

Powerhouse Equipment Rental Insurance Requirements

Per the Equipment Rental Lease Agreement, the following insurance coverage is required and a Certificate of Insurance (“COI”) that meets all requirements must be emailed to Deanne Del Piano ddelpiano@powerhouse.com before delivery of Equipment:

The minimum insurance coverage required is:

- Inland Marine Coverage - Amount equal to the Total Stipulated Loss Value of All Equipment stated in the Lease Agreement.
- Commercial General Liability - \$1M/\$2M aggregate
- Automobile Liability - \$1M/\$2M aggregate
- Umbrella Liability - \$5M
- Worker’s Compensation - Statutory workers’ compensation covering all state and local requirements
- Employer’s Liability – \$1M

Insurance policy shall name Powerhouse Equipment & Engineering Co., Inc., as loss payee as its interest may appear and as an additional insured.

Certificate Holder: Powerhouse Equipment & Engineering Co., Inc., 240 Creek Road, Delanco, NJ 08075

Each of the above policies of insurance shall be primary to any liability insurance carried by Lessor, which insurance shall be excess and non-contributory for claims and losses arising out of the performance of this Lease.

Feel free to forward this document to your insurance company so that they can generate the required COI.

Per the Lease, in the event that Lessee fails to provide evidence of insurance acceptable to Lessor, Lessor shall have no obligation to make delivery of the Equipment. In the event that Lessee fails to obtain and/or maintain insurance as required by Lessor, Lessor may obtain such insurance, the cost of which plus an additional fifteen (15%) percent which will be the sole responsibility of Lessee.

Feel free to contact Deanne Del Piano at ddelpiano@powerhouse.com with any insurance related questions. Thank you!

