



## THE CITY OF SAN MARCOS SERVICES CONTRACT

This **Agreement** (this “**Agreement**”) is entered into by and between THE CITY OF SAN MARCOS, a municipality in the State of Texas (“**CITY**”), and CLIMATEC, LLC (A COMPANY) whose address is 1077 Central Parkway South, Suite 900, San Antonio, Texas 78232 (“**CONTRACTOR**”), and is effective for all purposes as of the date of the last signature to this Agreement (“**Effective Date**”).

City and Contractor agree as follows:

1. **Services.** Contractor will perform the Services (“**Services**” or “**Project**”) and provide deliverables (“**Deliverables**”) set forth in **Exhibit A**, attached and incorporated for all purposes, to the satisfaction of City. In the event of any conflict between the terms of this Agreement (including the Standard Terms and Conditions described in Section 4) and the **Exhibit A**, this Agreement shall control.
2. **Term.** The term (“**Term**”) of this Agreement will commence on the Effective Date, and will continue for three years, unless sooner terminated as provided herein. This contract may be extended for three (3) additional one year periods provided all terms and conditions remain unchanged and in full force and effect. The option to extend requires the mutual agreement of both parties.
3. **Compensation.** Contractor’s fees for the Services are set forth in **Exhibit A**, attached and incorporated for all purposes. City will pay to Contractor compensation for performance of the Services within thirty (30) days after receipt of an appropriate invoice (“**Invoice**”) and City’s approval of Services. Payment will be made in accordance with the Texas Prompt Payment Act, currently codified in Chapter 2251, *Texas Government Code*. Payment for delivery of Services, and rendered will not be unreasonably withheld or delayed. If City disapproves any amount submitted for payment by Contractor, City will give Contractor specific reasons for disapproval in writing within a reasonable time. Upon resolution of any disputed charges, Contractor will re-invoice such remaining charges to City.

### WARRANTIES, TERMS, AND REPRESENTATIONS.

4. **Compliance with Laws and Policy.** Contractor warrants and agrees that Contractor will perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by City, Contractor warrants and agrees that Contractor will perform the Services in compliance with all City’s Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs. For purposes of this Agreement, “**Standard Terms and Conditions**” means the Standard Terms and Conditions of the City of San Marcos (found at <http://www.sanmarcostx.gov/DocumentCenter/Home/View/6608>).
- 4.1 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, required for the performance of the Services.
5. **Performance.** Contractor represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under this Agreement. Contractor warrants that all services performed under this Agreement will be performed consistent with generally prevailing professional or industry standards.
6. **Authority.** Contractor represents and agrees that this Agreement reflects Contractor’s full and correct name and that Contractor is entering into this Agreement in an individual capacity/with authorization on behalf of the named entity.
7. **Conflict of Interest.** Contractor represents, and agrees that Contractor presently has no interest and will not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor’s performance of the Services hereunder. Contractor further warrants that no relationship or affiliation exists between Contractor and City that could be construed as a conflict of interest with regard to this Agreement.
8. **Deliverables and use of Documents.** All drawings, specifications, plans, computations, data, photographs, records, models, statements, reports, and other deliverables or materials prepared or produced by Contractor in connection with the Services (collectively, “**Service Deliverables**”), whether or not accepted or rejected by City, are the property of City and for its exclusive use and re-use at any time without further compensation and without any restrictions. Contractor will not sell, disclose, or obtain any other compensation for the Service Deliverables. Contractor will not use Service Deliverables in any manner for any other purpose without the express written consent of City.
9. **Assignment.** Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, without the express written consent of City. The benefits and burdens of this Agreement are assignable by City.

**10. Force Majeure.** Neither City nor Contractor will be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**11. Insurance.** During the period of the contract, the contractor will maintain at its own expense, insurance naming the City as an additional insured. Insurance limits will be not less than \$1,000,000 per incident for General Liability; \$1,000,000 per incident for Automobile Liability. Workers Compensation limit is dictated by statute. Contract will provide the City with a thirty (30) days written notice to the Certificate Holder prior to cancellation or material change of any insurance referred to in the certificate. Failure of Certificate Holder to demand a certificate or other evidence of full compliance with these insurance requirements or failure of the Certificate Holder to identify a deficiency from evidence that is provided will not be construed as a waiver of Insured's obligation to maintain such insurance.

