

AIR CONDITIONING



HEATING

AIR CONDITIONING SERVICE AGREEMENT

Contract #4537

Date: February 17, 1999

Customer's Name: SEVEN WORLD TRADE CO.

Address: 7 WORLD TRADE CENTER, NEW YORK, NY 10048

LOCATION (S) OF EQUIPMENT:

Name: OFFICE OF EMERGENCY MANAGEMENT OF THE MAYOR'S OF NY

Address: 7 WORLD TRADE CENTER, 1ST, 7TH & 23RD, NEW YORK

KABACK ENTERPRISES, INC. ("Kaback agrees to furnish and the Customer agrees to accept "Kaback Maintenance Service" on the Air Conditioning Equipment set forth on Exhibit "A" (enclosed), hereto at the location(s) indicated (the "Air Conditioning Equipment"), subject to and upon the following terms and conditions:

1. **Term.** This Air Conditioning Service Agreement shall continue for a period of one year from the date hereof and shall automatically renew for successive one year terms at each anniversary date of this Agreement at Kaback's rates prevailing at each date of renewal. Following the first anniversary of date of this Air Conditioning Service Agreement, this Air Conditioning Service Agreement may be terminated by either party in writing upon thirty days (30) notice.
2. **Services Furnished.** The following "Kaback Maintenance Service," which is designed to keep your Air Conditioning Equipment in normal operation, will be furnished to the extent Kaback deems necessary:

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45 WEST 25TH STREET NEW YORK, N.Y. 10010 (212) 645-5560 FAX: (212) 645-8963

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- 2.1 Performing periodic examinations with respect to all functioning components of Customer's Air Conditioning Equipment, and in connection therewith, making necessary or indicated adjustments, lubrications and cleaning of operating parts;
- 2.2 Repairing or replacing filters, refrigerants or other parts and materials required for efficient operation of Customer's Air Conditioning Equipment, as is necessitated by normal wear and tear only, and for no other cause. Customer agrees to pay Kaback for the costs of any parts or materials used in any such repairs or replacements, and Kaback agrees to provide, at its expense, the labor necessary to make such repairs and replacements. Where the costs of such parts or materials for any one repair or replacement exceeds \$500.00 unless required for emergency repairs, Kaback will first obtain Customer's written authorization before furnishing same;
- 2.3 The Hurricane damper will be tested quarterly. This includes powering them closed and manual opening each damper.
3. **Price.** The price for the Kaback Service as set forth in this Air Conditioning Maintenance shall be \$48,900.00 per year, payable in 1 installment(s) of \$48,900.00 each, in advance, plus **8.25%** sales tax for the total cost of FIFTY TWO THOUSAND NINE HUNDRED THIRTY FOUR DOLLARS AND 25/100 (\$52,934.25).

The break down for the above price is as follows:

Maintenance of Air Conditioning Units, VAV,s Fan Powered Boxes, and all Filter & Belts	\$34,000.00
Maintenace of (2) Trane 50 Ton Base Building Air Conditioning Units	6,000.00
Testing of Hurricane Dampers	6,400.00
Chemical Water Treatment	<u>2,500.00</u>
Total	\$48,900.00

- 3.1 The price for Kaback Service as set forth in this Air Conditioning Service Agreement is based upon the present scale of wages and benefits for personnel required; however, the contract price set forth, remains the same from the date
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executed (a period of one year). After one year, the contract price will be adjusted to the extent of any increase or decrease of such wages and benefits during the term of this Air Conditioning Service Agreement.

