Formetco within sixty (60) days of the ship date of the replacement part, or the Qualified End-User will be charged for the cost of that party.

In the event of repair or replacement of the Product, such Product will be covered under the Limited Warranty for the remaining term of the original Product's Limited Warranty Period, or for three (3) months following the date of repair or replacement, whichever is longer. Under no other circumstance will the repair or replacement of the Product extend the Limited Warranty.



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**EXHIBIT C-3**

**5 YEAR LIMITED PARTS WARRANTY**

This Limited Parts Warranty (the "Limited Warranty") is part of and incorporated into the terms and conditions of sale applicable to Product (the "Terms and Conditions"). Capitalized terms used but not otherwise defined herein have those meanings set forth in the Terms and Conditions. Subject to the terms and conditions set forth herein and in the Terms and Conditions, Formetco warrants that the product identified on the Sales Agreement (the "Product") shall, for five (5) years from the date of shipment from Formetco's facility (the "Limited Warranty Period"), (i) materially conform to the specifications designated in the Proposal/Sales Agreement (as amended by any Change Orders), subject to Formetco's standard manufacturing variations, tolerances and classifications, and (ii) be free from material defect in material and workmanship. This Limited Warranty is valid only in the United States or Canada and applies only when the Product is used in the country in which it was purchased.

WHO / WHAT IS COVERED	WHO / WHAT IS NOT COVERED
A "Qualified End-User" of the Product, which means (i) the original purchaser of the Product from Formetco or an authorized Formetco distributor or (ii) a purchaser to whom this Warranty has been properly assigned pursuant to Formetco's Warranty Assignment and Transfer Agreement, available at <a href="https://www.formetco.com/transfer-agreement/">https://www.formetco.com/transfer-agreement/</a> .	Any user of the Product other than a Qualified End-User.
The Product's LED video screen (including LED tiles, power supplies, data received cards, photo cell, cabinetry and connecting cables).	All third-party components of the Product, including computer, router, modem, video equipment, sound system, video cameras, and webcam (which are subject only to their respective original manufacturer's warranty, which Formetco will administer for a two (2) year period from the date of shipment from Formetco's facility).
Offsite labor for repairs covered under this Limited Warranty.	Onsite servicing (see Service Agreement, if purchased, for onsite repair service terms).
Compatibility with cellular technology available at the date of shipment from Formetco's facility.	Compatibility with cellular technology developments that become available after the date of shipment from Formetco's facility.
It is a condition precedent to Formetco's obligations hereunder that the Product is properly installed, operated and maintained in accordance with its Owner's Manual available at <a href="https://www.formetco.com/owners-manual/">https://www.formetco.com/owners-manual/</a> (the "Owner's Manual") and any other written instructions furnished by Formetco, including but not limited to the requirement that the use of the Product may not exceed 7,500 NITS.	Any installation, operation or maintenance of the Product in violation of its Owner's Manual or any other written instructions furnished by Formetco, or other misuse of the Product, any of which will void this Limited Warranty.
Damage resulting from use of the Product with the Software furnished by Formetco.	Damage resulting from use of the Product with software other than the Software furnished by Formetco.
If greater than 0.5% of the total number of pixels in the entire LED Video Screen become Defective LEDs within a one (1) year period during the Limited Warranty Period, Formetco will replace the Defective LED pixels so long as the failure is not otherwise excluded from coverage. A "Defective LED" is defined as an LED pixel that ceases to emit light.	Normal wear and natural aging of parts, including but not limited to LED lamps, connecting devices, shades, sockets, etc., as well as natural reduction in brightness and/or color under normal operation, slight difference in brightness and color without compromising the functionality of the Product, and screen "burn in" caused by continuous static (non-moving, non-motion) images. Brightness of LED tiles is covered under the Brightness Warranty.
Defective parts.	Replenishment of spare parts.
	Damage from accident, power surge or failure, flood, fire, acts of God, war, terrorist activities, riot, civil disturbance, vandalism, and other causes beyond Formetco's reasonable control.

**REQUIREMENTS**

Proof of the original purchase date, the Product sales order number, full payment and compliance with all terms of the Agreement, and full payment of all outstanding accounts receivable with Formetco pursuant to any other agreement (and compliance with the terms of such agreement(s)) is required to obtain support under this Limited Warranty.