POWERHOUSE EQUIPMENT & ENGINEERING CO., INC. RENTAL
LEASE AGREEMENT STANDARD TERMS AND CONDITIONS

1. **RENTAL PERIOD:** The term of this Lease shall be as set forth in the Lease Agreement, attached hereto and incorporated herein by this reference. Start Date is the date the leased equipment ("Equipment") is consigned to a carrier for shipment to customer ("Lessee") and shall continue until the Equipment is returned to Powerhouse Equipment & Engineering Co., Inc.'s ("Lessor") yard or such other point as Lessor shall direct in writing.
2. **AUTORENEW OPTION:** Lessor grants to Lessee an option for this Lease to automatically renew on a month-to-month basis under the same terms and conditions and monthly rental rate as set forth in the Lease Agreement for a period up to twelve (12) months from the End Date specified in the Lease Agreement. This Lease Agreement can be terminated at any time during the autorenewal period by giving the Lessor at least fourteen (14) days' prior written notice.
3. **RENT:** The total rental cost for the Equipment leased shall be specified in the Lease Agreement in USD for the initial term of the Lease. Rent is due in advance on a monthly basis during the Lease term. For the purposes of this Lease, one (1) month = twenty-eight (28) days and one (1) week = seven (7) days. If any payment of rent is received more than five (5) days after the due date, Lessee will pay a late fee and/or overhead charge, but not as interest, on amounts not paid when due, an amount equal to five percent (5%) of any such unpaid amount. Such late fee shall bear interest from the date that payment is due at the rate of 9.0% per annum.
4. **TAXES:** Rent **does not** include federal, state or local taxes, including, without limitation, sales, use or excise taxes now or hereafter enacted, applicable to the Equipment leased in this transaction. Lessor is responsible to collect/remit sales tax in the states of Florida, New Jersey, North Carolina and Pennsylvania. Outside of these states, any sales or use tax is the responsibility of the Lessee. All taxes may be added by Lessor to the rental price or billed separately. Lessee shall pay all taxes unless Lessee provides Lessor with the appropriate and necessary tax exemption certificate. Any property or land-use taxes are the responsibility of the Lessee. Lessee shall pay when due or reimburse Lessor, on a net after-tax basis, and shall indemnify and defend Lessor against all fees, assessments and sales, use, property, excise and other taxes and governmental charges, including, without limitation, interest and penalty by any government exclusive of any taxes based on the net income of Lessor.
5. **DELIVERY AND RETURN OF EQUIPMENT:** At Lessee's expense, Lessor will cause Equipment to be delivered to Lessee's jobsite and at end of lease term will cause Equipment to be returned to Lessor's yard. Alternatively, Lessee may designate or provide a carrier to pick up the Equipment from Lessor or to return Equipment to Lessor's yard, provided Lessee provides a certificate of insurance satisfactory to the Lessor. Risk of loss during delivery and return of Equipment shall be on Lessor unless Lessee designates or provides the carrier, in which case risk of loss during delivery and return shall be on Lessee.
6. **INSPECTION AND ACCEPTANCE BY LESSEE:** Lessee shall inspect the Equipment within five (5) days after delivery. Lessee shall notify Lessor in writing within that period of any defects or other objections to the Equipment. If Lessor receives no written notice of defects or objections within that period, Lessee will be conclusively presumed to have accepted the Equipment in good condition and repair.
7. **START-UP:** Start-up of unit(s) shall be provided by Lessor either with Lessor's direct labor or a Lessor hired subcontractor at the minimum cost to Lessee as set forth in the Lease Agreement. If the time required to complete the start-up exceeds the number of days set forth in the Lease Agreement, the start-up costs for each additional day will be as set forth in the Lease Agreement. Lessee may choose to, with prior written authorization of Lessor, start-up unit(s) at its own remedy and expense, and therefore will assume all risk associated with the start-up not otherwise covered in these terms. However, any unit with a capacity >10K pph requires startup by Lessor or the Powerhouse Limited Warranty is null and void.
8. **INSTALLATION:** Lessee, at its own cost, shall be solely responsible for the installation and interconnection of the Equipment with its existing facilities and for the supply of all utilities and permits required for installation and operation of the Equipment unless otherwise stated in the Lease Agreement.
9. **WATERSIDE SCALE AND CORROSION:** Lessee agrees to maintain sufficient and adequate boiler feedwater treatment and chemical control to prevent the formation of waterside scale and corrosion to the Equipment. Lessor must approve such treatment and control methods in writing and/or receive a water sample. Lessor shall have the right to inspect the Equipment for scale and/or corrosion during the term of Lease and upon return of Equipment to Lessor and if removal/treatment is necessary, it must be removed/treated at sole cost of Lessee. Rent shall continue to be payable notwithstanding Lessor's exercise of its rights hereunder.
10. **USE AND MAINTENANCE OF EQUIPMENT:** Lessee shall at all times cause the Equipment to be operated strictly in accordance with the manufacturer's and Lessor's instructions and manuals provided to Lessee at time of delivery and standard industry practice, by competent, qualified, and licensed (as applicable) personnel and in strict compliance with all governmental requirements. Lessee shall be responsible for ascertaining that the Equipment is installed and operated in accordance with all code requirements and other federal, state and local applicable laws, rules, regulations and ordinances. Lessee shall keep the Equipment in good repair and operating condition and return it in the same clean condition in which it was received, allowing only for reasonable wear and tear. Lessee is fully responsible for inspecting the Equipment on a regular basis, regardless if Equipment includes BoilerLink™, and agrees to inform Lessor immediately of any known or suspected problems. Lessee agrees to not make any modifications to the Equipment nor the programs in BoilerLink™ without Lessor's direction and consent or such acts will void the Limited Equipment Warranty. Lessee shall pay all expenses of operating, maintaining and repairing the Equipment. In the event that the Equipment is stored outdoors, Lessee shall provide adequate protection from the elements. Lessee assumes all risks of all nature associated with the use and operation of the Equipment during the period of the Lease.
11. **INDEMNIFICATION:** Lessee shall indemnify, defend and hold Lessor harmless against all claims, losses, damages, actions, fines, penalties, costs, expenses and liabilities of any nature whatsoever, including but not limited to negligence, bodily injury, death, tort and strict liability, including attorney's fees, arising out of, relating to, or resulting from the Lessee's use, operation and/or transportation of the Equipment or arising out of or in connection with the negligence or willful misconduct by Lessee during the term of this Lease, except to the extent caused by the Lessor's gross negligence or willful misconduct. Lessee's agreement to indemnify, defend and hold harmless as set forth in the immediately preceding sentence shall not be negated or reduced because Lessee's insurance carrier denies insurance coverage for the claim and/or refusal to defend Lessor or Lessee.
12. **SURRENDER OF EQUIPMENT AT END OF LEASE:** Lessee agrees on expiration of this Lease to completely drain and disconnect the Equipment unless Lessor has agreed to do so in the Lease Agreement. Lessee agrees to return Equipment at Lessee's sole expense in good condition and free of encumbrances to Lessor's yard or to any other location that Lessor may designate without increasing the cost of delivery.