4. **Type of Labor and Materials Used.** In performing the Kaback Maintenance Services required hereunder, Kaback shall use trained and adequately supervised personnel, and to the extent available, those manufactured parts which are warranted against defects in workmanship and materials by the manufacturers thereof.
5. **Services Not Included.** Kaback assumes no responsibility for chemical cleaning of condenser or evaporator coils painting, scraping, rehabilitating, refinishing or cleaning the internal structure or external trim of the Air Conditioning Equipment, unless specifically stated above. Kaback's obligation to examine, lubricate, adjust, repair or replace equipment is strictly limited to the items of Air Conditioning Equipment enumerated above. No other work or service on Kaback's part is intended unless specifically set forth above.
6. **Additional Services and Charges Therefore.** Kaback further agrees, but solely in its discretion, to provide the following additional services to the Customer:
 - 6.1 To make such other replacements or repairs to the Air Conditioning Equipment as Customer may request;
 - 6.2 To install new attachments on the Air Conditioning Equipment as recommended or directed by Governmental authorities or insurance companies;
 - 6.3 To make replacements to the Air Conditioning Equipment with parts of a different design. Customer agrees to compensate Kaback for such additional services on the basis of Kaback's then-applicable list price for the materials used and its then-applicable billing rate for labor, such billing to be made on a progress basis and payable net ten (10) days after date of invoice.

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7. **Liability for Negligence.** Nothing in this Air Conditioning Service Agreement shall be construed to mean that Kaback assumes any liability on account of injuries to persons or to property, except those directly due to the negligent acts or omissions of Kaback's employees. Customer's own responsibility for accidents to property or to persons while being in or about the Air Conditioning Equipment, is in no way affected by this Air Conditioning Equipment. Kaback does not assume the risk or loss resulting from water damage, nor is Kaback liable for any damage, direct or consequential, that may be due to its inability for any cause to supply personnel or parts unless Kaback fails to provide parts within a reasonable time after Customer's request thereof.
8. **Excused from Performance.** Kaback shall be excused from the performance of its obligations hereunder and shall not be responsible or liable for any loss, damages, (including consequential damages), during the period of any detention or delay resulting from accidents, strikes, lockouts, fires, freezing, flood, explosion, theft, lightning, vandalism, abnormal use of equipment, failure of power supply, blown fuses, windstorm, earthquake, floods, storms, riot, civil commotion, malicious mischief, Act of God, or any cause beyond the reasonable control of Kaback, whether or not the same is herein specified. Kaback may, in its sole and uncontrolled discretion, withhold service where the payments required hereunder are in arrears, without being liable for any damage, direct or consequently, resulting from its refusal to render the services required hereunder.
9. **Cooperation of Users.** It is understood that Customer's representatives and employees shall, at all times, cooperate with employees of Kaback to the best of their ability but without being required to undertake or assist in any of the duties and responsibilities undertaken herein by Kaback.
10. **Airborne Contaminants.** Since Kaback has no control over the contaminants airborne or otherwise that may enter the water cooled or air cooled condensers, Kaback assumes no responsibility for damage, direct or consequential, resulting from any clogging, corrosion, scaling or other deleterious action.

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Kaback shall use best efforts however, to supply the labor necessary to clean the sludge and other materials from water strainers that interfere with the operation of the Air Conditioning Equipment listed above.

11. **Insurance.** Kaback carries Workman's Compensation, Public Liability and Property Damage insurance covering the acts of Kaback employees during the performance of this Air Conditioning Service Agreement. Nothing in this Air Conditioning Service Agreement shall be construed to mean that Kaback assumes any liability on account of injuries to persons or to property, except those injuries to person or property directly due to the negligent acts or omissions of Kaback's employees while acting within the scope of their duties.
12. **Overtime and Emergencies.** All maintenance service is to be performed during regular working hours of regular working days (8:30 am to 5:00 pm, Monday to Friday, inclusive), unless otherwise specified. Examinations and repairs requiring overtime and emergency adjustment call back service are not included in this agreement, and in the event Kaback makes any emergency maintenance service in periods outside of regular working hours of regular working days, you agree to pay Kaback a billing rate of \$75.00 per hour, per man for premium time. Such overtime charges shall not be less than four hours per man on Saturdays at a rate of \$97.50 per hour and a full day on Sundays and holidays at a rate of \$130.00 per hour.