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In the event the Qualified End-User desires to relocate the Product, the Qualified End-User must provide prior written notice to Formetco and permit Formetco to supervise the dismantling, packing, and unpacking of the Product, and inspect the reinstalled the Product at the new display location. The Qualified End-User shall bear the cost of Formetco's labor and materials spent in supervising and inspecting the Product's relocation at Formetco's then-current rates. This Warranty will be suspended from the commencement of dismantling the Product, until the installation of the Product at the new display location is deemed acceptable to Formetco as it relates to the satisfaction of its obligations hereunder.

### **WARRANTY CLAIMS AND PROCEDURES**

The Qualified End-User must notify Formetco in writing within seven (7) days of discovering a suspected defect in the Product, and such notice must be received by Formetco before the expiration of the Limited Warranty Period; failure to comply with this requirement may void this Limited Warranty, at Formetco's discretion. Formetco reserves the right to test and inspect the Product on a date mutually agreeable to the Qualified End-User and Formetco.

If Formetco determines the reported problem is covered by this Limited Warranty, Formetco will, at its sole option, repair or replace the defective the Product or credit the Qualified End-User an amount based on the Product's prorated value of the original purchase price, and will issue a case number to the Qualified End-User. Formetco's determination as to whether the Product is defective and whether the defect is covered under this Limited Warranty is final.

In the event that Formetco instructs the Qualified End-User to return the Product, the Qualified End-User must maintain insurance on the Product and properly pack the Product with double-layer packaging recommended materials like foam and similar protective packaging materials, with the case number clearly displayed on the packaging. Any unauthorized return or returns will be rejected. Costs for shipping the return the Product to Formetco shall be borne by the Qualified End-User. Formetco is not liable for any damage that occurs during return delivery. Formetco will bear the costs for delivering the repaired or replaced the Product back to the Qualified End-User and will choose the method of transportation at its sole discretion.

In the event that Formetco issues a replacement part for the Product, Formetco will ship the replacement parts with a return shipping label, return shipping instructions and an invoice for cost of the part with a due date of sixty (60) days from the original ship date. When the replaced part is received by Formetco, Formetco will credit the invoice. The Qualified End-User must return the replaced part to Formetco within sixty (60) days of the ship date of the replacement part, or the Qualified End-User will be charged for the cost of that party.

In the event of repair or replacement of the Product, such Product will be covered under the Limited Warranty for the remaining term of the original Product's Limited Warranty Period, or for three (3) months following the date of repair or replacement, whichever is longer. Under no other circumstance will the repair or replacement of the Product extend the Limited Warranty.



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**EXHIBIT D**  
**SERVICE AGREEMENT**

Buyer:	
Covered Hardware:	
Display Site:	
Covered Software:	Formetco's proprietary software included with the Covered Hardware only; except as otherwise set forth in an appendix hereto, this Agreement does not cover, and the Services do not apply to, any third-party content management or other software installed or used with the Covered Hardware.
Effective Date:	
Service Term:	____ years
Services:	<input type="checkbox"/> Telephone and Email Support <input type="checkbox"/> Remote Assistance <input type="checkbox"/> Onsite Assistance <input type="checkbox"/> Annual Preventative Maintenance
Fees:	<input type="checkbox"/> Set forth in the Proposal / Sales Agreement or <input type="checkbox"/> \$ _____  (plus time and materials rates as applicable, excluding repairs covered under Warranty)
Buyer Relationship Manager:	Name: _____ Phone: _____ Email: _____

This Service Agreement is entered into as of the "Effective Date" set forth above by and between Formetco Incorporated, a Georgia corporation ("Formetco") and "Buyer" described above. This Agreement contains the terms and conditions applicable to the provision of certain Services by Formetco to Buyer with respect to the "Covered Hardware" described above. Such terms are in addition to, and not in lieu of, the Terms and Conditions governing Buyer's purchase of the Covered Hardware (the "Terms and Conditions"), and constitute an amendment to such Terms and Conditions. Capitalized terms used but not otherwise defined herein shall have the same meanings given for such terms in the Terms of Conditions.

