



Hobart Service Agreement



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HOBART SERVICE AGREEMENT

Hobart's performance of the Services as set forth in this Service Contract are expressly limited to and are conditioned upon Hobart's Terms and Conditions set forth at www.hobartservice.com/service/termsandconditions (the "Terms"). Any additional or different terms proposed by Customer are hereby rejected (including sign-in logs, online click-through or pop-up agreements, or standard or pre-printed terms or conditions).

Customer Information

Customer Address: _____ Billing Address (if different): _____ PO#: _____
 Name: Williamson County Regional Animal S
 Address: 1855 SE Inner Loop Tax Exempt: Yes
 City, St, Zip: Georgetown, TX 78626-6344 Note: Please include a copy of the tax exemption certificate.
 Legal Name: _____
 Email: lgunter@wilco.org

Package Purchased and Contract Dates

	Package(s) Purchased:		Date of Contract(s):
Hobart Care	Yes Hobart Maintenance Inspection	No	Effective Date of Service Contract: <u>11/17/2019</u>
Hobart Assurance	No Hobart Proactive Maintenance	No	End Date of Service Contract: <u>11/16/2020</u>
Hobart Prosurance	No		Note: Refer to Service Product Agreement for unit specific contract dates.

Agreement Summary

Unlimited Call Plan

The Unlimited Call plan offers an unlimited number of service calls for the covered units under contract. Any service calls made outside the coverage hours or scope of coverage (such as abuse, etc.) will be chargeable at Time & Material street rates. Pricing is based on the age of the unit, Service Product type and Optional Features selected.

Payment Option Selection

Annual Quarterly
 Semi-Annual Monthly

Final Summary

Contract Subtotal:	\$ <u>955.00</u>	Est. Annual Rate:	<u>\$955.00</u>
Equipment Subtotal:	\$ <u>-</u>	Automatic Renewal:	<u>Yes</u>
Agreement Total:	\$ <u>955.00</u> (excludes tax)	MI SOW Required:	<u>No</u>

Note 1: Subject to certain exclusions and limitations as set forth in the Terms. Equipment subject to the list on service products agreement.

Note 2: If elected for Agreement to automatically renew, a minimal 3% price increase is applicable for the new term. Pricing may vary based on the additional features stated on the Agreement.

Agreement Acceptance

Sold By: Gina Marsh, Hobart Service, gina.marsh@hobartservice.com, 937 332 3296 Date: 11/14/2019

Customer Acceptance:

Name: Bill [Signature] Title: Williamson Co. Judge Date: 12/10/19

Hobart Service, ITW Food Equipment Group, LLC

Name: Akacia SC Davis Title: Customer Care Manager Date: 11/20/19

reserves the right to modify the terms herein and prices and terminate this Service Contract at any time. This Service Products Agreement is subject to Hobart's Terms and Conditions set forth at www.hobartservice.com/service/termsandconditions (the "Terms"). Any additional or different terms are hereby rejected.

Commercial Terms - Hobart Care M-F UNLIMITED

Services Included in Hobart Care M-F UNLIMITED: During the Term, Hobart shall provide the following services at no additional cost

1. Monday through Friday, 8am-5pm local, labor, travel, parts, standard shipping, second trip or call backs
2. Unlimited number Calls per Term.
3. Response Time Levels by Call type as provided
 - o *Emergency Call:* Upon receipt of Call, Hobart will respond within thirty (30) minutes and dispatch a Hobart technician to arrive on Site within one business day.
 - o *Non-Emergency Call:* Upon receipt of Call, Hobart will respond within thirty (30) minutes and dispatch a Hobart technician to arrive on Site within three (3) business days.
 - o Hobart will target to achieve 80% compliance to these Response Times.