13. TITLE: Title to the Equipment shall remain with Lessor at all times during the term of the Lease. Lessee shall not remove from the Equipment any serial number, model, name or other indicia of ownership. Lessee shall give Lessor immediate written notice of any claim, levy, lien or other legal process issued against the Equipment. Lessee further agrees to cooperate with Lessor and take whatever action may be necessary to allow Lessor to file or record this Lease in such offices (such as UCC) as may be necessary in order to protect Lessor's interests in the Equipment.

14. MARKING OF EQUIPMENT: Lessor has marked and identified the Equipment as property of Lessor. Lessee shall not remove such markings and shall not permit the name of any person, association or corporation other than Lessor to be placed on the Equipment as a designation that might be interpreted as a claim of ownership or security interest.

15. PERSONAL PROPERTY: Lessee shall not permit the Equipment to become attached or affixed to real property or otherwise to become a fixture. Even if the Equipment shall become attached or affixed to real property in violation of this Lease, the parties intend that the Equipment shall at all times be deemed to be personal property.

16. RISK OF LOSS: Once the Equipment is delivered by Lessor to Lessee, risk of loss of, damage to, or destruction of the Equipment or any part thereof at all times during the period of this Lease shall be on Lessee and no such loss, damage, or destruction will release Lessee from its obligations under the Lease. All loss of or damage to equipment rented to Lessee by Lessor while in Lessee's care, custody or control, including, but not limited to, fire, flood, theft, comprehensive losses and Acts of God, will be the responsibility of Lessee and will be paid to Lessor upon Lessor's receipt of an invoice, pursuant to Section 19.

17. INSURANCE: Lessee shall obtain and maintain at all times on the Equipment liability insurance (including, without limitation, bodily injury and property) including coverage to replace Equipment in the event of loss or damage while in Lessee's care, custody or control in the amounts, against the risks, in the form, amount and with the insurers that shall be satisfactory to Lessor. Insurance policy shall name Lessor as *loss payee* as its interest may appear and shall name Lessor as *an additional insured*. In the event that Lessee fails to provide evidence of insurance acceptable to Lessor, Lessor shall have no obligation to make delivery of the Equipment. In the event that Lessee fails to obtain and/or maintain insurance as set forth herein, Lessor may obtain such insurance, the cost of which plus an additional fifteen (15%) percent which will be the sole responsibility of Lessee. The minimum insurance coverage required is:

- Inland Marine Coverage - Amount equal to the Total Stipulated Loss Value of All Equipment stated in the Lease Agreement.
- Commercial General Liability - \$1M/\$2M aggregate
- Automobile Liability - \$1M/\$2M aggregate
- Umbrella Liability - \$5M
- Worker's Compensation - Statutory workers' compensation covering all state and local requirements
- Employer's Liability - \$1M

Each of the above policies of insurance shall be primary to any liability insurance carried by Lessor, which insurance shall be excess and non-contributory for claims and losses arising out of the performance of this Lease.

18. WAIVER OF DAMAGES; LIMITATION OF LIABILITY: Except for indemnity obligations under Section 11, in no event shall either party be liable to the other for any incidental, consequential, punitive, indirect, exemplary, liquidated or special damages of any kind, arising from any cause, for any reason, or claimed under any theory of law, including, without limitation, loss of use, loss of sales, loss of production, loss of profits or revenues, loss of business opportunity, interest charges, or cost of capital. Lessor's liability and indemnity obligations, if any, shall in no event exceed the total amounts paid to Lessor by Lessee under this Lease. These mutual waivers are not intended to apply to Section 19 Damage to Equipment and Section 28 Remedies.

