

## GASBOY™ SERVICE AGREEMENT

**THIS GASBOY™ SERVICE AGREEMENT** ("Agreement") is by and between **GILBARCO INC.**, a Delaware corporation, doing business under the Gasboy™ brand and located at 7300 West Friendly Avenue, Greensboro, NC 27410 ("Gasboy") and **LARAMIE COUNTY PUBLIC WORKS**, a political division of Wyoming, with offices located at **13797 PRAIRIE CENTER CIR, CHEYENNE, WY 82009** ("Customer").

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, both parties intending to be legally bound hereby agree as follows:

### TERM

This Agreement shall be effective as of the Effective Date as noted in the signature block below and shall continue for a period of one (1) year ("Initial Term"), unless earlier terminated as provided in this Agreement. The Initial Term will be automatically extended for successive one (1) year periods ("Renewal Term") unless either party provides a written notice of its desire not to renew, no later than thirty (30) days prior to the expiration of the then-current term. Any Renewal Term will be at the current list price at the time of renewal. Termination may result from the failure of the Customer to comply with any of the conditions of this Agreement, or by mutual agreement of both parties.

### ENTIRE AGREEMENT AND AMENDMENTS

This Agreement, together with its Exhibits, constitutes the entire agreement between the parties and supersedes all previous communications, representations, or agreements, either oral or written, between the parties hereto with respect to the subject matter hereof. No agreement or understanding varying or expanding this Agreement will be binding upon either party hereto unless it is in writing and signed by a duly authorized representative hereof. This Agreement may be executed in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute the same instrument. This Agreement may also be executed and delivered via electronic transmission, and any such counterpart shall be deemed an original.

### Exhibits:

- A) Description of Services
- B) Agreement Terms and Conditions
- C) Fees and Covered Locations

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be executed, in duplicate, by its duly authorized representative. The individual executing below on behalf of the Customer warrants that it is an authorized representative and has the ability to bind the Customer to the terms of this Agreement. Gasboy is not bound by the terms of this Agreement until its authorized representative has executed this Agreement in the signature block provided below.

### LARAMIE COUNTY PUBLIC WORKS

By: \_\_\_\_\_  
Authorized Representative Signature

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

Title: \_\_\_\_\_

Execution Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Effective Date: 9/30/2019

### GILBARCO INC.

By: Jeanne Young  
Jeanne Young (Sep 23, 2019)  
Authorized Representative Signature

Printed Name: Jeanne Young

Title: Vice President, North America Service

Execution Date: Sep 23, 2019 /

RECEIVED AND APPROVED AS  
TO FORM ONLY BY THE  
DEPUTY LARAMIE COUNTY  
ATTORNEY

**EXHIBIT A: DESCRIPTION OF SERVICES**

During the Term of the Agreement, Gasboy will provide to the following services (the "Services") to Customer for the Gasboy-branded products ("Products") that Customer owns:

- A. ***Telephone support for Product*** questions will be provided Monday through Friday 8AM to 6PM ET. All other times not stated are considered emergency after hour's support only including but not limited to weekends and holidays. Gasboy's toll-free service number is (currently 800-444-5529). This toll free number can be changed at Gasboy's discretion.
- B. ***Software corrections and upgrades*** to the Products that Customer requires on an "as needed" basis.
- C. ***Fleet head office software service*** for support of Customer head office location only. If Customer has additional locations requiring such service, Customer will need to enter into individual service support agreements for such locations.
- D. ***The Services do not include:***
  - 1) On-site support.
  - 2) Any hardware, even if a software correction, software upgrade, or other enhancements or modifications require a hardware update.
  - 3) Support for questions not relating specifically to the Products, such as, but not limited to, non-Gasboy hardware, and PC operating systems.
  - 4) Software upgrade installation costs.

**SERVICES AT NON-CONTRACT LOCATIONS**

If Customer requests Services for a location not covered by this Agreement, Gasboy will provide telephone support for a fee of One Hundred Dollars and No Cents (US \$100.00), payable immediately by credit card before Gasboy will provide the Services. This fee is good for one call, one problem only. If Customer calls with more than one issue at a non-covered location, Gasboy will charge an additional fee for each issue.

**DISCONTINUANCE OF SERVICES**

If Customer elects to discontinue the Services at any time due, any reinstatement of the Services will require a new agreement and a payment of the then-current annual fee. In addition, Gasboy will charge a reinstatement fee of one hundred ten percent (110%) of the current annual fee prorated by the number of months (to a maximum of twenty-four (24) months) during which the Services were discontinued.