Excluded Service: The following are not included in this Service Contract and Hobart shall have no obligation to provide. Should Customer request and Hobart choose to provide such services, additional charges shall apply:

1. *After Hours and Weekend Emergency Coverage.* Emergency Calls received by Hobart on weekends, holidays, or Monday through Friday, between 5pm-8am local.
2. *Expedited Parts.* Automatic next day air shipment of parts that are not available on truck or in the Service Office on Emergency Calls.
3. *Expendable Parts.* Labor, travel, as it relates to the service of the following Parts: (i) plastic flight links, curtains, blades, slicer knives, sharpening devices, pulley wipes, shredder plates, fryer baskets, customer removable seals, door gaskets; (ii) consumable components or ordinary wear items including but not limited to; rinse arm strainers, final rinse nozzles, filters (including water filters), wash arm end caps, lower arm bushing, rollers, retaining rings, wash arm plugs, dish-limit rubber bumper, lamps, dish racks.
4. *Maintenance Inspections.* Call that identifies potential service problems on a unit prior to occurrence.
5. *Accidental Damages.* Calls resulting from physical damage by operators.
6. *Asset Tagging.* Data capturing that provides additional identification of each unit covered by the Agreement that provides the Customer with accurate and detailed data regarding equipment inventory.
7. *Erroneous Calls.* If a call is flagged as an Emergency Call and Hobart responds within the emergency Response Time, and upon arriving on Site finds the unit to be operational and does not detect a safety hazard, such Calls will be charged at standard Hobart Rates.
8. *Excluded Parts (unless otherwise stipulated in Service Contract).* (i) *Attachments and accessories such as bowls, adapters, bowl trucks, attachment shelves, agitators (beaters, whips, dough hooks, etc.), splash covers and extension rings;* (ii) *fryer tanks, boiler and booster water tanks (unless covered by manufacturers warranty);* (iii) *condenser or evaporator coils, ice machine plates, refrigeration or HVAC motors 1hp or greater or compressors 1hp or greater, Flight Type dish machine conveyor assembly, refrigeration gases > 24 lbs, heat exchangers.*
9. *Water Quality Related Damages.* Calls resulting from damage due to improper water conditions, improper unit cleaning, failure of Customer to provide proper water quality to the equipment as required by equipment manufacturer specifications, and/or failure of Customer to maintain proper water treatment equipment.
10. *Third Party Service.* Should Customer allow a third party to provide service (other than general tasks) on covered equipment, Hobart, in its sole discretion, may elect to exclude covered equipment from the Agreement and charge Customer for the remainder of the unused Fixed Calls and \$5,000.00 penalty fee.
11. Calibrations and/or adjustments to alter temperature or product appearance requested by Customer.
12. Feature upgrades including firmware or software upgrades or changes to label format or graphics.
13. Customer network related issues for Hobart connected devices. Loaner equipment is not included, but may be provided by the local Hobart Service Office at additional cost subject to availability.
14. All welding services
15. Replacement of booster tanks and heat exchangers
16. Customer locations further than 100 miles from the closest Service Office
17. Taxes, tolls, and permits applicable to Service and Parts
18. Calls made outside of the stated days and hours, and listed equipment do not count against the allotted total number of Calls on a Fixed Call Agreement, however, standard Hobart Rates will apply.