**12. Termination.** City may terminate this Agreement in accordance with the Standard Terms and Conditions. Upon such termination, City will pay Contractor, at the rate set out in **Exhibit A**, for Services satisfactorily performed through the date of termination. Notwithstanding any provision in this Agreement to the contrary, City will not be required to pay or reimburse Contractor for any Services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.

**13. Notice.** Any notices required under this Agreement will be made in writing, postage prepaid to the following addresses, and will be deemed given up hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three days after deposit in the United States Mail:

**CITY:**

The City of San Marcos  
Attn: City Manager's Office  
630 East Hopkins Street  
San Marcos, TX 78666

**CONTRACTOR:**

Climatec, LLC  
Kenneth Marshall  
1077 Central Parkway South, Suite 900  
San Antonio, Texas 78232

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the Effective Date written above:

**CONTRACTOR:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Full Name / Title (if not in individual capacity)

Departmental Approver:

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**City**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

# RETROFIT TECHNICAL SUPPORT AGREEMENT

*Procurement Method:* Oscar Hairell (512)393-8410 CP# 13/012PB-08  
*Date of Proposal:* May 15, 2018  
*TSA Start Date:* July 1, 2018  
*TSA End Date:* June 30, 2021  
*Service Dispatch Number:* (210) 663-0400  
*Service Dispatch Email:* SanAntonioService@Climatec.com

This proposal will provide **three (3) years** of technical support services for the following facility(s):

Facility Name: City Of San Marcos  
Facility Address: 630 E Hopkins, San Marcos, Texas 78666

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BY AND BETWEEN:	CLIENT:
<b>CLIMATEC, LLC</b>	<b>CITY OF SAN MARCOS</b>
1077 Central Parkway South, Suite 900	630 E Hopkins
San Antonio, Texas 78232	San Marcos, Texas 78666

This proposal is firm for one hundred and eighty (180) days and shall include the Terms & Conditions and Schedule(s) attached herein.

# PROPOSAL OVERVIEW AND SCOPE OF SERVICES

## ENERGY MANAGEMENT & CONTROL SYSTEM SERVICE **EMCS Primary**

### Services:

- ☒ **System and Service Review.** Climatec, LLC will hold an annual formal review with your staff to discuss the services performed during the past year and to recommend improvements and options to enhance system performance, resolve operational problems, and to meet your changing needs and objectives.
- ☒ **Preventive Maintenance.** Maintenance shall be performed per the attached Schedule B to optimize the system effectiveness. Scheduled preventive maintenance visits will occur **twelve (12) times** per year.
- ☒ **Software Maintenance.** Climatec, LLC will furnish and install manufacturer's software revisions to maintain or improve present performance within the functional capabilities of your system. New software products shall be available for sale.
- ☒ **Database Protection.** Climatec, LLC will protect your database by periodically saving this information and maintaining a copy on our premises. Database backups will be performed **twelve (12) times** per year.
- ☒ **Telephone Support.** Technical experts will assist you, via the telephone, to identify and resolve operational problems.
- ☒ **On-Line Service.** Climatec, LLC will provide you with on-line assistance to troubleshoot your system and resolve operational problems. *The Client is responsible for LAN / telephone line installation and costs.*
- ☒ **System and Service Log.** Climatec, LLC will provide a log for you to document concerns, system problems, and other related items requiring our attention. Each scheduled service visit shall begin with a review of this log.
- ☒ **Documentation.** All scheduled and unscheduled service visits will be documented by a work order form, listing materials used and hours spent. All work orders will be signed by an authorized Client representative to verify all work completed. For your staff's convenience, copies of all work orders and our service agreement scope will be kept in your System and Service Log.
- ☒ **Operator Training.** Climatec, LLC will provide **four (8) hours** of on-site annual operator(s) training.