**EXHIBIT B: AGREEMENT TERMS AND CONDITIONS**

1. Fees for the Services are paid annually in advance. All fees are required before Gasboy will provide any Services. Total fees for the Services are set forth in **Exhibit C** attached hereto and incorporated herein by reference. Gasboy shall have the right to update the fees each year, and will provide notice to Customer of any fee changes at least sixty (60) days before the end of the then-current term. All fees hereunder are due thirty (30) days from the date of invoice. Customer is responsible for all taxes on the Services. If any invoice is more than thirty (30) days past due, Gasboy may, at its option, discontinue the Services until the account is made current, or terminate the Agreement and seek all fees and costs due under the Agreement. Gasboy reserves the right to pro-rate annual fees for Customer locations such that all Customer locations have a common renewal date. "Payment for services rendered will be made upon receipt of Gasboy's invoice to the Customer. No payment shall be made before the last signature is affixed to this Agreement. Payments shall be in accordance with Wyo. Stat. § 16-6-602 (as amended)."
  2. Provided that all fees are paid in a timely manner, the Services shall be provided at the locations listed on Exhibit C. Any modifications to locations on Exhibit C due to changes to Customer's business (such as site closing, relocation of Products), must be provided to Gasboy in writing.
  3. Customer shall be responsible for any collection costs, including but not limited to reasonable attorneys' fees, that Gasboy incurs in the collection of any amounts due hereunder.
  4. If Customer (i) breaches this Agreement and such breach is not cured within ten (10) days, or (ii) is the subject of any bankruptcy, insolvency, or similar proceeding, Gasboy may immediately terminate the Agreement and all fees shall become immediately due and payable.
  5. "Each party to this agreement shall be responsible for any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other."
  6. Except as otherwise specifically provided herein, neither party shall be liable for any failure to perform or for any delay in performing any of its obligations hereunder caused by circumstances beyond its reasonable control or which makes performance commercially impracticable, including, but not limited to, fire, storm, flood, earthquake, hurricane, tornado, explosion, accident, acts of public enemies, war, rebellion, insurrections, sabotage, epidemic, quarantine restrictions, labor disputes, labor shortages, transportation embargoes or delays, inability to secure raw materials or machinery for the manufacture of products, acts of God, acts of any government, any agency thereof, judicial actions or any other such external circumstances.
  7. At times, Customer and Gasboy may receive from the other party certain information marked confidential and proprietary. Both parties agree to treat such information as confidential, using the same degree of care as it uses to protect its own confidential information, but no less than reasonable care. The parties agree not to use or disclose or otherwise use such confidential information of the other party, except as provided herein or with the express written consent of the other party. Either party may use or disclose the confidential information of the other party (i) as required for the Services, but only to employees who are bound by written confidentiality agreements no less stringent than this Section 7, and (ii) as required by a court order or other legal process. The obligations under this Section 7 shall survive the termination of this Agreement by seven (7) years. If Customer and Gasboy have executed a separate confidentiality agreement that might also cover the Confidential Information ("NDA"), this Agreement will not change or abrogate any of the terms of that NDA and such separate NDA shall not change or abrogate any of the terms of this Agreement, even though both agreements may apply to the same information. In the event that, notwithstanding the foregoing, one party ("Recipient") shall be compelled by the Information Laws to disclose any Confidential Information of the other party ("Discloser"), Recipient shall, and shall cause its Representatives to, furnish only that portion of the Confidential Information that is so legally required. "Information Laws" means the Freedom of Information Act of 1966 and the regulations promulgated thereunder, the Electronic Freedom of Information Act of 1996, including without limitation such state's open records/public information act as set forth in such state statutes, laws, codes, and the regulations promulgated thereunder, and any similar applicable federal or state law, order, decree, rule, or regulation (each as in effect from time to time). Nothing herein shall restrict any disclosure of a party's information that: (A) is or becomes publicly available through no fault of the other party; (B) is independently developed by the other party; or (C) is received by the other party from a third party without obligations of confidentiality.
- "Representatives" shall mean the officers, employees, directors, attorneys, consultants and other agents and advisors of the Recipient. Recipient shall take all reasonably necessary measures to restrain its Representatives from making any unauthorized disclosure or use of Confidential Information. Recipient further agrees that it will be liable for the breach of this Agreement by any of its Representatives.
8. The Services provided under this Agreement are covered by Gasboy's current warranty, a copy of which is available upon request. Gasboy reserves the right to modify such warranty, warranty policies, or warranty program on thirty (30) days prior written notice to Customer. THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES - EXPRESS, IMPLIED, OR STATUTORY - INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. GILBARCO WILL NOT BE LIABLE FOR PERSONAL INJURY OR PROPERTY DAMAGE (UNLESS CAUSED BY GILBARCO'S NEGLIGENCE, AND THEN ONLY IN THE PROPORTION WHICH GILBARCO'S NEGLIGENCE BEARS TO THE NEGLIGENCE OF OTHERS IN CAUSING THE INJURY OR DAMAGE), OR FOR ANY DAMAGES (REGARDLESS OF THEIR NATURE) CAUSED BY CUSTOMER'S FAILURE TO FULFILL ITS RESPONSIBILITIES AS SET FORTH HEREIN. IN NO EVENT SHALL GILBARCO BE LIABLE UNDER THIS AGREEMENT FOR ANY LOSS OF PROFIT OR REVENUES, OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGE, INCLUDING, BUT NOT LIMITED TO THOSE BASED UPON A BREACH OF WARRANTY, OR CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL, EQUITABLE, OR STATUTORY LEGAL THEORY. GILBARCO'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNTS PAID BY CUSTOMER HEREUNDER.
  9. The parties mutually understand and agree this Agreement shall be governed by and interpreted pursuant to the laws of the State of Wyoming. If any dispute arises between the parties from or concerning this Agreement or the subject matter hereof, any suit or proceeding at law or in equity shall be brought in the District Court of the State of Wyoming, First Judicial District, sitting at Cheyenne, Wyoming or the Federal District Court, District Of Wyoming. This provision is not intended nor shall it be construed to waive Customer's governmental immunity as provided in this Agreement.
  10. Customer may not assign this Agreement and the rights of the Customer without the prior written consent of Gasboy. Any attempted assignment in violation of the provisions hereof shall be null and void and have no effect. If any provision of this Agreement is finally held by a court of competent jurisdiction to be unlawful or invalid, the remaining provisions of this Agreement shall remain in full force and effect, unless as a result of such unlawful provisions there is a material failure of consideration as to a Party and such Party is unwilling to waive such failure.
  11. Governmental/Sovereign Immunity: Customer does not waive its Governmental/Sovereign Immunity, as provided by any applicable law including W.S. § 1-39-101 et seq., by entering into this Agreement. Further, Customer fully retains all immunities and defenses provided by law with regard to any action, whether in tort, contract or any other theory of law, based on this Agreement.
  12. If Customer requests Gasboy to perform activities outside of the provision of Services, such additional activities shall be subject to a separately agreement between the parties.
  13. Customer's payment obligation is conditioned upon the availability of funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services and equipment provided by Gasboy, this Agreement may be terminated by Customer at the end of