**1. Services Provided.**

(a) During the Service Term, and subject to the terms and conditions hereof (including, without limitation, the exclusions set forth in Section 1(c), below), Formetco agrees to provide to Buyer the following support and maintenance services with respect to the Covered Hardware and Covered Software (collectively, the "Services"):

(i) Formetco will provide Buyer with technical assistance by telephone and email regarding the identification of Covered Hardware malfunctions and Covered Software Errors<sup>1</sup>. Support requests may be made 365 days a year via phone at (678) 951-1213 or via email at [service@formetco.com](mailto:service@formetco.com), from 6:00 A.M. to 10:00 P.M. EST (the "Standard Support Hours").

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<sup>1</sup> "Error" means any failure of the Covered Software to conform to the specifications set forth in the applicable end user documentation.



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(ii) Formetco will use reasonable commercial efforts to correct and address all Errors and will otherwise provide Buyer with each release of the Covered Software generally made available without additional charge to its customers, in each case via remote access of the Covered Hardware. Upon delivery of any Error Correction<sup>2</sup> or new release, such Error Correction or release shall be considered to be a portion of the Covered Software. Formetco will provide remote assistance during the Standard Support Hours, excluding holidays observed by Formetco (a list of which is available upon Buyer's request).

(iii) Upon Buyer's request (or, with respect to any potential Limited Warranty claim, Formetco's election), Formetco will provide Buyer with onsite assistance with respect to the Covered Hardware only, subject to Buyer's provision of an Accessible Site (as defined in the Terms and Conditions). Buyer agrees and acknowledges that any onsite assistance provided by Formetco under this Agreement (including, without limitation, any labor and materials related thereto) is billable to Buyer at the rates set forth on the first page of this Agreement unless the service issue is covered by the Limited Warranty delivered to Buyer with respect to the Covered Hardware. Formetco will provide onsite assistance during the Standard Support Hours, excluding holidays observed by Formetco (a list of which is available upon Buyer's request).

(iv) To the extent purchased by Buyer with respect to any period, annual preventative maintenance services (collectively, "Preventative Maintenance"), which consist solely of the following: visual inspection of service access doors, control box doors, LED tiles attachment, and cleanness of the LED face; functionality inspection of controller box, secondary PC or backup computers, web power switch (including identification of ports to correct elements), photo cell and photo cell back up, and back up data; testing of the communication antenna, alarm notifications, battery and back up battery (if applicable), fan and filter in the environmental control box (if applicable); and check and install critical OS updates and conduct inventory of onsite spare parts. Performance of Preventative Maintenance will be scheduled in advance with Buyer and are subject to Buyer's provision of an Accessible Site.

(b) With the exception of onsite assistance for defects covered by an applicable Limited Warranty, the Services provided under this Agreement are in addition to, and not in lieu of, Formetco's obligations under such Limited Warranty. Further, nothing in this Agreement modifies, alters, amends or supersedes the terms of such Limited Warranty or Formetco's obligations thereunder.

(c) Notwithstanding any term to the contrary contained herein, the Services do not cover or apply to the following: (i) camera calibration of display; (ii) display washings; (iii) troubleshooting and resolving site power or connectivity issues; (iv) insurance costs of any Buyer-owned spare parts; (v) maintenance, service, or repair of hardware or software obtained by Buyer through any third-party vendor; (vi) damage or errors caused by events or circumstances that are excluded from Limited Warranty coverage; (vii) damage or Errors caused by changes or modifications to the Covered Hardware or Covered Software made by any person or entity other than Formetco or its authorized personnel, including but not limited to any changes or modifications to the Covered Hardware's control equipment, sound equipment, settings or software set up.

**2. Service Term; Termination.** The initial term of this Agreement shall begin upon execution by both Buyer and Formetco (effective as of the Effective Date) and shall continue in full force and effect for the Service Term; any renewal must be in writing signed by the parties. Either party may terminate this agreement for convenience upon thirty (30) days written notice to the other party. In the event of Formetco's termination for convenience, Formetco shall refund Buyer an amount equal to the pro rata portion of the current Service Term; in no other event including but not limited to Buyer's termination for convenience shall Formetco be obligated to refund any amounts paid by Buyer under this Agreement. In addition to any termination right under this Agreement, either party may terminate this Agreement immediately upon written notice to the other party (or Formetco may, in its sole discretion, suspend the provision of the Services) if the other party commits a material breach of this Agreement and fails to cure such breach within fifteen (15) days of written notice of the same (other than Buyer's failure to pay any amounts when due, which must be cured within ten (10) days after written notice of the same).

