



## SERVICE CONTRACT AGREEMENT

POWERHOUSE SERVICE CONTRACT NO. \_\_\_\_\_

CUSTOMER / BILL TO	SERVICE LOCATION

START DATE	
END DATE	

SERVICE CONTRACT TIER :

### SERVICES

INCL.	ITEM	FREQUENCY	NOTES
	Annual Boiler Inspection (OCC)		
	Boiler Room Audit		
	Combustion Check		
	Safety Device Check		
	Burner Service		
	Operator Training		
	Combustion Report		
	Water Chemistry Check		
	Feedwater System Check		

Details of services provided separately

### SERVICE TIMES

No. of site visits for contract term \_\_\_\_\_

Emergency response dispatch time \_\_\_\_\_

Overtime service charges \_\_\_\_\_

### DISCOUNTS

Rental Equipment \_\_\_\_\_

Equipment Purchase \_\_\_\_\_

T&M Labor \_\_\_\_\_

801Boiler \_\_\_\_\_

## PRICE/COMPENSATION

Compensation for Powerhouse's performance of the Services listed herein shall be \$ \_\_\_\_\_, excluding any and all applicable sales and use taxes. All pricing in USD.

## TERMS OF PAYMENT

Powerhouse's invoice for said Services will be paid by Customer net thirty (30) days of Customer's receipt of invoice.

## INDEPENDENT CONTRACTOR

Nothing herein shall be construed as creating the relation of employer and employee between the Parties. The Powerhouse shall be deemed to be at all times an Independent Contractor. Powerhouse agrees to conduct themselves in a manner that is consistent with such status. It is agreed that the personnel (including all employees of subcontractors and all agents of the Powerhouse) engaged in performance under this Agreement are employees of the Powerhouse and under no circumstances are to be considered or treated as employees of the Customer.

## INDEMNIFICATION

Customer shall indemnify Powerhouse and hold Powerhouse harmless against all claims, losses, actions, costs, damages 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, resulting from (i) unsafe work conditions and (ii) the Customer's use of the Services performed by Powerhouse, except to the extent caused by the Powerhouse's gross negligence or willful misconduct in performance of Services.

## INSURANCE

Powerhouse shall, at its own expense, maintain the following insurance at all times:

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/\$1M

Customer is responsible to maintain Equipment liability insurance including, without limitation, bodily injury and property and coverage to replace Equipment in the event of loss or damage.

## QUALITY OF SERVICE

Powerhouse shall perform its Services with care, skill, and diligence, in accordance with the applicable industry-standard practices currently recognized by such profession. Services shall be performed in a safe and workman like manner. Any materials furnished hereunder shall conform to all requirements and be free from defects of any kind in materials and workmanship for a period of 12 months. If Powerhouse fails to meet applicable industry standards, Powerhouse shall correct or revise any errors or deficiencies. Powerhouse shall at all times keep the job site reasonably neat and clean and upon completion of the Services remove and dispose of all waste from the Services.

## LIMITATION OF LIABILITY

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. Powerhouse's liability and indemnity obligations, if any, shall in no event exceed the total amounts paid to Powerhouse by Customer under this Agreement.

## NO EXPRESS OR IMPLIED WARRANTIES

Except as provided by in this Agreement, Powerhouse neither makes nor shall be deemed to have made any warranty or representation, express or implied, concerning any Equipment, including, without limitation, any warranty or representation as to design, quality, or condition of Equipment, or as to the merchantability or fitness of Equipment for

any particular purpose or to any other matter relating to the Equipment in which Powerhouse is providing Services. Customer hereby agrees to waive and make no claim for breach of warranty arising from any cause whatsoever.

#### GENERAL

Powerhouse personnel will not, under any circumstance, export steam, hot water or other services into a Customer's system. Powerhouse assumes no liability to Customer-owned equipment and will not be held liable as direct or indirect damages, under any circumstance. Customer shall indemnify Powerhouse and hold Powerhouse harmless against all claims, losses, actions, costs, damages and liabilities of any nature whatsoever resulting from unsafe conditions.

#### JOB SITE CONDITIONS AND SAFETY

Customer's worksite must be safe, accessible and free of all obstructions. All required utilities for proper operation of equipment must be readily available. Powerhouse will not perform any work on Equipment in disrepair or out of inspection. Powerhouse reserves the right to stop work due to unsafe conditions. Powerhouse's personnel will be responsible for basic personal protective equipment ("PPE"). If worksite requires additional PPE, Customer shall provide such PPE to Powerhouse's personnel at Customer's expense. Services may be delayed if additional PPE is not readily available to Customer's personnel. Customer shall be solely responsible for training Powerhouse's personnel in its worksite safety protocols and rules.

#### SUBCONTRACTORS

Powerhouse may subcontract all or a portion of the work required. Subcontractor shall agree to perform work in compliance with set forth terms and conditions. Subcontracting of any work will not result in any rate increases.

#### DELAYS/FORCE MAJEURE

Powerhouse shall not be liable for loss or damage to Customer from delay in delivery of the Services resulting from causes beyond Powerhouse's reasonable control such as strikes or labor difficulties, lockouts, acts or omissions of any governmental authority of the Powerhouse, 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.

#### BILLING RECORDS

Service reports will be kept by Powerhouse personnel detailing work performed, hours worked, parts/materials used and any Customer directives. These records are available upon request for Customer review.

#### AMENDMENT

The Parties agree that this Agreement embodies the entire integrated agreement between them and supersedes all negotiations and discussions. This Agreement may be modified only by a written amendment executed by the Parties hereto and shall not be binding unless executed by an authorized representative of Powerhouse.

#### SEVERABILITY

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

#### WAIVER OF JURY TRIAL

The Parties expressly agree that all disputes, claims, and counterclaims relating to or arising from this Agreement shall be litigated or otherwise resolved without a jury. The Parties expressly, voluntarily, and unequivocally waive any right they may have to a jury trial in connection with all disputes, claims, and counterclaims relating to or arising from this Agreement.

GOVERNING LAW AND VENUE

This Agreement 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. Customer 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 Agreement.

NOTICES

All notices under this Agreement must be in writing and shall be delivered to the address set forth in this Agreement to the attention of the signatory below and shall be deemed duly to have been given if personally delivered to the other party with written confirmation of receipt by other party, if sent by the United State Postal Service certified mail return receipt requested, by Federal Express, United Parcel or other nationally recognized overnight carrier with proof of delivery signature or by Email with proof of delivery confirmation.

*BY SIGNING BELOW, CUSTOMER AGREES TO THESE TERMS AND CONDITIONS. POWERHOUSE AGREES TO PERFORM THE WORK AS DESCRIBED HEREIN.*

Accepted by \_\_\_\_\_  
By \_\_\_\_\_ Print Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

POWERHOUSE \_\_\_\_\_  
By \_\_\_\_\_ Print Name \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

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