### EMCS Premium Services:

## SCHEDULE A – TYPE OF SERVICE PLAN

- Component Repair and Replacement.** Climatec, LLC will repair or replace failed components with new or reconditioned components of compatible design to minimize obsolescence and maintain system integrity at no additional charge. Exchanged parts shall become the property of Climatec, LLC (see Schedule D for special conditions).
- Business Day Service.** Service repair calls covered by this agreement shall be made five (5) days a week, during normal business hours at no additional charge (see Schedule D for special conditions).
- Premium Time Emergency Service.** Emergency repair calls covered by this agreement shall be made seven (7) days a week, twenty-four (24) hours a day at no additional charge (see Schedule D for special conditions).
- On-Site Service.** Climatec, LLC shall provide an on-site Service Specialist for **zero (0) hours**

# SCHEDULE B – PREVENTATIVE MAINTENANCE SCHEDULE

## SERVICE TASK 1: EMCS – MAIN OPERATOR WORKSTATION:

### On Each Scheduled Service:

- \* **Visits to Jobsite**
- \* Report in with appropriate customer personnel.
- \* Review EMCS system for critical and off-line status indications.
- \* Review EMCS system for override and disabled status indications.
- \* Review event and alarm log with customer and discuss EMCS operational concerns.
- \* Analyze the number of operator or system change occurrences for impact on performance.
- \* Perform or schedule reactive or proactive maintenance procedures as appropriate to resolve situations noted.
- \* Install appropriate EMCS software refinements and updates.

### On a Scheduled Basis:

- \* **Main Operator Workstation**
- \* Check monitor for clarity, focus, and color.
- \* Cycle power and listen for unusual motor/bearing noise.
- \* Verify proper system restart; check system date, time and hardware status.
- \* Clean exterior surfaces, including monitor.
- \* Clean dust from internal surface(s).
- \* General security/software maintenance of the main operator workstation.
- \* Save/copy network workstation data base, including custom graphics and resident Master Controller archive data bases, as indicated in this agreement.

**NOTE:** Revisions to other software programs not produced by Climatec are not included in this service task, however it can be added at the owner's request. Likewise, "Major Revisions" to the EMCS software, which add new features and capabilities are not included. Excludes any customer IT maintained server.

# SCHEDULE B – PREVENTATIVE MAINTENANCE SCHEDULE

## SERVICE TASK 2: EMCS – NETWORK ANALYSIS:

### On a Scheduled Basis:

- \* Log onto the main operator workstation or global controller(s) to prove proper communication means.
- \* Review global controller error log.
- \* For each main operator workstation and global controller unit:
  - Analyze communication.
  - Perform online/offline test routine to determine power and communication restart.
  - Provide a report summarizing network analysis results.

### As Required:

- \* Analyze the error rate & transmission rate.
- \* Review trend logs.
- \* Review alarm logs.
- \* Perform the network analysis tasks as appropriate to verify or discount suspected communication problems.
- \* Perform communication “sniffing” if communication problems elude conventional troubleshooting (discussion of resource equipment needs to be discussed with owner).
- \* Perform the network analysis tasks as appropriate to evaluate the impact on network performance of various configuration options, as part of a proposed system expansion or modification.

## SCHEDULE B – PREVENTATIVE MAINTENANCE SCHEDULE

### SERVICE TASK 3: EMCS – GLOBAL CONTROL MODULES:

#### On a Scheduled Basis:

- \* Check indications to verify proper DC power levels, appropriate transmit and receive activity on the communication trunks, and check for possible Error Code indications.
- \* Confirm proper time sync of all Global Controller(s) with workstation.
- \* Inspect wiring for signs of corrosion, fraying and rapid discoloration, defective shielding, or shield grounding.
- \* Monitor LED sequencing for proper operation.
- \* Review Global Controller(s) device properties.
- \* Remove excessive dust from internal surfaces.
- \* Verify / calibrate other points and control processes, where the need for possible proactive maintenance is indicated.
- \* Update firmware files, as required.
- \* Review and maintain software documentation.

# SCHEDULE B – PREVENTATIVE MAINTENANCE SCHEDULE

## SERVICE TASK 4: EMCS – UNITARY CONTROLLERS:

### On a Scheduled Basis – AHU Application Controller:

- \* Verify that HVAC Unit is being controlled at the appropriate value(s).
- \* Change one set point value. Verify smooth transition and stable control at the new set point, as required.
- \* Return set point to original value.
- \* Repeat for each additional control loop, as required.
- \* Verify the proper operation of critical control processes and points associated with this unit. Make adjustments, as required.
- \* Review and maintain software documentation.