Hobart Service & Installation Terms and Conditions

- 1. Acceptance.** These terms and conditions (“Terms”) and any Service Product Quotation, Equipment Installation Quotation, Hobart Product Guidelines, or any agreement signed by an authorized representative of each party (each, a “Service Contract”) to which these Terms are attached, any Hobart acknowledgment or invoice and all documents incorporated by specific reference herein or therein (“Hobart Documents” and together with these Terms and the relevant Service Contract, the “Agreement”), constitute the complete terms governing the sale of services (“Services”) and replacement parts (“Parts”) by Hobart Service, a division of ITW Food Equipment Group LLC (“Hobart”) to customer purchasing from Hobart (“Customer”). HOBART HEREBY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS PROPOSED BY CUSTOMER, WHETHER OR NOT CONTAINED IN ANY OF CUSTOMER’S BUSINESS FORMS OR ON CUSTOMER’S WEBSITE, AND SUCH ADDITIONAL OR DIFFERENT TERMS WILL BE OF NO EFFECT. No site usage agreement or any other click through agreement required to access a website or on a website will have any binding effect whether or not Hobart clicks on an “ok,” “I accept,” or similar acknowledgment. Terms contained or referenced in Customer facility sign-in logs, safety waivers or other similar documentation are hereby rejected and shall not have any binding effect on Hobart or its employees. Customer’s order of any Services or acceptance of delivery of any Parts manifests Customer’s assent to the Agreement. Additional or different terms applicable to a particular sale may be specified in the body of a Hobart Document or agreed to in writing by the parties in a Service Contract. In the event of a conflict, the following order of precedence will apply: (a) terms agreed to in writing and executed by an authorized senior officer of Hobart in a Service Contract; (b) Hobart Document terms; (c) these Terms.
- 2. Quotations.** Quotations must be in writing and are only valid for 30 days from the date of the quotation for Service Product Quotations and 90 days from the date of quotation for Equipment Installation Quotations. All quotations are subject to change or withdrawal without prior notice to Customer. Quotations are made subject to approval of Customer’s credit. Hobart may refuse orders and has no obligation to supply Products or Services unless Hobart issues an order acknowledgement or upon the shipment of Products or commencement of Services.
- 3. Pricing.** Prices and rates are in U.S. dollars and are subject to change without notice, unless otherwise set forth in a Service Contract. Unless otherwise stated on a Service Contract, all payments are due within 30 days of the invoice date. Hobart may withhold Services and Parts for past-due invoices. If an invoice is past due for 60 days or more, Hobart may terminate the applicable Service Contract or this Agreement and Customer will owe, in addition to the past due invoice amounts, for any Service that is performed during the non-payment period at Hobart Rates, as defined herein, and standard Parts rates.
- 4. Site Survey.** Hobart may conduct a Site (as defined below) survey at Customer’s facility, such Site surveys are intended to identify problems which can be readily identified through reasonable visual inspection however Customer is solely responsible for the state of its facility and Site (including electrical and plumbing lines). During a Site survey, Hobart is under no obligation to excavate, move equipment, or otherwise disassemble or remove covers, fascia, sconces, or the like. Should problems or defects be identified during the Site survey or during performance of Services, Customer shall remedy such problems at its own cost before Hobart is required to continue performing or complete Services.
- 5. Service.** Hobart will perform Services and provide Parts as set forth in the applicable Service Contract through its branch office (“Branch Office”) local to the applicable Customer location. Hobart will perform the Services during the days and hours listed on the Service Contract (“Business Hours”) at no additional cost to Customer. Unless otherwise set forth in the Service Contract, additional charges apply to (i) Services provided to Customer locations further than 100 miles from the closest Branch Office, (ii) Services and travel time performed at Customer’s request outside of Business Hours, (iii) installation, inspections and proactive maintenance Services, (iv) taxes, tolls, and business licenses and permits applicable to Hobart’s operation as a business, and (v) any other Services not included in the Service Contract which Hobart performs for Customer. For such instances, Customer shall pay Branch Office for travel time and mileage at Hobart’s current national rates for labor and travel (“Hobart Rates”). For Services that require use of specialized forms of transportation other than by conventional motor vehicles, Customer shall reimburse the Branch Office for all transportation, food, and lodging expenses incurred by such Branch Office. Permits required for performance of the Services are the responsibility of the Customer or the applicable third-party contractor. The Services set forth in the applicable Service Contract are subject to the following definitions:

 - a. A call (“Call”) is defined as a Service on a single piece of equipment that includes labor, travel, return trip charges, parts and standard shipping costs associated with the Service. Hobart may complete a Call in one trip or multiple trips. Should Services be performed on multiple pieces of equipment within the same visit, each piece covered by the Service Contract will be considered separate Calls.
 - b. Site (“Site”) is defined as the physical location at which any the equipment is serviced.
 - c. A fixed call (“Fixed Call”) is a Call within an allotted total number of Calls purchased by Customer in the applicable Service Contract.
 - d. An excess call (“Excess Call”) is a Call in excess of the amount of Fixed Calls purchased by a Customer in the applicable Service Contract. Excess Calls shall be subject to different rates.
 - e. A call back (“Call Back”) is defined as a Call on a single piece of equipment for a problem or issue within seven days of completion of the previous Call due to the same problem. Call Backs are not counted as separate Calls towards the total number of Calls allotted for a Fixed Call Service Contract unless the same problem has been caused by abuse, neglect, accident, or any other issue not caused by Hobart. A Call on the same piece of equipment due to a different problem is not a Call Back.

