

SMO PREMIUM GAS-ELECTRIC WATER HEATER*

This certificate provides you with the following service on your gas or electric water heater:

1. ON-CALL ACCESS TO SERVICE.

There are no charges for service covered by this agreement when performed between 8:00am and 4:30pm.

If you request non-emergency service for arrival prior to 8am or after 4:30pm, or on federal holidays (days the Post Office is closed) or weekends, there will be a diagnostic fee.

2. EFFICIENCY CHECK-UP:

Customer is responsible for scheduling their annual tune-up.

3. 15% DISCOUNT:

This plan gives you a 15% discount on our regular rates for any repair work not covered by your plan.

4. SELECTED COMBUSTION COMPONENTS AND HEATING SYSTEM PARTS ARE COVERED, INCLUDING:

Electronic ignition control board**
Flame rollout switch
Flame sensor
Igniter (hot surface igniter)
Induced draft motor
Main gas valve

Pilot assembly
Pressure switch (vacuum switch)
Tankless Water Heaters - Clean & Flush
Upper & Lower Electric Elements\Thermostats
Thermal Couple

5. THE FOLLOWING GENERAL EXCLUSIONS APPLY:

- Services to identify or remedy gas leaks
- Coverage can be revoked if customer fails to pay for service within terms
- Coverage can be revoked if customer fails to remedy conditions identified as hazard
- Coverage can be revoked if customer permits anyone other than our rep to service equipment
- Providing adequate ventilation for combustion
- Removal of asbestos-containing materials
- Monitoring vacant or unattended premises
- Replacing fuses
- Resetting circuit breakers
- Turning on the emergency switch
- Setting system temperatures
- Replacing batteries in system devices
- Not available for water heating systems with tanks in excess of 50 gals.

*Discounted pricing for multiple units.

