



# Sales and Service

R# 689-2021

R-689-2021  
Contract #255-2021

LOUISVILLE KY BRANCH  
9820 BLUEGRASS PKWY  
LOUISVILLE, KY 40299  
Phone: 502-491-4263

## PLANNED MAINTENANCE AGREEMENT

Customer Address	Customer Contact	Quote Information
LEXINGTON-FAYETTE URBAN C 200 E MAIN ST Lexington, KY 40507	Contact: Rick Montgomery Phone: 859 280-8173 Fax: Cust Id: 516967	Quote Date: 01-APR-21 Quote Expires: 31-DEC-21 Quote Num: 130910 Quoted By: BRIAN LEIS Quote Term: 3 Year(s)

### Site Information

1	LFCUG WKYT TOWER	2851 WINCHESTER RD	LEXINGTON	KY	40509
2	LFUCG WLEX TOWER	1065 RUSSELL CAVE RD	LEXINGTON	KY	40505
3	LFUCG WVRD TOWER	2166 BRANNON RD	NICHOLASVILLE	KY	40356

Site	Unit Number	Manufacturer	Model	Prod Model	Serial Number	Type
1	C130473517	ONAN	GGHE	GGHE-1323745-K	C130473517	ST
2	2118057	GENERAC	SD35	14844630100	2118057	ST
3	2118476	GENERAC	S351D	14928330200	2118476	ST

Site	Unit Number	Service Event	Qty	Sell Price	Extended Price
1	C130473517	FULL SVC W/2 HR LOAD BANK	3	844.00	2,532.00
		INSPECTION	3	216.00	648.00
2	2118057	FULL SVC W/2 HR LOAD BANK	3	922.00	2,766.00
		INSPECTION	3	224.00	672.00
3	2118476	FULL SVC W/2 HR LOAD BANK	3	850.00	2,550.00
		INSPECTION	3	210.00	630.00

### \*\*\*Generator Planned Equipment Maintenance Quote\*\*\*

This three (3) year renewal proposal covers two (2) service visits annually and will automatically renew unless the opt-out option is chosen.

### Service Schedule:

October 2021, 2022, 2023 - PM Inspections

April 2022, 2023, 2024 - Full Service PM with 2 Hour Load Bank Testing

### \*\*\*Please select a Load Bank Testing option(s) below\*\*\*

Readings will be taken every 15 minutes, unless otherwise specified.

\*If no selection is made, we will perform this option by default.

2 Hour Load Bank Test

☐ \*25% of the EPS nameplate kW rating for 30 minutes, followed by 50% of the EPS nameplate kW rating for 30 minutes, followed by 75% of the EPS nameplate kW rating for 60 minutes for a total of 2 continuous hours

☐ 80% of the EPS nameplate kW rating for 2 continuous hours

☐ Other ? Please Specify \_\_\_\_\_



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To continue your services without interruption, please sign the quote and return along with your PO if required to:  
Email: cpspm@cummins.com

### \*\*\*Payment Info\*\*\*

We accept all major credit cards. To pay by credit card call 877-480-6970 (press 1 for Accounts Receivables) anytime between the hours of 7:30am-5pm central time. Have your account number ready as well as the invoice number you are wanting to pay. You will be emailed a receipt immediately following the call.

Please do not pay the amount on this quote. An invoice will be generated to include taxes (if applicable) when payment is due.

### \*\*\*Auto Renewal Option\*\*\*

Planned Equipment Maintenance Agreements are designed with an automatic renewal provision. If you do not wish to participate in the auto renew option, please check below to opt-out. If you do not opt-out, this Agreement will automatically renew at the end of the initial term for a period equal to the initial term (the Renewal Term). In such event, cost increases for the Renewal Term will not exceed 3%. Either party has the right to terminate this Agreement with thirty (30) days prior written notice, unless the work has already been performed.

