



## FORMETCO LIMITED WARRANTY SERVICE AGREEMENT TERMS

This Service Agreement (the "Agreement") is entered into as of the "Effective Date" set forth in the related ordering document (the "Order") by and between Formetco LLC, a Georgia limited liability company ("Formetco") and "Buyer" described in such Order. 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 in such Order. 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"), available at <https://www.formetco.com/terms-and-conditions/>, and constitute an amendment to the Agreement referenced in the 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"):

1.1 Formetco will provide Buyer with technical assistance by telephone and email regarding the identification of Covered Hardware malfunctions and Covered Software "Errors", defined as a failure of the Covered Software to conform to the specifications set forth in the applicable end user documentation. Support requests may be made via the methods, and during the hours (the "Standard Support Hours"), set forth at <https://www.formetco.com/supporthours/>.

1.2 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/Buyers, in each case via remote access of the Covered Hardware. Upon delivery of any Error Correction or new release, such Error Correction or release shall be considered to be a portion of the Covered Software. An "Error Correction" is 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. 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). If the issue cannot be reasonably corrected via remote assistance, Section 1.3 below will apply.

1.3 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 by Formetco which will be provided to Buyer upon its written request to Formetco (rates are subject to change at any time by Formetco) 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).

1.4 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), photocell and photocell 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.

1.5 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.

1.6 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.**

3.1 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.

3.2 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.

3.3 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.**

4.1 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.

4.2 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.

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

4.3 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 hereby designates the following individual as its Relationship Manager:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

Email: \_\_\_\_\_

Buyer may change its Relationship Manager by notifying Formetco in writing, which may be by e-mail.

**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