



# AquaProof Inc.

Waterproofing and Drainage Specialist

12097 Mosteller Road Cincinnati, OH 45241 www.AquaProof.com 513-459-5400

This agreement, entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ between AQUAPROOF Inc. located at 12097 Mosteller Road, Cincinnati, OH 45241 herein referred to as SELLER and

\_\_\_\_\_ (Name of Buyer(s)) \_\_\_\_\_ (Daytime Phone)

\_\_\_\_\_ (Street Address) \_\_\_\_\_ (Other)

\_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_ (County) \_\_\_\_\_ (Other)

herein referred to as the Buyer(s), witness that, in consideration of the undertakings herein expressed on the part of the parties hereto by performed, the SELLER and the Buyer(s) do hereby agree as follows:

SELLER agrees to furnish all materials, labor, machinery and equipment necessary to service system(s) for the above name Buyer(s). The SELLER represents that the maintenance of system(s) described herein will be completed annually on agreed upon date(s).

- Tier 1: \$250 Annually
  - Asses discharge lines and yard lines via water test
  - Inspect sump pump
  - Clean and flush sump pump well
  - Test battery if battery backup system installed
  - Inspect foundation walls for movement if possible
  - Identify and discuss any issues or possible issues that the technician notices

- Tier 2: \$450 Annually
  - All of the above items in Tier 1 plus:
  - One (1) Gutter Cleaning per year\* done at the same time as Tier 1
  - \*Additional charge for over 200 ft of gutters and/or third and fourth story homes
  - \_\_\_ Spring (March/April) \_\_\_ Summer (June/July) \_\_\_ Early Fall (Sept/Oct) \_\_\_ Late Fall (Nov/Dec)

### Add-On Services

- \$ \_\_\_\_\_ 1/3hp Sump Pump Replacement
- \$ \_\_\_\_\_ 1/2hp Sump Pump Replacement
- \$ \_\_\_\_\_ Battery Replacement
- \$ \_\_\_\_\_ 1/2hp Battery Backup System Full Replacement
- \$ \_\_\_\_\_ Exterior Grate Cleaning
- \$ \_\_\_\_\_ Window Well Cleaning and replacement gravel if needed
- \$ \_\_\_\_\_ Additional for over 200 ft of gutters and/or third or fourth story
- \$ \_\_\_\_\_ Additional Gutter Cleaning(s) at the discounted \$200/each rate for Care Free Annual Customers
- \_\_\_ Spring (March/April) \_\_\_ Summer (June/July) \_\_\_ Early Fall (Sept/Oct) \_\_\_ Late Fall (Nov/Dec)

Buyer(s) to pay for the Annual Services described above as follows:

- (A) Tier 1 or Tier 2 \$ \_\_\_\_\_
- (B) Add-On Services \$ \_\_\_\_\_
- (C) Deposit made by Buyer(s) \$ \_\_\_\_\_
- (D) Balance Due At Time Of Service \$ \_\_\_\_\_

You the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction.

I/WE the undersigned Buyer(s) have read and understand this Annual Maintenance Program Agreement including the Terms and Conditions on the reverse side. I/WE, the Buyer(s), hereby authorize the Seller to commence the services described in this Contract and Agree to All Terms and Conditions here in.

\_\_\_\_\_

\_\_\_\_\_

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#### Terms and Conditions of Agreement

1. I/We, the Buyer(s), understand that the Unpaid Balance of the Contract Price specified on the reverse side is to be paid to SELLER in cash upon completion of the work specified in the Contract. The Contract Price has been calculated based on the current prices for materials/labor. If the market is hit with a sudden price increase a mutually agreed upon change order may take place to offset some of the costs. If the Seller and Buyer(s) can not come to an agreement the Contract will be terminated.

2. This Agreement shall be binding upon and insure to the benefit of the parties hereto, their respective heirs, successors, assigns, executors and administrators. SELLER may further assign all or part of this Agreement.

#### 3. SELLER'S INSURANCE COVERAGE

SELLER represents that all workers are covered under workers' compensation insurance, carries public liability insurance and are applicable to the work to be performed under this Contract.

#### 4. WORK STANDARDS

a) SELLER agrees to complete all work specified in is Contract in a good and workmanlike manner according to the Standard practices of the industry.

b) SELLER will endeavor to perform all work in a timely manner, but time is not of the essence of this Contract, and SELLER shall be permitted additional time to perform the work specified herein when delays are due to causes beyond the control of SELLER such as strike, flood, fire, inability to secure the necessary materials, acts of God, labor difficulties and the like. SELLER will not be subject to liability for any consequential damages due to delays in completion of the Contract.

c) If SELLER has to remove any plants, or landscaping, SELLER assumes no liability for damages.

d) If SELLER has to move any obstructions at the request and permission of the Buyer(s), SELLER assumes no liability or responsibility for any damages or malfunctions of any appliances or other units.

#### 5. OWNERSHIP OF PREMISES

Buyer(s) represent that he/she/they are the LEGAL OWNER(S) of the premises set forth herein upon which work is to be done, are fully authorized, and are competent to contract for the work and materials set forth herein. Upon request of SELLER, Buyer(s) shall provide written evidence that he/she/they hold present LEGAL TITLE to the premises.

#### 6. BUYER'S BREACH

Buyer(s) understand that if this Contract is canceled by Buyer(s) or if Buyer(s), otherwise prevent SELLER from performing under this Contract at a time after the expiration of the three (3) business day rescission period but before commencement of actual work under this Contract, the Buyer(s) agree that he/she/they shall be liable to pay to SELLER a sum equal to thirty-three percent (33%) of the Contract Price. This represents profits lost to SELLER as a result of Buyer(s) anticipatory breach, which sum both parties agree is appropriate because of the difficulty

#### 7. SELLER'S RIGHT OF REFUSAL

SELLER reserves the right of refusal on all Contracts. If SELLER exercises its right of refusal, any deposit received will be returned as soon as practicable.

#### 8. ENTIRE AGREEMENT

Buyer(s) hereby acknowledge receipt of a copy of this Contract, Care Free Annual Maintenance Program Contract. Buyer(s) have read the entire Contract, know and understand the same and their obligations herein, and reaffirm that this written Contract constitutes the ENTIRE AGREEMENT between the parties hereto, that there are no written or oral understanding which has not been expressly set forth herein made by SELLER or its agent, and that no modification of, or addition to, any provision hereof shall be valid or binding upon SELLER, its successors, or assigns, unless expressly set forth herein in writing.

#### 9. DISPUTE RESOLUTION/ARBITRATION

SELLER and Buyer(s) shall endeavor to resolve claims, disputes and other matters in question between them by good-faith negotiation. In the event that any claim or dispute arises between the parties in relation to this Agreement and the claim or dispute is not resolved by negotiation, the parties shall endeavor to resolve it by mediation as a condition precedence with its Construction Industry Mediation Procedures. A request for mediation shall be made in writing, delivered to the other party, and filed with the person or entity administering the mediation.

The parties shall share the mediator's fees and any filing fees equally. The mediation shall be held in the place near where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

Any claim or dispute not resolved by mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules. A demand for arbitration shall be made in writing, delivered to the other party, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all claims and dispute then known to that party on which arbitration is permitted to be demanded.

SELLER, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitration to be consolidated substantially involve common questions of law or fact, and (3) the arbitration employ materially similar procedural rules and methods for selecting arbitrator(s).

SELLER, at its sole discretion, may include in the arbitration by joinder persons involved in a common question of law or fact.