

National Power Corp. Terms and Conditions of Service

1. **DEFINITIONS.** As used in this service agreement, "Customer" shall mean the purchaser of this service agreement. "NPC" shall mean National Power Corp., with offices at 4541 Preslyn Drive, Raleigh, NC 27616. "Covered Equipment" shall mean the equipment listed on the front page of this service agreement. "Normal Business Hours" means 8:00 AM-5:00 PM EST, Monday through Friday, excluding holidays observed by NPC.
2. **AGREEMENT.** The sale of all products and/or services by NPC to Customer is expressly conditioned upon Customer's agreement to every term contained herein, which shall control over any additional, inconsistent, or contrary provision in Customer's purchase order or other sales forms and NPC hereby objects to any such provisions. Customer acknowledges that NPC's quote or order confirmation and the terms and conditions herein are the sole and complete agreement between the parties, which may only be modified and/or amended in a separate agreement signed both by NPC and Customer.
3. **SCOPE OF SERVICES.** The scope of services is listed on the front page of this service agreement. For major and minor generator periodic maintenance ("PM"), the scope of services consists only of scheduling and performing the periodic maintenance inspections on the Covered Equipment and making recommendations based on those inspections. Customer shall be billed for all other services at NPC's then current rates for labor, material, and mileage. All rates apply portal to portal to and from the location of the nearest NPC technician. All calls are subject to a \$125 minimum trip charge (\$115 for PM service plan customers) and emergency calls are also subject to a four (4) hour minimum labor charge. NPC reserves the right to charge a \$125 cancellation fee for service appointments that are cancelled by the customer within 48 hours of the scheduled service date.
4. **WARRANTY.** NPC represents and warrants to Customer that the services provided under this Agreement shall be performed by qualified personnel in accordance with the requirements of this Agreement. NPC warrants that repairs will be free of defects in materials or workmanship for ninety (90) days from the date of repair. This warranty covers the parts that were repaired or replaced during the repair and the labor and mileage associated with the repair or replacement. Customer shall notify NPC within such ninety (90) day period of any claim pursuant to the foregoing warranty. In the event of a breach of this warranty, the sole liability of NPC and the sole remedy of Customer shall be the repair or replacement of the part, or re-performance of the service, which proved defective. The foregoing warranty constitutes the sole liability of NPC and the sole remedy of Customer for defective materials or workmanship, whether arising under contract, tort, strict liability or other form of action.
5. **CUSTOMER OBLIGATIONS.** For service calls and other matters during Normal Business Hours, Customer will call NPC at 919-790-1672. For emergency service requests outside of Normal Business Hours, Customer will call NPC's 24-hour answering service at 888-646-8596 to dispatch a technician. Customer will notify NPC if the Covered Equipment is moved to another location and NPC reserves the right to cancel this service agreement without liability if the Covered Equipment is moved. At no cost to NPC, Customer shall have a representative present at the maintenance site while NPC is providing the services. Customer shall grant ready access to the Covered Equipment, subject to reasonable security requirements, so that NPC may perform the services. Customer agrees to pay all charges for site visits requested by Customer, even if no repairs are required.
6. **INSURANCE.** During the term of this agreement, NPC shall maintain in full force and effect, at its own cost and expense, the following insurance coverage with sound and reputable insurers: a) Workers Compensation Insurance in accordance with the statutory requirements of the state in which the services will be performed; b) Automobile Liability insurance on all motor vehicles licensed for highway use, both owned and non-owned; and c) Comprehensive General Liability Insurance for bodily injury and property damage.
7. **INDEMNITY.** Subject to the limitations in Section 8 (Limitation of Liability) below, NPC shall indemnify, defend, and hold harmless Customer, its officers, employees and agents, from and against any and all claims, liabilities, damages, demands, losses, causes of action and suits arising out of any third-party claim alleging: a) any injury to or death of any person or damage to or destruction of any property caused by the negligent acts, errors, omissions, or willful misconduct of NPC, its agents or employees or b) the violation of any applicable law, government regulation, or order by NPC, its agents, or employees.
8. **LIMITATION OF LIABILITY. NPC SHALL NOT BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES FOR ANY REASON, INCLUDING WITHOUT LIMITATION, THOSE CAUSED BY DEFECTS IN MATERIALS OR WORKMANSHIP. NPC HEREBY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES WHICH ARE ALLOWED BY LAW SHALL BE LIMITED IN DURATION TO THE TERMS OF THE APPLICABLE MANUFACTURER'S WARRANTY. NPC'S MAXIMUM LIABILITY FOR DAMAGES SHALL BE LIMITED TO THE COST OF THE PRODUCTS AND SERVICES PROVIDED HEREUNDER.**
9. **CANCELLATION AND CHANGES.** Customer may not cancel or terminate this agreement without written approval from NPC and upon payment of cancellation charges. Cancellation charges are determined by NPC in its sole discretion, taking into account work performed, expenses incurred, and commitments made by NPC, among other considerations. Changes made to this agreement may be subject to additional charges and modifications to the service schedule.
10. **PAYMENT:** Unless otherwise agreed in writing by the NPC credit department, payment is due immediately upon receipt of invoice. Applicable taxes and freight charges will be billed as separate line items, unless otherwise specified on the front page of this agreement. Any payment not made when due shall be subject to a late charge of 1.5% per month. In addition, NPC reserves the right to refuse to provide any further services until such payment and late charges have been received. Any credits, allowances, or other amounts payable or creditable to Customer by NPC shall be subject to offset for any claims or other amounts owed by Customer to NPC pursuant to the provisions hereof or otherwise.