

MEI TERMS AND CONDITIONS (“T&C”)

1. Purchase and Payment. Pursuant to the applicable Maintenance Agreement, purchase order or quote (collectively, “**Agreement**”), Customer agrees to purchase, the Product or Services described in the Agreement. Except as defined herein, all capitalized terms have the meaning ascribed to them in the Agreement. Customer agrees to pay all sums specified in the Agreement within 2 days of the due date, without any deduction or setoff. MEI reserves the right to: (i) apply fuel surcharges as applicable and necessary when rates of these goods exceed the normal allowances calculated into a service Schedule; and (ii) add all applicable taxes as prescribed by law. Customer shall pay any and all of Customer’s third party vendor fees, such as accounts receivable / payable administrators. Customer agrees to receive MEI’s invoices electronically, and if Customer requires other delivery, shall pay MEI’s then-current delivery fee.

2. Standard Warranty. MEI warrants that any new Product, including materials and equipment to be furnished as part of the Product, shall be of good quality, in conformance with all legal requirements, and will be free from defects in material and workmanship for twelve (12) months from the date of installation (the “**Standard Warranty**”). Any refurbished parts, if available, carry a warranty that such parts shall be of good quality and free from defects in materials and workmanship for a period of ninety (90) days from installation. This Standard Warranty shall not apply to: (i) any Product that has been subject to misuse, misapplication, neglect (including without limitation improper maintenance and storage), accident, improper installation, modification (including without limitation use of unauthorized parts of attachments), adjustment or repair; or (ii) damage, loss, or diminution of or to any Product related to normal wear and tear, or usage of wear parts. (iii) damage caused by disasters such as fire, flood, wind, lightning, electrical surge or power outage; (iv) corrosion from exposure to liquids or atmospheres; (v) any parts or components installed by a non-MEI mechanic during the term or extended term of the Agreement with MEI; or (vi) Customer’s failure to properly clean or care for the Product. Notwithstanding any contrary provision or agreement, MEI’s maximum liability for Products, whether in contract, negligence, or strict liability in tort, is limited to the repair or replacement of the Product at issue, or the parts thereof.

3. Service Terms and Conditions.

(a) Excluded Services. Except as specified in the Agreement, the Services specifically exclude the following, which at Customer’s option may be performed separately by MEI at MEI’s then-current rates: (i) repairs or damage related to Customer negligence, misuse of the Services; (ii) repairs required as a result of persons other than MEI’s authorized representatives performing any maintenance, modification, or relocation of any equipment, accessories, products, or software necessary to MEI’s performance of Services; (iii) repair or damages to Customer’s property (real or personal) necessitated by or related to accident, theft, unexpected loss, abuse, electrical power failure, flood, fire, lightning, or corrosive environments; (iv) repairs or service calls necessitated by complete or partial failure of transmission medium (ie telephone lines, computer networks, or worldwide web) or for equipment malfunction caused by such transmission medium, or interference caused by third parties beyond the control of MEI, power surges, liquids, or repair or maintenance of a transmission line; (v) Customer initiated reprogramming of or interference with any equipment, custom or special products, or software necessary to MEI’s performance of Services. MEI has no liability or responsibility for problems arising from building compression, shifting hoistway enclosures, or for damage resulting from the performance of any safety test. MEI is not responsible for any defects in design or installation or for abuse to the equipment which occurred prior to maintenance by MEI, whether or not such defects in design or installation or abuse are observed by MEI prior to commencement of Services.

(b) Customer's Obligations. Customer shall: (i) furnish and maintain a dedicated phone line and phone for use with the emergency phone in the elevator cab and will assure its continuous operation for emergency phone use and will notify MEI of any problems that occur with this line and Customer will immediately correct these problems; (ii) cooperate with MEI in all matters relating to the Services, and respond promptly to MEI’s request to provide direction, information, approvals, authorizations and decisions; (iii) obtain and maintain all necessary permits related to the equipment; and provide all wiring prints and diagrams and a copy or version of the controller software. Customer agrees to provide MEI with full immediate access to all areas of Customer’s facility in which the elevator(s) and associated equipment is located. Failure to provide such access will result in the Service Fees being earned and payable by Customer, even if the applicable Service is not completed. Customer shall maintain the machine rooms(s) and elevator pit area(s) to be free from water, debris and stored materials. MEI is not responsible or liable for personal injury or property damage due to the action or failure of any part of the elevator equipment during testing. If subsequent repairs are necessary to obtain proper operation of the equipment to meet the requirements of these tests, such work will be proposed at additional cost under separate work order. Any testing of emergency/standby power systems that require completion outside standard hours will be billed at current charge out rates. It is Customer’s responsibility for the cost of correcting all elevator code violations existing at the time the Agreement is executed. If such code violations or other outstanding safety violations are not corrected within thirty (45) days, MEI may cancel the Agreement without penalty by providing thirty (30) days written notice to Customer.

4. Limitations. Nothing herein or in the Agreement shall be construed to mean that MEI assumes any liability for any accidents or injury to persons or property. Customer retains all liability and responsibility for accidents or injuries to any person or property while riding on or being in or about the subject elevators or related equipment.

(a) DAMAGES. IN NO EVENT SHALL MEI OR ANY OF ITS EMPLOYEES, OFFICERS, MANAGERS, DIRECTORS, OWNERS, SUCCESSORS OR ASSIGNS BE LIABLE UNDER THE AGREEMENT OR THESE T&C TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, INCLUDING ANY DAMAGES FOR BUSINESS INTERRUPTION, LOSS OF USE, DATA, REVENUE OR PROFIT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) MAXIMUM LIABILITY. WITHOUT LIMITING THE PROVISION OF SECTION 4(a) ABOVE, IN NO EVENT SHALL MEI’S AGGREGATE LIABILITY EXCEED, WITH RESPECT TO PRODUCTS OR SERVICES, THE TOTAL AMOUNT PAID TO MEI PURSUANT TO THE AGREEMENT IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. The prior sentence

limiting liability and damages is a material part of the Agreement, and MEI would not have sold the Product or provided the Services on terms as favorable to Customer as set forth in the Agreement.