19. DAMAGE TO EQUIPMENT: Equipment will be inspected for damages including scale and/or corrosion upon return to Lessor's yard. If Lessee damages the Equipment in any way during the term of the Lease, Lessee will be liable for the amount of the damage plus the daily rental rate as direct damages for each day that the Equipment is undergoing repair and is unavailable for rental by Lessor after the term of this Lease. In the event that the Equipment is destroyed during the term of the Lease, Lessee shall be liable for its Stipulated Equipment Loss Value. In the event of any damage or loss to the Equipment, or any part thereof, caused by Lessee or while in Lessee's care and irrespective of payment from any insurance coverage maintained by the Lessee, but applying full credit thereof, Lessee shall at the option of Lessor (a) place the Equipment in as good repair, condition and working order as when received by Lessee or (b) pay the Stipulated Equipment Loss Value to Lessor upon receipt of invoice for such loss if the cost to place the Equipment in as good repair, condition and working order as when received by the Lessee exceeds one-half of the amount allocated in Lease Agreement to the boiler.

20. NO EXPRESS OR IMPLIED WARRANTIES: Except as provided by the Powerhouse Limited Equipment Warranty, Lessor neither makes nor shall be deemed to have made any warranty or representation, express or implied, concerning the Equipment, including, without limitation, any warranty or representation as to design, quality, or condition of the Equipment, or as to the merchantability or fitness of the Equipment for any particular purpose of Lessee or to any other matter relating to the Equipment. Lessee acknowledges that they alone have determined the intended purpose and suitability of the Equipment and agrees that the Equipment is of a size, design and capacity selected by Lessee and that Lessee is satisfied for its purposes and that Lessor has made no representation or warranty with respect to the suitability or durability of the Equipment for the proposed use of Lessee, or any other representation or warranty, express or implied with respect thereto. The selection of sizes, types, capacities, and specifications of Equipment rented by Lessee and the suitability thereof for Lessee's specific application shall be the sole responsibility of Lessee and/or Lessee's representative or consultant. Lessee hereby agrees to waive and make no claim for breach of warranty arising from any cause whatsoever.

21. INSPECTION BY LESSOR: Upon written notification to Lessee, the Lessor shall have the right at any time during the term of the Lease to enter the premises occupied by the Equipment and shall be given free access to the premises and afforded necessary facilities for the purposes of inspection. Lessee agrees to obtain the consent of any third parties as applicable to the exercise by Lessor of its rights hereunder.

22. NO REMOVAL OF EQUIPMENT: Without Lessor's prior written consent, Lessee shall not remove the Equipment from Lessee's place of business or permit it to be removed from Lessee's possession.

23. FREE FROM LIENS: Lessee shall keep the Equipment free of all taxes, claims, liens, and encumbrances.

24. DELAYS/FORCE MAJEURE: Lessor shall not be liable for loss or damage to Lessee from delay in delivery of Equipment resulting from causes beyond Lessor's reasonable control or caused by strikes or labor difficulties, lockouts, acts or omissions of any governmental authority of the Lessor, insurrection or riot, terrorism or threats of terrorism, war, fires, floods, Acts of God, breakdown of essential machinery, accidents, embargoes, car and material shortages, delays in transportation or inability to obtain labor, materials or parts from usual sources. Any such delay shall be excused for the time reasonably necessary to compensate for the delay.