In emergencies as deemed by O.E.M. a one hour response time will be guaranteed by KABACK ENTERPRISES, INC., during an emergency Office of Emergency Management will take priority over all KABACK ENTERPRISES, INC. customers.
13. **Compliance With Laws.** Customer shall be responsible for any costs required to comply with laws and/or regulations imposed or set forth by governmental authorities including but not limited to storage, handling, recovery and/or recycling of refrigerant.
14. **Acceptance and Modifications.** This Air Conditioning Service Agreement when signed by Customer and by an authorized representative of Kaback shall constitute a binding agreement between Customer and Kaback. All prior representations or agreements, whether written or verbal, not incorporated

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herein, are hereby superseded and this Air Conditioning Service Agreement may not be changed or modified in any manner except by a writing signed by the parties hereto.

KABACK ENTERPRISES, INC.

By: James Justice / RB
Authorized Representative

ACCEPTED

(Name of Company)

By: _____

(Title)

EFFECTIVE DATE OF CONTRACT

From: MARCH 1, 1999 TO: FEBRUARY 29, 2000

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**MAYOR'S OFFICE OF EMERGENCY MANAGEMENT
EQUIPMENT AND MAINTENANCE LIST**

Kaback will perform maintenance for the following 12 times a year:

- (2) Bac Model VF1-722-mm 50 ton cooling towers
- (3) Weinman Model #2K 5HP., 1750 RF
- (1) Trane SCWBB754OMO1 7 1/2 ton water cooled unit
- (1) Trane SCWBC104OMO1 10 ton water cooled unit
- (2) Trane PtAC-15 1.5 ton through the wall units located on the roof
- (3) Leibert BU071WG-AAM 7 1/2 ton water cooled units
Monthly water treatment

The following will be maintained 6 Times a year:

- (2) Trane SWUA5004MAX 50 ton condensor water cooled units

The following will be maintained quarterly:

- (16) Anemostat FP-303) Fan powered boxes with electric heat
- (1) Anemostat F-3030 Fan powered boxes with no heat
- (1) Penn Ventilator SX105BC 1150 CFM
- (1) Penn Ventilator SX125BC 2400 CFM
- (3) Penn Ventilator SX095BC 450 CFM
- (2) Penn Ventilator Z10S
- (2) Trane UHEC-15 unit heaters on the 7th floor
- (2) Trane UHEC-07 unit heaters on the 23rd floor
- (88) Hurricane dampers

The following will be maintained semi-annually:

- (25) Anemostat FASD VAV boxes

******PLEASE NOTE THAT FILTERS AND BELTS ARE INCLUDED******

AIR CONDITIONING



HEATING

SCOPE OF INSPECTION WORK

1. The Scope of Inspection Work consists of the following:

Spring Maintenance

- a. Inspect belts and pulleys
- b. Check and clean condensate drip pans and drains
- c. Lubricate motor, pulley and fan bearings, where applicable
- d. Check refrigerant charge
- e. Check thermostats for proper operation and settings
- f. Check contactors
- g. Inspect electrical connection, tighten where necessary
- h. Change and furnish air filters
- i. Inspect condenser and evaporator coils

Summer Inspection

- a. Inspect belts and pulleys
- b. Check condensate pans and drains
- c. Check refrigerant charge
- d. Check thermostats for proper settings
- e. Check contactors and electrical connections
- f. Change and furnish air filters

Fall Maintenance

- a. Check burner operation, where applicable
- b. Inspect pilot light/ignition, where applicable
- c. Check economizer controls, lubricate dampers
- d. Check thermostats for proper settings (if electric heat - check operation of heating coil and contact), where applicable
- e. Change and furnish air filters
- f. Check belts and electrical connections

Winter Inspection

- a. Check operation of heat, where applicable
- b. Check belts and electrical connections
- c. Check thermostats for proper settings
- d. Change and furnish air filters