



# WATER GATE SYSTEMS, LLC

SURGE PROTECTION FOR PEOPLE AND PROPERTY

239-243-9571

www.watergatesys.com

## AQUA-CADE SEASONAL DEPLOYMENT AND BREAKDOWN

### MASTER SERVICE AGREEMENT

THIS AQUA-CADE SEASONAL DEPLOYMENT AND BREAKDOWN SERVICE AGREEMENT ("Agreement") is entered into as of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date"), by and between

**WATER GATE SYSTEMS, LLC**, a Florida limited liability company ("Service Provider" or "WGS"), with a principal place of business at:

16750 Link Court Unit 203  
Ft Myers, FL 33912

and

\_\_\_\_\_ ("Customer" or "Owner"), with a property address ("Property") located at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Service Provider and Customer are each referred to individually as a "Party" and collectively as the "Parties."

### RECITALS

**WHEREAS**, Service Provider has previously installed an Aqua-Cade flood barrier system ("System") at the Property; and

**WHEREAS**, Customer desires to retain Service Provider to provide seasonal deployment and breakdown services for the System; and

**WHEREAS**, the Parties wish to set forth the terms and conditions governing such services.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **AGREEMENT**

### **1. SCOPE OF SERVICES**

- (a) **Deployment Services.** Service Provider shall deploy the System at the Property once (1) during the period of 1 May 2026 through 30 June by installing all panels, posts, hardware, gaskets, and caulking in accordance with WGS specifications and industry best practices. Deployment shall include:
  - (i) Inspection of all System components to WGS standards;
  - (ii) Repair or replacement of damaged or worn components as necessary;
  - (iii) Replacement of panel location labels as required;
  - (iv) Proper installation of all panels and components per WGS specifications;
  
- (b) **Breakdown Services.** Service Provider shall remove the System from the Property once between 15 Oct and 25 November of the calendar year and prepare it for storage. Breakdown shall include:
  - (i) Careful removal of all panels, posts, hardware, and components;
  - (ii) Cleaning of all components;
  - (iii) Inspection for damage or wear;
  - (iv) Organization and labeling of components; and
  - (v) Placement and securing of components in Customer-designated storage area.
  
- (c) **Emergency Deployment.** WGS is unable to support Storm/Hurricane triggered deployment services.

### **2. SERVICE SCHEDULE AND TIMING**

- (a) **Deployment Period.** Unless otherwise specified in writing by Customer and WGS, Service Provider shall deploy the System between May 1 and June 30 of each calendar year covered by this Agreement ("Deployment Period").
  
- (b) **Breakdown Period.** Unless otherwise specified in writing by Customer, Service Provider shall break down and store the System between 15 October and November 15 of each calendar year covered by this Agreement ("Breakdown Period").
  
- (c) **Scheduling Notice.** Customer must provide Service Provider with at least ten (10) business days' advance written notice of the desired date for deployment or breakdown services. Service Provider shall confirm the scheduled date within three (3) business days of receiving Customer's request.
  
- (d) **Rescheduling.** If Customer requests rescheduling with less than seventy-two (72) hours' notice, Customer may be subject to a rescheduling fee as specified in the Quote. Service Provider reserves the right to reschedule services due to severe weather, equipment failure, or other circumstances beyond its reasonable control.

### **3. PROPERTY ACCESS**

- (a) **Access Grant.** Customer hereby grants Service Provider, its employees, agents, and contractors the right to enter upon the Property for the sole purpose of performing the services described in this Agreement. Such access shall include, but not be limited to:
  - (i) Entry to all areas where System components are installed;
  - (ii) Access to storage areas designated by Customer;
  - (iii) Use of electrical outlets and water supply as necessary;
  - (iv) Reasonable space for placement of equipment and materials during service performance; and
  - (v) Passage through common areas, driveways, and walkways.
- (b) **Access Procedures.** Service Provider shall provide Customer with reasonable advance notice (normally twenty-four (24) to forty-eight (48) hours) of the specific date and estimated time of arrival for service performance. Customer is not required to be present during service performance unless Customer elects to be present or circumstances require Customer presence.
- (c) **Access Obstacles.** Customer shall ensure that all areas requiring access are reasonably clear of obstacles, furniture, or other items that would prevent or substantially impede Service Provider's performance of services. If Service Provider encounters access obstacles that prevent completion of services, Customer shall be notified, and additional fees may apply for return visits.
- (d) **Security and Keys.** If Customer will not be present and access codes, keys, or other security credentials are required for Property access, Customer shall provide such credentials to Service Provider in advance. Service Provider shall maintain the confidentiality of all access credentials and shall return any physical keys or devices upon completion of services or termination of this Agreement.
- (e) **Pets and Animals.** Customer shall secure all pets and animals during service performance to ensure the safety of Service Provider's personnel and to facilitate unobstructed completion of services.