25. ASSIGNMENT: Without Lessor's prior written consent, Lessee shall not transfer, assign or otherwise dispose of this Lease or any interest created by this Lease or transfer, sublet or otherwise dispose of the Equipment or any interest in the Equipment, or permit the Equipment to be used by anyone other than the Lessee, or make any material change or modification in the Equipment, or make any addition to the Equipment. Lessor at its sole discretion shall have the right to demand adequate assurances of financial ability to perform from Lessee, its assigns, (should Lessor consent to an assignment) or its successors in interest. Any assignment of Lessee's rights or delegation of Lessee's duties under this Lease shall be void unless prior written consent is given by Lessor. Lessor may assign or transfer this Lease or any Schedule or Lessor's interest in the Equipment without notice to Lessee. Lessee acknowledges any assignment by Lessor shall not change Lessee's duties or obligations under this Lease and Lessor agrees such assignment will not increase the burdens or rights imposed on Lessee. Lessee agrees that on notice of such assignment, it will pay all rent and other sums due under the Lease to such assignee.

26. PROPERTY OWNER CONSENT: In the event that Lessee is utilizing the Equipment on premises owned by others, it is incumbent upon Lessee to obtain permission from Owner to have said Equipment on premises and is recommended that Lessee obtain the written consent and acknowledgment of the owner of such use.

27. DEFAULT: The occurrence of any of the following shall constitute a default under this Lease: (a) Lessee fails to pay when due any obligation under this Lease, by acceleration or otherwise, or otherwise breaches any provision in this Lease and that failure or breach continues for ten (10) days; (b) Lessee fails to secure or maintain insurance as required by Lessor and this Lease (c) Lessee fails to repair or replace any Equipment that suffers any damage, loss, theft or destruction within thirty (30) days following this determination; (d) Lessee fails to maintain, operate or return the Equipment as provided by this Lease; (e) Lessee fails to discharge its obligations under any assignment of this Lease by Lessor; (f) Lessee fails to observe or perform any other covenant, condition or agreement to be performed or observed by it hereunder and such failure continues for ten (10) days; (g) Any warranty or representation of Lessee contained in this Lease proves to be false or incorrect at any time; (h) Lessee becomes insolvent, ceases to do business or becomes unable to pay its debts generally as they become due; or a petition for relief under bankruptcy or insolvency laws or for reorganization is filed by or against Lessee; or Lessee makes an assignment for benefit of creditors or a receiver or liquidator is appointed for Lessee, or any court of competent jurisdiction orders the winding up or liquidation of the affairs of Lessee; (i) The Equipment is encumbered, levied upon, confiscated, condemned, seized, or attached.

28. REMEDIES: Upon the occurrence of any event of default and at any time thereafter, Lessor may, with or without cancelling this Lease, in its sole discretion, do any one or more of the following: (a) Lessor may declare by written notice to Lessee all rent to become due under the Lease to be immediately due and payable to Lessor as direct damages, and not as a penalty. (b) Lessor may recover the Stipulated Equipment Loss Value of the Equipment plus interest at the rate of eighteen percent (18%) per annum until paid and all commercially reasonable costs and expenses incurred by Lessor in the repossession, recovery, storage, repair, sale, re-lease or other disposition of the Equipment due upon receipt of invoice. (c) Lessor may enter the premises where the Equipment is located and take immediate possession of and remove the Equipment; all without liability to Lessor, whether for the restoration of damage to any property caused by the taking or otherwise, for or by reason of the entry or taking of possession or otherwise. (d) Lessor may require Lessee at Lessee's sole expense to assemble the Equipment and to return it immediately, fully insured against all risks, to a place that Lessor designates. (e) Lessor is further entitled to pursue any other remedy which may be available to it under the Uniform Commercial Code (UCC) or any other applicable law or any combination of remedies legally, or equitably, available. Lessee shall pay all expenses incurred by Lessor in exercising any of these remedies under this Lease, including, without limitation, costs of collection, repossession and reasonable attorney's fees.

29. TERMINATION OF LEASE BY DEFAULT: When Lessor takes possession of the Equipment pursuant to the provisions of default, this Lease shall terminate without prejudice to any right or claim for arrears of rent, if any, or on account of any preceding breach or breaches of this Lease.

30. NO SET-OFF BY LESSEE: Lessee's obligations to pay all rent and other amounts due under this Lease is absolute and unconditional under all circumstances whatsoever and shall not be subject to any set-off or reduction for any reason whatsoever.