### **3. Fees; Invoicing.**

(a) The fees due to Formetco with respect to the Services are set forth on the first page of this Agreement and shall be invoiced as follows (i) with respect to any Preventative Services purchased by Buyer, upon the first day of the Preventative Maintenance period to which such Services apply; and (ii) for any other billable Services hereunder, upon completion of such Services. Formetco may combine in one invoice all fees and other charges due under this Agreement and any other fees or charges due to Formetco with respect to the Covered Hardware. All undisputed amounts shall be due and payable within 30 days after the invoice date. Buyer must provide Formetco with written notice of any disputed fees (which dispute must be made in good faith) prior to the due date of the applicable invoice, and the undisputed portion shall be paid as provided herein.

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<sup>2</sup> "Error Correction" means either a modification or addition to, or deletion from the Covered Software that, when made to such Covered Software, establishes substantial conformity of such Software to the specifications therefor as set forth in the applicable end user documentation, or a procedure or routine that, when observed in the regular operation of the Covered Software, eliminates the practical adverse effect of such Error.

(b) Any fees or charges not paid when due shall accrue interest at a rate equal to the lesser of: (i) one and one-half percent (1.5%) per month; or (ii) the highest rate allowed by law. In addition to the foregoing and without prejudice to Formetco's other rights and remedies under this Agreement, at law or equity, if Buyer fails to make any payment when due and fails to cure such delinquency within 10 days of written notice of the same, Formetco may, at Formetco's sole discretion do any one or more of the following: (x) terminate this Agreement as described herein; (y) in whole or in part suspend providing Services (or any of them) to Buyer until payment in full has been made; or (z) require other assurances to secure Buyer's payment obligations hereunder.

(c) All fees charged by Formetco with respect to the Services are exclusive of taxes, VAT and similar fees now in force or enacted in the future imposed on the transaction, all of which Buyer will be responsible for, except for taxes based on Formetco's net income.

#### **4. Buyer's Obligations.**

(a) Buyer shall provide Formetco, in a timely manner, with all data and information reasonably necessary for Formetco to perform the Services, including, without limitation, training and documentation with respect to third party software applications integrated or otherwise used on or with the Covered Hardware in order to enable Formetco to differentiate between hardware and software errors or problems.

(b) Buyer shall provide and coordinate, in a timely manner, Formetco's safe access to the Covered Hardware, including, without limitation, by (i) providing reliable and virus-free remote access (either via the Internet or a VPN) to the operating system and any onsite camera system of the Covered Hardware; (ii) providing a consistent level of electrical power to associated system; (iii) providing an accessible vehicle path to the structure on which the Covered Hardware is installed, clear of vegetation and obstacles; and (iv) providing an Accessible Site in connection with any onsite services provided hereunder. In the event an Accessible Site is not available, Buyer shall provide, or bear the cost of, a bucket or broom truck and any other machinery or equipment reasonably requested by Formetco that is capable of providing safe access to the Display Site. In either event, access to the Covered Hardware must be deemed safe by Formetco's onsite technician to proceed with providing requested onsite support. In the event Formetco arrives to the Display Site and Buyer has failed to provide an Accessible Site or otherwise provide safe access to the Display Site as reasonably requested by Formetco, then Formetco will charge Buyer for the cost of Formetco's demobilization, delay, and remobilization.

(c) Buyer shall grant Formetco free use of Buyer's machines, communications facilities, and other equipment needed to perform the Services.

(d) Buyer shall take all reasonable steps necessary to prevent delays in Formetco's provision of the Services, including obtaining any required licenses or consents in a timely manner.

**5. Relocation of the Covered Hardware.** In the event Buyer desires to move the Covered Hardware from its existing Display Site to a new display site, Buyer must provide prior written notice to Formetco and permit Formetco to supervise the dismantling, packing, and unpacking of the Covered Hardware, and inspect the reinstalled Covered Hardware at the new display location. Buyer shall bear the cost of Formetco's labor and materials spent in supervising and inspecting the Covered Hardware's relocation at Formetco's then-current rates. Formetco's provision of the Services under this Agreement will be suspended from the commencement of dismantling the Covered Hardware, to the installation of the Covered Hardware at the new display location in a manner acceptable to Formetco as it relates to the satisfaction of its obligations hereunder.