#### 4. CUSTOMER OBLIGATIONS

- (a) **Storage Area.** Customer shall designate and maintain a suitable storage area at the Property for all System components during the off-season. The storage area must be:
  - (i) Dry and protected from the elements;
  - (ii) Accessible to Service Provider's personnel;
  - (iii) Of sufficient size to accommodate all System components; and
  - (iv) Secure from theft or vandalism.
- (b) **Maintenance of Property.** Customer shall maintain the Property in a condition that permits Service Provider to perform services safely and effectively. This includes maintaining clear access paths, adequate lighting, and stable ground conditions around installation areas.
- (c) **Notification of Changes.** Customer shall promptly notify Service Provider of any changes to the Property that may affect System installation, including structural modifications, landscaping changes, or alterations to openings protected by the System.

- (d) **Prohibited Modifications.** Customer shall not modify, alter, or tamper with System components without prior written authorization from Service Provider. Any unauthorized modifications may void warranties and may result in additional charges for repair or replacement.

## 5. COMPENSATION AND PAYMENT TERMS

- (a) **Service Fees.** Customer shall pay Service Provider the fees set forth in the Quote attached hereto and incorporated herein by reference ("Service Fees"). Service Fees cover one deployment and one breakdown per calendar year.
- (b) **Payment Schedule.** Unless otherwise specified in the Quote:
  - (i) 100 percent (100%) of the annual Service Fee is due upon execution of this Agreement;
  - (ii) All invoices for non warranty work are due and payable within ten (10) days of the invoice date.
- (c) **Additional Services.** Services not included in the base Service Fees, including but not limited to emergency deployments, repairs beyond normal wear and tear, replacement of missing or damaged components, and additional deployment or breakdown services requested during a single calendar year, shall be billed separately at Service Provider's then-current rates.
- (d) **Late Payment.** Accounts not paid within thirty (30) days of the invoice date shall be subject to a late payment fee of one and one-half percent (1.5%) per month (eighteen percent (18%) per annum), or the maximum rate permitted by Florida law, whichever is less. Service Provider reserves the right to suspend services until all outstanding amounts are paid in full.
- (e) **Payment Methods.** Payment may be made by check, credit card, ACH transfer, or other methods acceptable to Service Provider. All payments shall be in United States Dollars.
- (f) **Taxes.** All amounts stated in this Agreement are exclusive of applicable federal, state, and local taxes, duties, tariffs, and similar charges. Customer shall be responsible for payment of all such taxes, excluding taxes based on Service Provider's net income.

## 6. TERM AND RENEWAL

- (a) **Initial Term.** This Agreement shall commence on the Effective Date and shall continue for a period of one (1) year ("Initial Term"), unless earlier terminated in accordance with the provisions herein.
- (b) **Automatic Renewal.** Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each a "Renewal Term") unless either Party provides written notice of non-renewal to the other Party at least sixty (60) days prior to the end of the then-current term.
- (c) **Price Adjustments.** Service Provider reserves the right to adjust Service Fees for any Renewal Term by providing Customer with written notice of the adjusted fees at least sixty (60) days prior to the commencement of such Renewal Term. Customer may decline the price adjustment by providing written notice of termination within thirty (30) days of receiving notice of the adjustment.