(c) EXCLUSIVE REMEDY. CUSTOMER'S SOLE REMEDY WITH RESPECT TO PRODUCTS SHALL BE THE STANDARD WARRANTY, AND MEI'S SOLE LIABILITY SHALL BE COMPLIANCE WITH THE STANDARD WARRANTY.

5. Indemnification. Customer shall indemnify, defend and hold harmless MEI, its officers, managers, directors, employees, agents, affiliates, PAGE 5 MEI 878-1 5. Indemnification. Customer shall indemnify, defend and hold harmless MEI, its officers, managers, directors, employees, agents, affiliates, successors and assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, that are incurred by Indemnified Party or otherwise awarded against the Indemnified Party, arising out of any claim alleging: (i) breach or non-fulfillment of any representation, warranty or covenant under the Agreement by Customer, its employees or agents; (ii) any negligent or more culpable act or omission of Customer, its employees or agents (including without limitation reckless or willful misconduct) in connection with the performance of its obligations under the Agreement; (iii) bodily injury, death of any person or damage to real or tangible personal property caused by the negligent or more culpable acts or omissions of Customer, its employees or agents (including any reckless or willful misconduct; or (iv) any failure by Customer to comply with any applicable federal, state or local laws, regulations or codes in the performance of its obligations under the Agreement.

6. Default. An event of default ("**Event of Default**") under the Agreement or these T&C shall occur upon the occurrence of all or any one of the following events: (i) Customer does not pay any amount due to MEI under the Agreement; (ii) Customer ceases doing business as a going concern; (iii) Customer makes an assignment for the benefit of its creditors or admits in writing to its inability to pay its debts as they become due; (iv) Customer files, or has filed against it, a petition in bankruptcy or for its reorganization, arrangement, composition or readjustment under any state insolvency law or Customer liquidates all or a substantial part of its assets not in the ordinary course of its business, dissolves or takes other similar action; or (v) Customer shall default in the performance of any of its obligations arising under the Agreement, these T&C, any service schedule, or any other agreement between Customer and MEI, and such default is not cured within fifteen (15) days of MEI providing notice of same.

7. Remedies. Upon the occurrence of any Event of Default, MEI may at its option and without notice or demand, exercise all or any one of the following remedies: (a) suspend provision of Services, but Customer shall continue to pay all Service Fees through the end of the Term, even if Services are suspended, (c) upon written notice to Customer, terminate this Agreement and any other agreement between Customer and MEI; and/or (e) take additional action as may be appropriate to mitigate additional damages to MEI; The foregoing remedies are cumulative and may be exercised successively or concurrently.

8. Assignment. MEI may without the consent of Customer, assign MEI's rights and obligations under the Agreement, and may subcontract any portion of MEI's performance of the Agreement to a third-party. Customer may not assign the Agreement or otherwise transfer its rights or obligations under the Agreement to any third-party without the prior written consent of MEI. In the event of the sale, lease, assignment or other transfer of Customer's facility described herein, Customer agrees to disclose in writing to such successor the Agreement, and if all of Customers' obligations under the Agreement are not assumed in writing by such successor, Customer agrees to continue to be bound by the terms hereof.

9. Governing Law; Venue. The validity, construction and performance of the Agreement and these T&C shall be governed by and construed in accordance with the law of the state where the Services are performed, without reference to any choice of law principals, but the specific performance provisions and right of MEI to seek injunctive relief for Customer's breach of the covenants contained herein may also be enforced in any other state wherever such breach occurs, and in accordance with the laws of such other state, to the extent necessary to secure enforcement in such other jurisdiction.

10. Force Majeure. MEI shall not be liable for any failure of performance hereunder due to causes beyond its reasonable control, including but not limited to: act of God, fire, flood, earthquake, terrorist act, national emergency, war, strike, lock-out, change in law, work stoppage or other labor difficulty, action or inaction of an independent third party utilized in providing the Services, or unavailability of materials.

11. Waiver of Jury Trial. Each Party agrees that any controversy that may arise under the Agreement, including schedules attached to the Agreement, is likely to involve complicated and difficult issues and, therefore, each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement, or the transactions contemplated hereby.

12. General Provisions. The following sections of the T&C shall survive termination or expiration of the Agreement: 2, 3, 4, 5, 6, 7, 9, 10, 11, and 12. The relationship of the parties created by the Agreement is that of independent contractors and not partners, joint ventures, agents, or otherwise. No waiver by either Party of any right under, or breach of, any provision of the Agreement shall be construed as a waiver of any continuing or succeeding breach of such provision or right. The Agreement these T&C: (i) are binding upon and inure to the benefit of MEI and Customer and their respective successors, transferees, or assignees; and (ii) constitute the entire agreement between the Parties with respect to the subject matter of the Agreement, superseding all prior agreements, representations, communications and understandings, oral or written. A determination that any provision of the Agreement is invalid or unenforceable shall not affect the other provisions of the Agreement. The Agreement may not be amended or modified except by a written agreement signed by both Parties. In the event of a conflict between the main body of the Agreement and these T&C, these Agreement will take precedence, and shall supersede and be controlling over the T&C. By accepting delivery of the Products or Services, Customer is also agreeing to these T&C. Except for the money due upon an open account, no action may be brought for any breach of the Agreement or these Terms and Conditions more than one (1) year after the accrual of such cause of action.