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Terms and Conditions

Expansion Joint Systems Project Inspection Agreement

between

[_____]

Client name

and

Watson Bowman Acme Corp.

95 Pineview Drive
Amherst, NY 14228

(WBAC)

For the Project:

[_____]

Enter name and location

This Project Inspection Agreement (hereinafter "Agreement") is executed by the parties as of [insert date] (the "Effective Date")



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4. Term:

4.1 The term of this Agreement shall commence on the Effective Date and shall remain in effect until the submittal of the Inspection Report by WBAC (the "Agreement Term").

4.2 Unless otherwise specified in Schedule 1, Inspection(s) shall occur during a continuous duration. Any unexpected lapse in calendar days during inspection(s) due to anything other than WBAC's fault shall be subject to rescheduling and remobilization costs (and other fees, costs and expenses incurred by WBAC in connection therewith).

4.3 Additional inspections desired by Client or suggested by WBAC shall be arranged by entering into an amendment to this Agreement. Each inspection shall be executed as a separate instance and shall be paid for by Client accordingly.

5. Wear and Tear:

5.1 Client shall be responsible for ensuring Systems are only subject to design criteria outlined and described per the project specification for construction, and Manufacturer's recommendations for in-service loading and regular maintenance.

5.2 The services provided by WBAC pursuant to this Agreement to not include any repair or maintenance of any Systems.

6. Warranty and Limitation of Liability:

6.1 This Agreement and all inspection reports executed under this Agreement shall not form a part of any warranty for the Project.

6.2 WBAC warrants that its work will be performed in a good and workmanlike manner and in a manner consistent with industry standards. WBAC warrants that its inspection is good for 30 days after the last date of each inspection occurrence; provided, however, that Client understands and agrees that any inspection results relate only to conditions observed at the time the inspection takes place, and may not be relied upon if and to the extent that there are subsequent material changes in circumstances that affect the Systems or the Systems are otherwise modified or damaged after the inspection is completed. EXCEPT AS SET FORTH IN THIS SECTION 8.2, WBAC MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTEES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES

OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE.

6.3 Limitation of Liability. IN NO EVENT SHALL WBAC BE LIABLE TO CLIENT OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING



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NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT SHALL WBAC'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO WBAC FOR THE PROJECT PURSUANT TO THIS AGREEMENT.

7. Compensation:

7.1 WBAC fee structure is as follows:

- A. First inspection (time and report submission) \$1,500.00
- B. Annual inspections (time and report submission) \$400.00/hr, minimum 4 hrs.

7.2 Fees do not include travel expenses, which shall be separately invoiced. Room and board are also separately invoiced at \$400.00/Day, per person.

7.3 Travel time to and from Project site charged at \$1500.00 per mobilization.

8. Force Majeure:

8.1 WBAC shall not be liable to Client for any delay or failure in performance caused by acts beyond WBAC's reasonable control, including without limitation, acts of God, war, vandalism, sabotage, accidents, fires, floods, strikes, labor disputes, mechanical breakdown, shortages or delays in obtaining suitable parts or equipment, material, labor, or transportation, acts of subcontractors, interruption of utility services, acts of any unit of government or governmental agency, or any similar or dissimilar cause.

9. Termination:

9.1 In the event this Agreement is cancelled in writing by either party, WBAC shall invoice and be paid for any costs associated with preparation and/or performance of activities, and all costs and expenses incurred, up to the time of termination.

10. Written Form:

10.1 All changes and amendments to this Agreement must be in written form executed by a duly authorized representative of both parties.

11. Independent Contractor:

11.1 The details of the method and manner for performance of the work by WBAC shall be under its own control, Client being interested only in the results thereof. WBAC shall be solely responsible for supervising, controlling and directing the details and manner of the completion of the work being performed. Nothing in this Agreement shall give Client the right to instruct, supervise, control, or direct the details and manner of the completion of the work. WBAC is for all purposes hereunder an independent contractor and in no event will WBAC be considered an agent or employee of Client or any of its subsidiaries or affiliates for any purpose.

12. Severability.

12.1 Should any provision of this Agreement determined to be legally unenforceable, or should there be missing provisions, this Agreement shall remain legally valid and enforceable in accordance with its remaining terms.

13. Disputes:

Watson Bowman Acme Corp.
95 Pineview Drive
Amherst, NY 14228
phone: 716-691-7566
fax: 716-691-9239
wbacorp.com





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13.1 The parties agree that this Agreement shall be governed by the laws of New York State, without regard for its conflicts of laws principles. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods. Any mediation, arbitration or court action brought to enforce this Agreement shall take place in Buffalo, New York. The parties agree to submit to personal jurisdiction in any court in Buffalo, New York where an action is brought. To the fullest extent enforceable under applicable law, WBAC reserves the unilateral right to require disputes to be resolved by mediation or non-binding arbitration in lieu of a legal action in the court.

Systems; Time Period for Inspection; Scope of Work

Systems:

Time Period for Inspection:

WBAC's Services are Limited to the Following:

Visual inspection of Systems including:

- General appearance and finishes.
- System size comparison to joint openings at given time of inspection
- Destructive/Non-destructive testing

Approximate 10% frequency of connection hardware effectiveness

Anchors/Fasteners

Moving Components/Isolation Components

Cover/Slider/Wall Mount Plates

Sealants

Splices/Directional changes

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Attic Stock:

- WBAC shall provide a suggested list of components and/or systems for Client and/or Owner to have on-hand for emergency repairs between inspections.
- WBAC shall provide Factory Trained Applicator or experienced system installer contact information within a reasonable distance from the Project if emergency repairs are needed.

Generation and Delivery of Inspection Report to Client:

- WBAC shall issue an inspection report ("Inspection Report") to Client at the conclusion of all inspection activity. The Inspection Report shall contain:
 - a description of all material items inspected,
 - a listing of the identifiable third party components in the Systems
 - a description of the wear and tear and damage observed
 - a summary of likely causes of specific problems and issues observed
 - a description of components or systems recommended for replacement (with associated estimated pricing) to prevent additional and more costly future damage to the Project.
- Inspection Report shall be delivered to Client within 20 business days after the last date of inspection activity.