f. An emergency Call (“Emergency Call”) is defined as a Call on a single piece of equipment that (i) cannot be reasonably used for its intended function or (ii) poses an unreasonable health related risk due to the equipment’s failure to function properly. Whether a Call qualifies as an Emergency Call shall be determined by Hobart, in its sole discretion.

g. A non-emergency Call (“Non-Emergency Call”) is defined as a Call on a single piece of equipment that is operational and in need of repair but does not meet the criteria of an Emergency Call.

6. **Term; Cancellation.** Unless otherwise specified in a Service Contract, the term of this Agreement shall begin on the date of Customer’s acceptance and shall continue for a period of one year. The Agreement shall automatically renew for additional one year terms unless (i) Customer opts out of the automatic renewal option on the date it enters into a Service Contract with Customer or (ii) Customer provides written notice of termination at least 90 days’ in advance of renewal. Hobart or Customer may terminate this Agreement at any time with thirty (30) days prior written notice to the other party; provided that if the Customer terminates under this sentence, Customer shall remain obligated to pay the full value of the Agreement. If a Fixed Call Service Contract is terminated or upgraded by Customer prior to the usage of all Fixed Calls, Customer shall be invoiced and shall pay for the remaining unused Calls. In the event this Agreement automatically renews, Hobart may increase prices and Hobart Rates in its sole discretion.

7. **Parts.** Hobart will provide Parts for equipment covered in an applicable Service Contract, subject to the availability of such Parts. Hobart may provide new or reconditioned Parts. Replaced parts and assemblies shall become the property of Hobart upon removal. For Parts installed by Hobart, title and risk of loss transfers to Customer upon installation. For Parts ordered by and shipped to Customer, title and risk of loss passes to Customer upon shipment. Should Customer request expedited freight, Hobart will expedite the Parts at Customer’s cost. If the Parts are damaged in transit, Customer must file a claim with the carrier and Hobart shall not be liable for such damage. Concealed damage and shorted shipments must be reported to Hobart’s Parts Department within 5 days of delivery.

8. **Returns.** Customer may only return Parts with Hobart’s written authorization. Return requests must include the item and invoice number and reason for return unless otherwise required by Hobart. Customer will be responsible for any applicable restocking fees. No return requests will be accepted after 90 days from the date of invoice. Custom orders may not be cancelled or returned. All returned Parts must be unused, in saleable condition, and in the original packaging. Except to the extent prohibited by law, Customer is responsible for shipping return Parts to Hobart’s designated location. Hobart will issue a credit or a refund at its election after the returned Part has been received and inspected for conformity to this section. Failure to comply with this section will result in any credit being withheld or reduced accordingly in Hobart’s discretion. The following items are not eligible for return: non-stock parts, hazardous materials with a shelf life, electronic boards or electronic components that have been opened, commercial standard items (e.g., nuts, bolts, screws), and multiple quantity items if less than the original quantity is returned.

9. **Indemnity.** Hobart agrees to indemnify Customer, its directors, officers, and employees from third-party claims, damages and expenses (including reasonable attorneys’ fees) to the extent those losses were directly caused by (i) the negligence or willful misconduct of Hobart or its employees, (ii) Hobart’s failure to comply with applicable laws, or (iii) any claim of infringement or misappropriation of any third-party intellectual or proprietary right directly based on the Services provided, however, Hobart shall have no duties under this paragraph where the Services have been modified by any party other than Hobart. The above obligations are contingent upon (i) Customer supplying Hobart written notice of such claim immediately after the Customer has notice of such claim, (ii) Customer diligently cooperating with Hobart in the defense and settlement of such claim; and (iii) Customer allowing Hobart the right to defend and settle such claim.

