

WINTERIZATION/DE-WINTERIZATION SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of _____, 20____, (the "Effective Date"), by and between _____ ("Client"), having a principal place of business and/or residence at _____

, and _____ ("Contractor"), having a principal place of business at _____.

1. ENGAGEMENT OF SERVICES

1.1 Scope of Work: Client hires Contractor to perform the following work ("work") at the property:

Winterization/De-winterization (circle one) of residential/commercial (circle one) property located at: _____

These services include:

_____. (Continue on separate sheet, if necessary as Project Specifications. If the work includes plans, specifications, or similar requirements, Client has provided them to Contractor and they are attached to this document and made part of this Agreement, but only if they are provided prior to execution of this Agreement).

1.2 Time of Completion: The work to be performed under this Agreement shall be commenced on or before _____, 20____, and shall be substantially completed on before _____, 20____. Client agrees to cooperate fully with Contractor to assist Contractor in meeting his obligations under this Agreement, and to promptly notify Contractor in writing of any changed circumstances that may impact Contractor's ability to timely perform this Agreement. Notwithstanding this provision, Contractor shall not be responsible for delays beyond his control, including, but not limited to, those caused by strikes, weather, casualty, unavailability of materials, acts of God, acts of third parties, or lack of access to the property.

1.3 Modification of Agreement: Client and Contractor recognize that:

- Contractor's original cost and time estimates may change due to unforeseen events, such as property inaccessibility, or to factors unknown to Contractor when this Agreement was made; or

- Client may desire a mid-project change in Contractor's services that would add or subtract time and cost to the project and possibly inconvenience Contractor.
- if any intended changes or any other events beyond the parties' control require adjustments to this Agreement, the parties shall make a good-faith effort to agree on all necessary particulars, including the terms of the change specifications and fees associated with those terms. Such agreements shall be put in writing, signed by the parties, and added to this Agreement. Client shall be liable for any additional costs as a result of such changes, including labor and material. Contractor shall not be liable for any delay caused by any changes Client requests.
- no statement or promise of Contractor or its agents shall be binding unless reduced to writing and signed by Contractor. No change or modification shall be enforceable against any party unless such change or modification is in writing and signed by the parties.

2. FEES, REPRESENTATION AND WARRANTIES

2.1 Fees: Client will pay Contractor a fee for services rendered under this Agreement, as set forth below, undertaken by Contractor. Payment should be made in the form of a check mailed and payable to:

2.2 Invoices: The Contractor will provide Client with an invoice detailing the project steps completed, the amount due for such services, and any third-party expenses incurred.

2.3 Time of Payment: Client represents that he has the ability to and shall pay Contractor the sum of \$_____ for services performed. Payment is due upon receipt of Invoice. Client agrees to pay all reasonable costs and attorney's fees incurred by Contractor in collecting any sums owed to Contractor under this Agreement. If any check issued by Client to Contractor is returned due to non-sufficient funds, the account being closed, or payment being stopped, Client agrees to pay to Contractor the amount of said check, plus a fee of \$50.00, plus any bank charges incurred by Contractor as a result thereof.

2.4 Limitation on Damages: Contractor's total pecuniary liability under this Agreement for damages, costs, and expenses, regardless of cause, shall not exceed the total amount of fees paid to Contractor by Client under this Agreement. The foregoing shall not limit the availability to Client of injunctive or other equitable remedies. Should this limitation of damages be held unenforceable, then the parties agree that, in the event that Client is damaged due to Contractor's breach of this Agreement, and due to the difficulty of assessing damages under this Agreement, Contractor's liability shall not exceed the amount paid Contractor by Client for the Services under the applicable Scope of Work as liquidated damages and not as a penalty, and that the foregoing shall constitute Client's exclusive remedy. The parties agree that

this liquidated damages provision is reasonable in light of actual harm, if any, or any anticipated harm. Client further agrees that its exclusive remedy shall be against Contractor only.

2.5 No Warranties: There are no express or implied warranties.

3. GENERAL PROVISIONS

3.1 Governing Law; Counterparts: This Agreement will be governed and construed in accordance with the laws of _____ (state/province), irrespective of its conflict of laws provisions. This Agreement (and all Project Specifications) may be executed in counterparts. Delivery of an executed counterpart hereof (or of a Project Specification) by facsimile or other electronic means shall be equally effective as delivery of a manually executed counterpart.

3.2 Notice of Claim; Jurisdiction: Client agrees that any action to enforce this Agreement shall be brought in the state/province district courts located in _____ (city), _____ (state/province). Client hereby consents to personal jurisdiction in the state/province of _____ and waives any rights it may otherwise have to contest the assertion of jurisdiction over it in any other state. The parties waive trial by jury. In the event of a claim against Contractor arising out of this Agreement, Client agrees to supply Contractor with the following: (1) written notification of the claim within 14 days of discovery; and (2) access to the premises. Failure to comply with the above conditions is a bar to any action against Contractor. Notwithstanding the foregoing, Client understands that any legal action against InterNACHI itself, allegedly arising out of this Agreement, or Contractor's relationship with InterNACHI, must be brought only in the District Court of Boulder County, Colorado.

3.3 No Waiver: The failure of either party to insist upon the performance of any of the terms and conditions of this Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but these shall continue and remain in full force and effect as if no waiver has occurred.

3.4 Entire Agreement: This Agreement sets forth the entire and complete understanding and agreement of the parties as to the subject matter of this Agreement. All prior discussions are merged into this document. It may not be changed or modified orally but only by a written agreement signed by both parties. The terms of this Agreement will govern all Project Specifications and services undertaken by Contractor for Client. In the event of any conflict between this Agreement and any applicable Project Specification, the terms and conditions of that Project Specification shall control.

3.5 Severability: If any provision of this Agreement is held to be invalid or unenforceable for any reason, such provisions shall be stricken from the Agreement, and the remaining provisions will continue in full force without being impaired or invalidated in any way.

3.6 Assignment of Rights: The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

3.7 Headings: Titles or headings to sections of this Agreement are not part of the terms of this Agreement, but are inserted solely for convenience.

3.8 Notice: Any notice or correspondence under this agreement to Contractor shall be mailed to: _____ . Any notice or correspondence under this agreement to Client shall be mailed to:

_____.

3.9 Legal Fees: If any proceeding arises between the parties with respect to a dispute involving the terms in this Agreement, and if Contractor prevails, the Contractor shall be entitled to receive its reasonable attorneys' fees, expert witness fees, and out-of-pocket costs incurred in connection with such proceedings, in addition to any other relief it may be awarded.

I have read this Agreement, understand it, and sign it voluntarily as my own free act and deed; no oral representations, statements, or inducements, apart from the foregoing written Agreement, have been made; I am at least eighteen (18) years of age and fully competent; and I execute this Agreement for full, adequate and complete consideration, fully intending to be bound by same.

Contractor's Signature (Date) Client's Signature (Date)

Contractor's Printed Name Client's Printed Name