the period for which funds are available. Customer shall notify Gasboy at the earliest possible time of the services which will or may be affected by a shortage of funds. At the earliest possible time means at least thirty (30) days before the shortage will affect payment of claims, if Customer knows of the shortage at least thirty (30) days in advance.



**EXHIBIT C: FEES AND COVERED LOCATIONS**

PART #	DESCRIPTION	CURRENT LIST PRICE (Per Year)	RENEWING? Y/N
099037	CFN PLUS Annual SW Support	\$591.00	N
099039	Islander PLUS Annual SW Support	\$591.00 (\$1009.00 Prorate)	Y
099043	Fuel Truck Controller Annual SW Support	\$591.00	N
099049	TopKAT PLUS Annual SW Support	\$591.00	N

Total \$ of Renewal (plus applicable taxes): **\$1009.00**

GVR Site ID: 836124 Site Name: LARAMIE COUNTY PUBLIC WORKS Site Phone: 307-633-4302

Site Address: 13797 PRAIRIE CENTER, CHEYENNE, WY 82009 Renewal Period: 9/30/2019-6/14/2021

Billing Info (Required For Processing – Please include a W-9 Form):

Customer Number: 180680		Fed Tax ID #: 83-6000111	
Company Name: LARAMIE COUNTY PUBLIC WORKS			
Address: 13797 PRAIRIE CENTER CIR	City: CHEYENNE	St: WY	Zip: 82009
Contact Name: DAVE BRUMANN	Email Address: <a href="mailto:dbumanne@laramiecountv.com">dbumanne@laramiecountv.com</a>		
Phone #: 307-633-4302	Fax #: 307-633-4219		

**Payment Method:**

☐ Check if paying by credit card (Complete and attach authorization form)

☐ Check if paying by check (DO NOT mail your payment until you have received an invoice!)

If providing a PO number, please list here: \_\_\_\_\_

This Agreement is made a part hereof by reference, as fully and to the same extent as if copied at length herein. In the event of a conflict or discrepancy between the Purchase Order ("PO") and this Agreement, this Agreement shall govern the terms and conditions of the Services provided by Gasboy.

Are you TAX EXEMPT? YES ☐ NO ☐

If you answered yes, but have not yet provided documentation to Gasboy; please attach a copy when returning this profile.