10. **Insurance.** Hobart carries the following insurance: i) worker’s compensation meeting statutory requirements, ii) employer’s liability with limits of \$1,000,000 per accident/ per disease, per employee/ per disease, policy limits, iii) commercial general liability including products and completed operations of \$2,000,000 per occurrence, \$4,000,000 aggregate, \$4,000,000 products and completed operations aggregate with Customer as an additional insured per form U GL 11 75 D CW or replacement thereof, iv) commercial auto liability with combined single limits of \$1,000,000 per accident for owned, hired and non-owned vehicles. Hobart will provide evidence of insurance upon request of Customer. Hobart may self-insure any coverage.

11. **Warranty.**

a. For Service Products, Hobart warrants to Customer that (a) it will perform the Services in a timely, competent and professional manner and in accordance with industry standards and (b) the Services shall conform to the Service Contract for a period of 24 hours from completion. Hobart further warrants to Customer that any Parts (i) shall be free of any liens, (ii) shall, for a period of 90 days from original installation if installed by Hobart or from shipment if not installed by Hobart, be free of material defects in workmanship and material.

b. For Equipment Installation, Hobart warrants to Customer that (a) it will perform the Services in a timely, competent and professional manner and in accordance with industry standards and (b) the Services shall conform to the Service Contract for a period of 24 hours from completion of the Services or, if Hobart performs the final equipment connections, 30 days from completion of the Services. Delays in equipment startup shall not extend this warranty.

c. For ITW/Hobart/Traulsen equipment: Equipment manufactured by ITW is subject to separate terms and conditions.

d. The above warranties (the "Warranty") apply directly to Customer and may not be assigned. The Warranty does not apply to defects caused by accident, misuse, neglect, improper installation, unauthorized alteration or repair or improper testing by Customer or a third party. Customer's sole remedy, and Hobart's sole liability, for a breach of the Warranty regarding Services is for Hobart, at its option, to re-perform the Services, repair or replace the Parts, or credit Customer's account for such defective Services or Parts. Hobart's obligations herein are contingent upon (i) Customer making any claim under this warranty within 90 days of Hobart's performance of the Services or shipment of any Parts, (ii) such claim includes detailed explanation of any alleged deficiencies, (iii) Hobart is given a reasonable opportunity to investigate all claims; and (iii) Hobart's examination of such the Part or Service confirms the alleged deficiencies and that the deficiencies were not caused by accident, misuse, neglect, improper installation, unauthorized alteration or repair or improper testing by Customer or a third party. Customer may not return any Parts without Hobart's authorization. EXCEPT AS SET FORTH ABOVE, HOBART MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED (INCLUDING NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE).

12. **Exclusions.** Unless otherwise specified in a Service Contract, the following is not included in the scope of coverage and will be subject to additional charges: any repair costs, including labor, parts and travel expense required due to damage by fire, water, burglary, accident, abuse, acts of God, acts of terrorism, failure of Customer to operate or maintain equipment in conformity with Hobart's or other manufacturer's recommended operating and maintenance instructions, inappropriate or improper use, improper water conditions, failure due to improper cleaning, failure to maintain water treatment equipment, and relocation, adjustment or repair of Hobart equipment by any Customer or any third party without Hobart's supervision or consent. Hobart shall have no obligation to provide Service or Parts under this Agreement for any equipment that is damaged due to any of the above causes until such equipment is repaired by Hobart or an authorized third party. Any such repairs shall be at Hobart Rates.