**Parts noted limited to manufacturer's warranty and availability

GENERAL TERMS AND CONDITIONS

- 1. PARTIES** - In these terms and conditions, the words we, us, our and ours mean Seller or Seller's authorized representative. The words you, your and yours mean the Buyer.
- 2. SERVICE** - We will provide service (including parts and labor) as set forth on our service brochure and the front of this Agreement and subject to these terms and conditions. Our acceptance of this Agreement is subject to equipment conditions at the time of the first service call.
- 3. EXCLUSIONS** - THIS AGREEMENT DOES NOT COVER SERVICE REQUIRED FOR INSUFFICIENT HOT WATER DUE TO SEDIMENT OR CORROSION. PARTS ARE NOT COVERED IF THEY ARE OBSOLETE OR INACCESSIBLE; WE WILL BILL YOU FOR REPAIRS OR SERVICE NOT COVERED BY THIS AGREEMENT AT OUR PREVAILING RATES IN EFFECT AT THE TIME SERVICE IS RENDERED.
- 4. CONDITIONS OF COVERAGE** - THIS AGREEMENT IS AVAILABLE ONLY TO OUR AUTOMATIC DELIVERY CUSTOMERS WHO PURCHASE ALL THEIR FUEL OIL REQUIREMENTS FROM US FOR RESIDENTIAL OIL HEATING EQUIPMENT WITH A MAXIMUM FIRING RATE OF 2.5 GALLONS PER HOUR.
- 5. YOUR RESPONSIBILITIES** - YOU ARE RESPONSIBLE FOR THE FOLLOWING ITEMS, WHICH ARE NOT COVERED BY THIS AGREEMENT: VENTING AIR FROM THE HEATING SYSTEM; FLUSHING THE LOW WATER CUTOFF; MAINTAINING AN ADEQUATE WATER LEVEL IN THE BOILER; PROVIDING ADEQUATE BOILER ROOM VENTILATION FOR PROPER COMBUSTION; PROPERLY REMOVING ASBESTOS CONTAINING MATERIALS; CHANGES IN FUEL OIL CONSUMPTION; MAINTAINING CLEAN AIR FILTERS; DRAINING THE EXPANSION TANK; REPLACING FUSES; RESETTING CIRCUIT BREAKERS; TURNING ON THE EMERGENCY SWITCH; SETTING THERMOSTAT TEMPERATURE OR CLOCKS; REPLACING BATTERIES IN SYSTEM DEVICES; MAINTAINING THE CONDITION OF THE CHIMNEY, FUEL OIL TANK, OIL LINES, AND PIPING; AND SCHEDULING SERVICE CALLS AND TUNEUPS. YOU ARE RESPONSIBLE FOR PROVIDING ADVANCE NOTICE OF THE REPLACEMENT OR MOVEMENT OF ANY HEATING EQUIPMENT INCLUDING THE FUEL OIL TANK AND FILL PIPE.
- 6. BILLING** - You will receive an invoice (an "invoice") with your Agreement. The invoice amount is due in full upon receipt. If the invoice is not paid in full, we will send you a statement (a "Statement") showing all amounts due (which may also include amounts due for fuel oil deliveries). We will charge you a \$25.00 fee for all returned checks (\$20.00 in New York).
- 7. WHEN A LATE FEE WILL BE ADDED** - If we do not receive full payment of your invoice by thirty (30) days from the invoice date, you must pay a late fee. The late fee will appear on your next Statement. We compute the late fee based on a periodic rate of 1.5% per month, which is an ANNUAL PERCENTAGE RATE of 18%, with a minimum late fee of \$0.50. We will figure the late fee using the Adjusted Balance Method. In no event will the late fees be more than the law allows.
- 8. COLLECTION COSTS** - You agree to pay, in addition to your balance, all costs of collection as permitted by law, including without limitation, reasonable attorneys' fees and court costs.
- 9. IRREGULAR PAYMENT AND DELAY IN ENFORCEMENT** - We can accept late payments, partial payments or payments marked "payment in full" without losing any of our rights under this Agreement. We can also delay enforcing any of our rights under this Agreement without losing any of our rights under this Agreement.
- 10. LIMITS OF LIABILITY** - We will not be responsible for loss or damages due to or resulting from: changes in oil consumption; improper operation of an attic fan or alternate fuel device; your failure to schedule service and/or tune-ups; acts of God; terrorism; strikes; riots; material or labor shortages; fire; flood; hurricane; power interruption or loss; accidents; governmental acts; abuse or misuse of equipment; spontaneous part failure; insufficient water; frozen or jelled oil lines; or any other conditions beyond our reasonable control, including a vacant, unattended or unoccupied premises (in this Agreement, the term "vacant or unattended premises" shall mean premises at which no adult occupant is present for at least twenty-four (24) consecutive hours). TO THE MAXIMUM EXTENT PERMITTED BY LAW, we will have no liability for direct or indirect, special or consequential damages of any kind. We are not responsible for secondary damage as a result of a delay in rendering service. To the extent any warranty exists, our liability for any warranty claim will be limited, as permitted by law, to the repair or replacement of defective parts or service provided under this Agreement. Any and all actions, whether based in contract or tort, whether for personal injury or property damage, and whether brought by Buyer or Buyer's insurance company, must be commenced within one year of the cause of action or shall be barred as a matter of law. IN NO EVENT SHALL OUR LIABILITY TO YOU OR OTHERS UNDER HIS AGREEMENT OR OTHERWISE EXCEED \$1,000, INCLUDING ANY LIABILITY UNDER SECTION.
- 11. FUEL TANK, OIL PIPING AND ENVIRONMENTAL LIABILITY DISCLAIMER** - Under no circumstances are we obligated to repair or replace a tank, oil lines and/or piping. You are responsible for the condition and