**6. Relationship Manager.** Buyer shall designate a relationship manager (the "Relationship Manager") who shall oversee the activities hereunder and serve as its principal point of contact for Formetco for the resolution of any issues that may arise and for coordinating of Formetco's delivery of the Services hereunder. Buyer may change its Relationship Manager by notifying Formetco in writing, which may be by e-mail. Buyer's initial Relationship Manager is identified on the first page of this Agreement.

#### **7. Service Request Protocol; Disclaimer.**

(a) In the event of a service related issue, Buyer should notify Formetco via email, at [service@formetco.com](mailto:service@formetco.com) or telephone, at (678) 951-1213. Once Buyer properly communicates a service issue, Formetco will send an email with an assigned case ID number to Buyer's pre-defined email distribution list. Formetco's response times will vary on the priority of the incident or Error reported by Buyer (as determined by Formetco in its reasonable discretion) and the time of day of such report. Formetco will provide periodic status updates (which may be via email to the Relationship Manager, the requesting Buyer personnel or other personnel designated by Buyer by written notice to Formetco) with respect to any support request until resolution of such incident. All support requests will be tracked in Formetco's support system via a unique case ID number.



(b) BUYER'S SOLE AND EXCLUSIVE REMEDY, AND FORMETCO'S ENTIRE LIABILITY, FOR ANY FAILURE TO PROPERLY PROVIDE THE SERVICES DESCRIBED HEREUNDER SHALL BE THE CORRECTION OR REPERFORMANCE OF THE NON-CONFORMING SERVICES.

(c) EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THE TERMS AND CONDITIONS AND ANY APPLICABLE LIMITED WARRANTY (AS DEFINED THEREIN) AND FORMETCO'S OBLIGATIONS UNDER SECTION 7(a) OF THIS AGREEMENT, THE SERVICES ARE PROVIDED EXCLUSIVELY ON AN "AS IS" BASIS, AND FORMETCO AND ITS THIRD PARTY SUPPLIERS AND LICENSORS DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL EXPRESS, IMPLIED, OR STATUTORY WARRANTIES WITH RESPECT TO THE COVERED HARDWARE, COVERED SOFTWARE OR SERVICES PROVIDED HEREUNDER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR TRADE USAGE. All limitations of liability set forth in the Terms and Conditions and Limited Warranty apply equally to the Services provided under this Agreement

**8. General.** This Agreement, together with the Terms and Conditions and any Limited Warranty delivered by Formetco with respect to the Covered Hardware, represents the entire and integrated agreement between Formetco and Buyer regarding the subject matter set forth herein and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement is not intended to and shall not be construed to create any rights against the parties hereto by any persons or entities not a named party to this Agreement. Buyer may not assign its rights or obligations under this Agreement without the prior written consent of Formetco. This Agreement and all obligations of the parties hereunder shall be interpreted, construed, and enforced in accordance with the laws of the State of Georgia, without regard to any conflict of laws rules. Neither this Agreement nor any provision hereof, may be changed, waived, discharged, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought. Any notice or other communication under this Agreement shall be in writing and shall be effective upon: (i) four (4) days following deposit into the United States mail (certified mail, return receipt requested), (ii) the next business day following deposit with a nationally recognized overnight courier service, or (iii) the day of transmission of an email during regular business hours, with a copy sent by another method set forth in this Section 7, in each case with any delivery fees pre-paid and addressed to the party at the addresses set forth below such party's signature hereto (or such other address as a party may provide notice of pursuant to this Section 7). If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law. The headings used herein are for purposes of convenience only and should not be used in construing the provisions hereof. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared same, it being agreed that the agents of all parties have participated in the preparation hereof. This Agreement may be executed and delivered (including, without limitation, electronically) in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully-executed counterpart.



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**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers as of the Effective Date.

**FORMETCO:**

**FORMETCO, INCORPORATED**, a Georgia corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BUYER:**

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_