31. LEASE AS ENTIRE AGREEMENT: This Lease, including the Standard Terms and Conditions and Schedules, and any Amendments embodies the entire agreement between the parties, and all prior agreements with respect thereto and any Purchase Order terms by Lessee are hereby superseded. Any Purchase Order by Lessee that contain terms in addition to or inconsistent with these Terms, or terms that reject any term or condition set forth herein, shall be deemed to be a counteroffer to Lessor, will not be binding upon Lessor and Lessee agrees shall not apply to this Agreement unless specifically accepted in writing by Lessor.

32. MODIFICATIONS: This Lease Agreement may not be modified or terminated except as provided in this Lease or by other written agreement between the parties and shall not be binding unless executed by authorized representative of Lessor.

33. SEVERABILITY: If any term or provision of this Lease shall be held void, unenforceable, or in conflict with any law of a federal, state, or local government having jurisdiction over this Lease, the validity of the remaining portions of this Lease shall not be affected thereby. Invalidity or unenforceability of one provision shall not affect any other provision of this Lease.

34. LESSEE REPRESENTATIONS: Whether Lessee is a corporation, a partnership, or a limited liability company, Lessee represents and warrants that it is duly organized, if applicable, and in good standing under the laws of the jurisdiction applicable and is authorized to hold property under lease and has full power and authority to enter into and perform its obligations under this Lease.

35. WAIVER OF JURY TRIAL: The parties expressly, voluntarily, and unequivocally waive any right they may have to a jury trial and agree that all disputes, claims, and counterclaims relating to or arising from this Lease shall be litigated or otherwise resolved without a jury.

36. EFFECT: This Lease shall inure to the benefit of and be binding on Lessee, Lessor and their respective legal and personal representatives, administrators, successors, agents, and permitted assigns.

37. ATTORNEY'S FEES: Lessee shall reimburse Lessor for all charges, costs, expenses and attorneys' fees incurred by Lessor: (a) in defending or protecting its interests in the Equipment; (b) in the execution, delivery, administration, amendment and enforcement of this Lease or the collection of any installment of rent under this Lease; and (c) in any lawsuit or other legal proceeding to which this Lease gives rise, including, but not limited to, actions in tort.

38. GOVERNING LAW AND VENUE: This Lease shall be governed by and construed in accordance with the laws of the State of New Jersey without regard to principles of conflicts of law. Lessee expressly consents to the exclusive personal and subject matter jurisdiction of the State and/or federal courts in the State of New Jersey for all lawsuits arising out of or related to this Lease.

39. NOTICES: All notices under this Lease must be in writing and shall be delivered to the address set forth in Lease Agreement to the attention of the representative of the Lessor or Lessee, as the case may be, who signed the Lease Agreement and shall be deemed duly to have been given if sent by the United State Postal Service certified mail, return receipt requested or by Federal Express, United Parcel or other nationally recognized overnight carrier with proof of delivery signature. Requirements of written notice may not be waived and such written

notices are a condition precedent to the exercise of all rights and remedies under this Lease.

40. EFFECT OF WAIVER: No delay or omission to exercise any right, power or remedy of Lessor on any breach or default by Lessee shall impair any such right, power or remedy of Lessor, nor shall it be construed to be a waiver of any such breach or default. No waiver by Lessor of a single breach or default by Lessee shall be deemed to be a waiver of any other breach or default of any other provision of this Lease. Any waiver, consent or approval of Lessor of any breach or default or any waiver on the part of Lessor of any term or condition of this Lease must be in writing and shall be effective only to the extent set forth in the writing. All remedies, either under this Lease or by law or equity, or otherwise provided to Lessor, shall be cumulative and not alternative.

END OF STANDARD TERMS AND CONDITIONS

LIMITED EQUIPMENT WARRANTY

RENTAL LEASE OR LEASE-PURCHASE



240 Creek Rd., Delanco, NJ 08075 USA

www.powerhouse.com ☐ 800.37.STEAM

Lessor warrants this Equipment against failure due to defect in materials or workmanship under normal use and maintenance as follows:

Standard Limited Warranty

Warranty begins on the date of Equipment delivery to job site, as specified in the Lease Agreement. Warranty will continue for the length of Equipment Rental Lease period, up to six (6) months, so long as (a) Lessee has agreed to all terms and conditions set forth in Lessor lease agreement, or other mutually executed terms and conditions, as agreed to by Lessee and Lessor in writing, and (b) lease agreement dates cover the entire rental/lease period.