☐ OPT-OUT OF AUTOMATIC RENEWAL

Standard Agreement Amount	\$9,798.00
Proposal Total	\$9,798.00

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITY, WHICH ARE EXPRESSLY INCORPORATED HEREIN. CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD, AND ACCEPTED.

### Customer Approval

Signature: Linda Gorton

Date: 12/13/2021

### CUMMINS INC

Signature: Brian C Leis

Date: 12/10/2021

## PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

These Planned Maintenance Agreement Terms and Conditions, together with the Quote on the front side and the Scope of Services, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the Quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall take precedence.

1. **SCOPE OF SERVICES; PERFORMANCE OF SERVICES.** Cummins shall perform the maintenance ("Services") on the equipment identified in the Quote ("Equipment") in accordance with the schedule specified in the Quote. The Services include those services defined in the "Service Event" section of the Quote. No additional services or materials are included in this Agreement unless agreed upon by the parties in writing. Unless otherwise indicated in the Quote, Cummins will provide the labor and tools necessary to perform the Services and shall keep Customer's property free from accumulation of waste materials caused by Cummins' operations. Either party may terminate this Agreement with or without cause by providing thirty (30) days written notice to the other.

2. **CUSTOMER OBLIGATIONS.** Customer shall provide Cummins safe access to Customer's site and arrange for all related services and utilities necessary for Cummins to perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to facility occupants, customers, invitees, or any third party and or property damage or work interruption arising out of the Services. Customer shall make all necessary arrangement to address and mitigate the consequences of any electrical service interruption which might occur during the Services. **CUSTOMER IS RESPONSIBLE FOR OPERATING AND MAINTAINING THE EQUIPMENT IN ACCORDANCE WITH THE OWNER'S MANUAL FOR THE EQUIPMENT.**

3. **PAYMENT TERMS.** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Unless otherwise stated, the Quote excludes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer and shall be stated on the invoice.

4. **DELAYS.** Any performance dates indicated in this Agreement are estimated and not guaranteed. Cummins shall not be liable for any delays in performance however occasioned, including any that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.

*AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.*

5. **WARRANTY.** Cummins shall perform the Services in a reasonable and workmanlike manner. Parts and components supplied under this Agreement are governed by the express written manufacturer's limited warranty. No other warranty for parts or components is provided under this Agreement. All Services shall be free from defects in workmanship for a period of ninety (90) days after completion of Services. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of any Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New parts supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such parts. The remedies set forth in this Section 5 shall not be deemed to have failed of their essential purpose so long as Cummins is willing to correct defective Services or refund the purchase price therefor.

### 6. LIMITATIONS OF WARRANTIES AND LIABILITY.

CUMMINS SHALL BE LIABLE FOR ANY PROPERTY DAMAGE OR PERSONAL INJURY CAUSED BY ITS EMPLOYEE'S WILLFUL OR NEGLIGENT CONDUCT WHILE ON CUSTOMER'S PROPERTY THE REMEDIES PROVIDED IN THE LIMITED WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, AND DAMAGES CAUSED BY DELAYS) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF PARTS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF PARTS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.

7. **INDEMNITY.** To the extent allowable by law Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense. This shall not be deemed a waiver of sovereign immunity or any other third party defense available to Customer.

8. **CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents. This section is subject to the Kentucky Open Records Act.

9. **GOVERNING LAW.** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky without giving effect to any choice or conflict of law provision. The parties agree that the courts of the Commonwealth of Kentucky shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

10. **INSURANCE.** Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

11. **ASSIGNMENT.** This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

12. **INTELLECTUAL PROPERTY.** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

13. **MISCELLANEOUS.** Cummins shall be an independent contractor with respect to the Services performed under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.

14. **ON-CALL SERVICES.** Upon Customer's request, Cummins shall provide on-call services (repair, emergency work or other) on the Equipment ("On-call Services"). Any On-call Services shall be invoiced to the Customer at the Cummins current hour rate (including traveling) and shall be governed by the terms and conditions of this Agreement.