## 7. INSURANCE AND LIABILITY

- (a) **Service Provider Insurance.** Service Provider shall maintain, at its own expense, general liability insurance with minimum coverage of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate. Service Provider shall also maintain workers' compensation insurance as required by Florida law. Upon request, Service Provider shall provide Customer with a certificate of insurance evidencing such coverage.
- (b) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY FLORIDA LAW, SERVICE PROVIDER'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO SERVICE PROVIDER UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO LIABILITY.
- (c) **Exclusion of Consequential Damages.** IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE, LOSS OF DATA, OR BUSINESS INTERRUPTION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- (d) **Property Damage.** Service Provider shall exercise reasonable care to avoid damage to Customer's Property during performance of services. In the event Service Provider damages Customer's Property through negligence or willful misconduct, Service Provider's liability shall be limited to the reasonable cost of repair or replacement, subject to the limitation of liability provision set forth above.
- (e) **Customer Insurance.** Customer acknowledges that Service Provider is providing deployment and maintenance services only and makes no representations or warranties regarding the System's ability to prevent or mitigate flood damage. Customer is strongly encouraged to maintain appropriate homeowner's insurance, including flood insurance where applicable.

## 8. WARRANTIES AND DISCLAIMERS

- (a) **Service Warranty.** Service Provider warrants that all services will be performed in a professional and workmanlike manner in accordance with industry standards. If Customer notifies Service Provider in writing of any deficiency in service performance within thirty (30) days of service completion, Service Provider shall re-perform the deficient services at no additional charge.
- (b) **Component Inspection.** Service Provider warrants that it will inspect System components in accordance with WGS standards and will identify components requiring repair or replacement. However, Service Provider does not warrant the condition of components beyond normal wear and tear or damage caused by factors outside Service Provider's control.
- (c) **DISCLAIMER OF WARRANTIES.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, SERVICE PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR

PURPOSE. SERVICE PROVIDER DOES NOT WARRANT THAT THE SYSTEM WILL PREVENT ALL FLOOD DAMAGE OR WATER INTRUSION. THE EFFECTIVENESS OF THE SYSTEM DEPENDS ON NUMEROUS FACTORS INCLUDING BUT NOT LIMITED TO PROPER INSTALLATION, WATER LEVELS, WATER PRESSURE, DURATION OF FLOODING, STRUCTURAL INTEGRITY OF THE PROPERTY, AND SOIL CONDITIONS, MANY OF WHICH ARE BEYOND SERVICE PROVIDER'S CONTROL.

- (d) **No Guarantee Against Flooding.** Customer acknowledges and agrees that the System is designed to mitigate, not fully eliminate, the risk of flood damage, and that Service Provider makes no guarantee that the Property will not experience flooding or water damage even when the System is properly deployed.

## 9. INDEMNIFICATION

- (a) **By Service Provider.** Service Provider shall indemnify, defend, and hold harmless Customer from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from or related to:
- (i) Personal injury or property damage caused by Service Provider's negligence or willful misconduct;
  - (ii) Service Provider's breach of this Agreement; or
  - (iii) Service Provider's violation of applicable laws or regulations.
- (b) **By Customer.** Customer shall indemnify, defend, and hold harmless Service Provider from and against any and all claims, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from or related to:
- (i) Personal injury or property damage caused by dangerous conditions at the Property known to Customer but not disclosed to Service Provider;
  - (ii) Customer's breach of this Agreement; or
  - (iii) Customer's unauthorized modification of System components.

## 10. TERMINATION

- (a) **Termination for Convenience.** Either Party may terminate this Agreement for convenience upon sixty (60) days' prior written notice to the other Party. If Customer terminates this Agreement, Customer shall pay for all services performed through the effective date of termination.
- (b) **Termination for Cause.** Either Party may terminate this Agreement immediately upon written notice if:
- (i) The other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving written notice thereof;
  - (ii) The other Party becomes insolvent, files for bankruptcy, or makes an assignment for the benefit of creditors; or
  - (iii) The other Party ceases to conduct business in the normal course.
- (c) **Effect of Termination.** Upon termination of this Agreement:
- (i) Customer shall pay all amounts due and owing to Service Provider for services performed through the effective date of termination;
  - (ii) Service Provider shall return any keys, access codes, or security credentials provided by Customer;
  - (iii) If the System is deployed at the time of termination, Service Provider shall provide one final breakdown service, for which Customer shall pay the applicable fee; and

(iv) All provisions of this Agreement that by their nature should survive termination shall survive, including but not limited to payment obligations, warranties, indemnification, limitation of liability, and dispute resolution provisions.