In addition, the following are not included and will be subject to additional charges: (a) Customer requested calibrations and/or adjustments to alter temperature or product appearance; (b) attachments; (c) accessories such as bowls, adapters, bowl trucks, attachment shelves, agitators (beaters, whips, dough hooks, etc.), splash covers and extension rings; (d) expendable items such as plastic flight links, curtains, blades, slicer knives, sharpening devices, pulley wipes, shredder plates, fryer baskets, customer removable seals, door gaskets; (e) consumable components or ordinary wear items including but not limited to; rinse arm strainers, final rinse nozzles, filters (including water filters), wash arm end caps, lower arm bushing, rollers, retaining rings, wash arm plugs, dish-limit rubber bumper, lamps, dish racks; (f) consumable items, such as paper supplies, filters, printing materials, and dishwashing and sanitizing compounds; (g) certain refrigeration Parts, such as condenser and evaporator coils, ice machine plates, refrigeration or HVAC motors 1hp or larger and compressors 1hp or larger, Flight Type dish machine conveyer assembly, refrigeration gasses (<24 lbs. or heat exchangers, (h) water related issues; (i) feature upgrades, including firmware, software, label format, or graphics; (j) welding services; and (k) Customer network related issues for Hobart connected devices. Loaner equipment is not included but may be provided by local Branch Offices at additional cost based on availability. Repair, but not replacement, of fryer tanks, boiler and booster tanks that are subject to ITW/Hobart/Traulsen original manufacturer equipment is covered.

13. **Customer Responsibilities.** For any on-Site Service, Customer shall:

- a. prepare the Site for the Services. If the Site is not prepared for the Services upon Hobart service personnel's arrival at the agreed upon time and date, Hobart may charge Customer for any delay and/or travel time at Hobart Rates. If, in Hobart's opinion, performance of Services would pose a risk to the safety of any person, Hobart may refuse, without any liability, to provide Services and to allow Hobart service personnel to suspend Services or vacate any Site. In such event, Customer is responsible for payment of any delay and/or travel time at Hobart Rates;
- b. provide Hobart with at least 30 days' written notice of any rules, regulations, statutes and requirements applicable to the Services, including any required permits and licenses, that are applicable to Customer's local jurisdiction;
- c. provide at least one business day notice of cancellation of any Service order. If Customer cancels with less than 24 hours' notice, Customer is responsible for any costs incurred by Hobart caused by such cancellation. If Hobart travels to Customer's location and Customer cancels thereafter, Customer may incur an additional cancellation charge; and
- d. remain liable for all damages or injuries caused or contributed to by Customer, its employees, agents, and representatives that may occur on the site and indemnify Hobart for the same.

14. **Limitation of Liability.** NEITHER PARTY WILL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, DOWN TIME, LOST PROFITS OR COMMERCIAL LOSSES, WHETHER OR NOT BASED UPON HOBART'S NEGLIGENCE OR BREACH OF WARRANTY OR STRICT LIABILITY IN TORT OR ANY OTHER CAUSE OF ACTION. IN NO EVENT WILL HOBART'S LIABILITY EXCEED THE VALUE OF THIS AGREEMENT.

15. **Hobart Personnel.** Customer will not solicit, offer work to, employ, or contract with, directly or indirectly, any of Hobart's employees while Hobart provides Services and/or Parts hereunder and for a period of twelve (12) months after the conclusion of such Services.

16. **Miscellaneous.** (a) Additional terms from the local Branch Office may also apply to the Agreement. (b) Except for payment obligations, neither party will be responsible for failure to perform in a timely manner under the Agreement when such failure results from events beyond its reasonable control (each an “Event of Force Majeure”), including acts of God, acts of war, blockades, labor disputes and Part shortages. For each Event of Force Majeure, the affected party’s time for performance will extend for such time as reasonably necessary to enable that party to perform. (c) Nothing in the Agreement or the course of dealing of the parties may be construed to create a partnership, joint venture, or agency or as authorizing either party to obligate the other in any manner. (d) The Agreement may not be assigned or transferred by Customer without Hobart’s prior written consent. (e) Any dispute related to the Agreement will be governed by and construed according to the laws of the state of Ohio and litigated exmachine plates, refrigeration or HVAC motors 1hp or larger and compressors 1hp or larger, Flight Type dish machine conveyer assembly, refrigeration gasses (<24 lbs. or heat exchangers, (h) water related issues; (i) feature upgrades, including firmware, software, label format, or graphics; (j) welding services; and (k) Customer network related issues for Hobart connected devices. Loaner equipment is not included but may be provided by local Branch Offices at additional cost based on availability. Repair, but not replacement, of fryer tanks, boiler and booster tanks that are subject to ITW/Hobart/Traulsen original manufacturer equipment is covered.