Extended Limited Warranty

For warranty to apply to any Equipment Rental Lease continuing for more than six (6) months, in addition to the terms set forth herein for STANDARD LIMITED WARRANTY, Lessee must subscribe to the Rental Service Program which must be kept active for entire remaining period of Lease. Failure to subscribe to this will void the Limited Warranty.

Eligibility

- Equipment must be in the same location indicated on the Lease Agreement
- Customer must be the same as indicated on Lease Agreement - warranty is nontransferable.
- **Equipment must be properly installed, started up, operated and maintained by licensed professionals as indicated by instructions provided by Lessor. Failure to conform to such specifications and/or instructions shall void this Limited Warranty. Lessor may request written documentation showing the proper preventative maintenance.**

Lessor Responsibility

Lessor will furnish a replacement part for installation by an employee of Lessor or by a Lessor certified third-party contractor, without charge to Lessee for the part only, to replace any Equipment part that fails due to a manufacturing defect under normal use and maintenance. The Lessee must pay for any and all shipping and handling charges and other costs of warranty service for the replacement part. If Lessor determines Equipment is beyond repair, suitable replacement Equipment will be made available in a reasonable time to the Lessee. As Lessee's only remedy during an Equipment replacement, Lessor will credit any Equipment Rental lease charges for the period of time between when a replacement was deemed necessary by Lessor and when a replacement was made available to Lessee. Any replacement Equipment provided shall be at Lessee's sole cost and expense including, but not limited to, all shipping, removal, and installation costs and expenses.

Exclusions

- Labor costs including, but not limited to, diagnostics or the removal and reinstallation of Equipment and/or Equipment Parts
- Shipping and freight expenses required to ship any and all replacement parts
- Normal consumable items including, but not limited to, gaskets, lubricants, and other sealants
- Boiler refractory
- Failures, defects, or damage (including, but not limited to, any loss of data or property) caused by (1) any third-party product, service, or system connected or used in conjunction with the Equipment; (2) any use that is not designed or intended for the Equipment; (3) modification, alteration, abuse, misuse, negligence, or accident; (4) improper storage, installation, maintenance, servicing or operation including, but not limited to, operation of electrical equipment at voltages other than the range specified on the Equipment nameplate; (5) any use in violation of written instructions or specifications provided by Lessor; (6) any acts of God
- Electricity or fuel costs, or increases in fuel costs from any reason whatsoever, including additional or unusual use of supplemental systems
- The Warranty does not cover the effects of normal wear, tear or deterioration of the Equipment; damages caused by improper treatment of feedwater and/or conditioning of boiler water, or the effects of abrasion, erosion, or corrosion; the effects of improper storage or erection; abuse of the Equipment, or operation or maintenance not in accordance with Lessor's operating instructions.
- Any defects or nonconformities not corrected or replaced during the Warranty Period shall be deemed accepted by Buyer.
- Any replacement or substitution of parts not provided by the Lessor, Service not performed or authorized by the Lessor, or modification, tampering, or manipulation of Lessor's Equipment shall void this Warranty.

THIS LIMITED WARRANTY AND LIABILITY SET FORTH HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, WHETHER IN CONTRACT OR IN NEGLIGENCE, EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH LESSOR HEREBY DISCLAIMS. LESSOR DOES NOT AUTHORIZE ANY PERSON TO CREATE FOR IT ANY OBLIGATION OR LIABILITY IN CONNECTION WITH THE EQUIPMENT.

NOTWITHSTANDING ANYTHING IN THIS LIMITED WARRANTY TO THE CONTRARY, LESSOR SHALL NOT BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, LIQUIDATED, EXEMPLARY AND/OR PUNITIVE DAMAGES, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY OR NEGLIGENCE), PATENT INFRINGEMENT, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.