## 11. FORCE MAJEURE

Neither Party shall be liable for any failure or delay in performance under this Agreement to the extent such failure or delay is caused by circumstances beyond the reasonable control of such Party, including but not limited to acts of God, natural disasters, hurricanes, floods, earthquakes, fires, war, terrorism, civil unrest, labor disputes, epidemics, pandemics, government actions, or utility failures (each a "Force Majeure Event"). The affected Party shall promptly notify the other Party of the Force Majeure Event and shall use commercially reasonable efforts to resume performance as soon as practicable. If a Force Majeure Event prevents performance for more than thirty (30) days, either Party may terminate this Agreement upon written notice to the other Party.

## 12. DISPUTE RESOLUTION

- (a) **Informal Resolution.** In the event of any dispute arising out of or relating to this Agreement, the Parties shall first attempt to resolve the dispute through good faith negotiations between senior representatives of each Party.
- (b) **Mediation.** If the Parties are unable to resolve the dispute through informal negotiations within thirty (30) days, the Parties agree to submit the dispute to non-binding mediation before a mutually acceptable mediator in Lee County, Florida, with each Party bearing its own costs and splitting the mediator's fees equally.
- (c) **Litigation.** If the dispute is not resolved through mediation within sixty (60) days after initiation of mediation, either Party may pursue resolution through litigation in accordance with the Governing Law and Jurisdiction provisions of this Agreement.
- (d) **Attorneys' Fees.** In any litigation or other proceeding arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party, to the extent permitted by Florida law.

## **13. GENERAL PROVISIONS**

### **13.1 Governing Law and Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of laws principles. The Parties hereby consent to the exclusive jurisdiction of the state and federal courts located in Lee County, Florida, for any action or proceeding arising out of or relating to this Agreement.

### **13.2 Entire Agreement**

This Agreement, together with the Quote attached hereto, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, between the Parties. In the event of any conflict between this Agreement and the Quote, this Agreement shall control.

### **13.3 Amendments**

No amendment, modification, or waiver of any provision of this Agreement shall be effective unless in writing and signed by both Parties.

### **13.4 Assignment**

Customer may not assign this Agreement or any rights or obligations hereunder without the prior written consent of Service Provider. Service Provider may assign this Agreement to any successor or affiliate without Customer's consent. Any purported assignment in violation of this provision shall be void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

### **13.5 Severability**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such provision shall be modified to the minimum extent necessary to make it valid and enforceable, or if such modification is not possible, such provision shall be severed from this Agreement, and the remaining provisions shall continue in full force and effect.

### **13.6 Waiver**

No waiver of any provision of this Agreement shall be deemed or shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

### **13.7 Notices**

All notices, requests, consents, claims, demands, waivers, and other communications hereunder shall be in writing and shall be deemed to have been given:

- (a) when delivered by hand (with written confirmation of receipt);
- (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested);

- (c) on the date sent by email (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or
- (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid.

Such communications must be sent to the addresses set forth in the preamble of this Agreement (or to such other address as may be designated by a Party from time to time in accordance with this Section).

### **13.8 Independent Contractor**

Service Provider is an independent contractor and not an employee, agent, partner, or joint venturer of Customer. Service Provider shall have sole control over the manner and means of performing the services, subject to the specifications and requirements set forth in this Agreement.

### **13.9 Counterparts**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

### **13.10 Compliance with Laws**

Each Party shall comply with all applicable federal, state, and local laws, regulations, and ordinances in performing its obligations under this Agreement. Service Provider represents and warrants that it holds all necessary licenses and permits required to perform the services under this Agreement.

### **13.11 Florida Construction Lien Law**

To the extent applicable, Service Provider shall comply with all requirements of Florida's Construction Lien Law, Chapter 713, Florida Statutes, including but not limited to the provision of any required notices to Customer.

### **13.12 Consumer Rights Notice**

Customer acknowledges that Customer has read and understands the terms of this Agreement and has had the opportunity to seek independent legal counsel before signing. Customer further acknowledges that this Agreement contains important provisions limiting Service Provider's liability and Customer's remedies.

**EXECUTION**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first written above.

**SERVICE PROVIDER:**

**WATER GATE SYSTEMS, LLC**

By: \_\_\_\_\_  
Kenneth G Roy, CEO

Date: \_\_\_\_\_

**CUSTOMER:**

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

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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

**ATTACHED EXHIBIT:**

Quote dated \_\_\_\_\_, 20\_\_ (incorporated herein by reference)