maintenance of the fuel tank, oil lines and piping. We assume no liability for same. This Agreement does not insure against tank or oil line leakage or any damage to persons or property resulting from tank or oil line leakage. This Agreement does not cover any installation, cleanup, removal, remedial, or other costs of compliance with any environmental or other laws, rules or regulations. We are not liable to render any service for which we are not licensed. WE WILL NOT BE RESPONSIBLE FOR BODILY INJURY, A DECREASE IN PROPERTY VALUE OR PROPERTY DAMAGE ARISING OUT OF THE DISPOSAL, DISCHARGE, DISPERSAL, RELEASE OR ESCAPE OF OIL OR OTHER PETROLEUM SUBSTANCES OR DERIVATIVES INTO OR UPON YOUR PROPERTY, SURROUNDING PROPERTY, THE ATMOSPHERE OR ANY WATER COURSE OR BODY OF WATER UNLESS DIRECTLY AND SOLELY CAUSED BY OUR NEGLIGENCE.

12. WAIVER OF SUBROGATION RIGHTS - Both Buyer and Seller do hereby mutually waive any and all rights of subrogation and or recovery, against each other, including our officers, members, agents and employees, occurring on or arising out of this Agreement, the delivery of heating oil and any system service or repair at your premises to the extent such loss or damage is covered by proceeds received from casualty, homeowners or other insurance carried by the other party. The party sustaining such loss shall have no right of recovery against the other party, or the agents, servants, contractors or employees of the other party; and no third party, including but not limited to any insurance carrier, shall have any right of recovery (whether based in tort, contract or otherwise) by way of subrogation or assignment or otherwise.

13. NO WARRANTIES - UNLESS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN EQUITY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHETHER OR NOT PURPOSES OR SPECIFICATIONS ARE DESCRIBED HEREIN. NO WARRANTY IS MADE AS TO THE ABILITY OF THE SYSTEM TO SUPPLY HEAT OR HOT WATER AS REQUIRED BY YOU.

14. CANCELLATION BY YOU - You may cancel this Agreement at any time on thirty (30) days' written notice. You agree to remain responsible for all purchases made and/or services rendered before the thirty (30) day period expires and for any collection costs. You understand and acknowledge that the service fee paid for this Agreement is not refundable.

15. CANCELLATION BY US - We can suspend service under or terminate this Agreement with or without notice and without further responsibility if: you fail to purchase all of your fuel oil requirements from us; you fail to make a payment on time or if we deem your payment history unsatisfactory; you file for bankruptcy; you fail to remedy conditions identified as a hazard to life or property; you permit any person other than our authorized representatives to service your equipment; you temporarily or permanently suspend oil deliveries; if equipment becomes outdated and parts are not readily available; if annual fuel oil consumption drops below six-hundred (600) gallons per year and/or you fail to comply with your obligations under this Agreement.

16. TERM - The term of this Agreement is twelve (12) months. For each twelve (12) months thereafter, you will receive an invoice for the annual cost of the Agreement, as determined by us and disclosed on your invoice. If you do not pay the invoice in full within thirty (30) days of the date of the invoice, this Agreement will be considered expired as of the expiry date and you will be billed for all services we perform at our prevailing rates in effect at the time service is rendered. We can change the terms of this Agreement in each subsequent twelve (12) month term, provided we give you thirty (30) days' (ninety (90) days in New Jersey) written notice before the period in which the change becomes effective or billing takes place.

17. ARBITRATION OF DISPUTES - Any controversy or claim arising out of or relating to this contract or any breach thereof shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Consumer Arbitration Rules. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, any controversy or claim may be submitted by either Buyer or Seller to a small claims court having jurisdiction of the controversy or claim. Buyer and Seller agree that for any claim initiated after the Effective Date either MAY BRING CLAIMS AGAINST THE OTHER ONLY IN BUYER OR SELLER'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, Buyer and Seller agree that the arbitrator may not consolidate proceedings or more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

18. ENTIRE AGREEMENT - We and you agree that this written Agreement along with the Service Brochure constitute the entire Agreement. Any statements not contained in this Agreement or the Service Brochure are not part of this Agreement. To the extent that the terms of this Agreement and Service Brochure are inconsistent, this Agreement shall control.