### On a Scheduled Basis – Unitary Equipment Controller:

- \* Verify that controller is in control at the desired value(s).
- \* Change one set point value. Verify smooth transition and stable control at the new set point, as required.
- \* Return set point to original value.
- \* Repeat for each additional control loop, as required.
- \* Verify the proper operation of critical control processes and points associated with this unit. Make adjustments, as required.
- \* Review and maintain software documentation.

## SCHEDULE C – LIST OF SERVICED EQUIPMENT

### ENERGY MANAGEMENT & CONTROL SYSTEM:

- \* EMCS operators' workstation, to include the operating software.
- \* EMCS global controller(s), to include the modem.
- \* EMCS programmable and unitary controllers.
- \* Associated EMCS controller devices such as relays, space sensors, OSA sensors, immersion sensors, current sensors, etc., used for control and/or status feedback by the controller's.

## SCHEDULE D – MISCELLANEOUS CONDITIONS

### SPECIAL CONDITIONS:

This agreement excludes any internal controls associated with the individual HVAC equipment, such as factory installed and/or manufacturer supplied internal control modules, not associated with the Energy Management and Control System(s).

**This will cover the following sites:**

**Activity Center  
501 East Hopkins**

**San Marcos Police Station  
2300 IH35**

**Municipal Building  
630 E. Hopkins**

**Public Library  
625 E. Hopkins St.**

**Grant Harris Building  
401 E. Hopkins**

**City of San Marcos  
630 E. Hopkins St.**

**Public works  
630 E. Hopkins St.**

# SCHEDULE E – CHARGES, RATES & PRICING TERMS

## CHARGES:

- \* The first year billing shall be **1** payments of: **\$45,558.00** \*
- \* The Second year billing shall be **1** payments of: **\$26,752.00** \*
- \* The Third year billing shall be **1** payments of: **\$26,752.00** \*

*\* Excluding Taxes.*

## Rates:

The following list contains the Customer Preferred labor rates that shall be used for services, provided by Climatec, LLC, that are requested by the Client for services not included in this agreement:

- \* Field Specialist (M-F 8:00 AM to 5:00 PM) **\$110.00** per hr.
- \* Field Specialist (M-F after 5:00 PM & Saturday) **\$149.00** per hr.
- \* Field Specialist (Sundays & Holidays) **\$186.00** per hr.
  
- \* Software Specialist (M-F 8:00 AM to 5:00 PM) **\$132.00** per hr.
- \* Software Specialist (M-F after 5:00 PM & Saturday) **\$179.00** per hr.
- \* Software Specialist (Sundays & Holidays) **\$228.00** per hr.

## PRICING:

Additional Alerton parts and materials, requested by the Client, shall be available to the Client at a discount of list price less 50%, less 10%.

# SCHEDULE F – RETROFIT SCOPE OF WORK

TO UPGRADE THE EXISTING JACES AND SUPERVISOR TO N4:

## **Inclusions:**

- \* Programming.
- \* Installation.
- \* Checkout labor.
- \* Conversation of existing graphics to newest N4 graphics format.
- \* (3) NC-8025 (Alerton Branded Tridium 8000 Core software 25 devices).
- \* (3) SMA-8025-1YR-INIT (18 month maintenance 25 devices).
- \* (4) NC-8010 (Alerton Branded Tridium 8000 Core software 10 devices).
- \* (4) SMA-8010-1YR-INIT (18 month maintenance 10 devices).
- \* (3) DEVICE-10 (Alerton Branded Tridium 8000 Device Packs 10 devices).
- \* (7) Alerton Jace.
- \* (1) Alerton Branded N4 Supervisor.
- \* (1) SUP-10-SMA-INIT (18 month maintenance 10 devices).

## **Exclusions:**

- \* Repair/replacement of any other existing devices that may be defective.
- \* IP addresses, Ethernet drops, and LAN connections, will require the assistance of the IT department
- \* Dedicated computer workstation.
- \* Taxes.