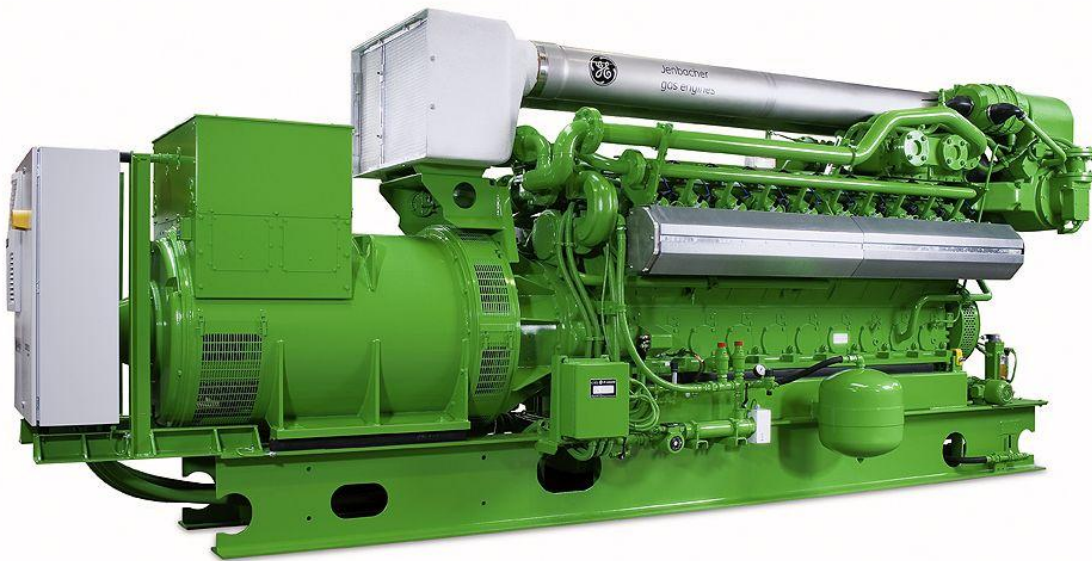


Jenbacher gas engines



Truckee Meadows WWTP
Preventative Maintenance Agreement
for One (1) JMS 320 GE Jenbacher Units
located at Sparks, Nevada
Dated: September 15, 2016

PREVENTIVE MAINTENANCE AGREEMENT

THIS PREVENTIVE MAINTENANCE AGREEMENT (this “Agreement”) is made and entered into by and between Smith Power Products, Inc., a Delaware corporation, with its principal place of business located at 3065 West California Avenue, Salt Lake City Utah, 84104 (the “Contractor”), and City of Sparks, with offices at 431 Prater Way, Sparks NV 89431 (the “Customer”).

In consideration of the mutual promises to be kept and performed and other valuable consideration, it is hereby agreed as follows:

1. Definitions

The following terms shall have the meaning set forth below when used in this Agreement:

- 1.1. “Contractor Taxes” means any and all corporate and individual taxes that are measured by net income or profit imposed by any government authority of any country on Contractor, its employees or subcontractors, due to the performance of or payment for work under this Agreement but specifically does not include all other taxes, fees, or other charges of any nature, which shall be paid by Customer.
- 1.2. “Covered Unit(s)” means the engines/modules installed at the Facility identified as follows:

Type:	<u>JMS 320</u>
Version:	<u>C 81</u>
Design No.:	<u>To be provided</u>
Engine No.(s):	<u>To be provided</u>
Oph at start of contract:	<u>2001 oph</u>
- 1.3. “Customer Taxes” means any and all taxes, fees, or other charges of any nature (including, but not limited to, ad valorem consumption, excise, franchise, gross receipts, import, export, license, property, sales, stamp, storage, transfer, turnover, use or value-added taxes, and any and all items of withholding, deficiency, penalty, addition to tax, interest, or assessment related thereto), other than Contractor Taxes, imposed by any governmental authority. Products exported from the United States are presumed to be exempt from Customer Taxes levied within the United States.
- 1.4. “Extra Work” means goods or services that Contractor provides apart from the goods and services that Contractor has agreed to provide under the terms of this Agreement.
- 1.5. “Facility” means the power generation plant, station or power generation section of the facility in which the Covered Unit(s) is/are located. The Facility is located at Sparks, Nevada.
- 1.6. “Hazardous Materials” means toxic substances, hazardous substances or hazardous wastes, as such terms are defined in any law, statute, ordinance or regulations promulgated by any national, federal, state, provincial, or local government authority or the country of the Site.
- 1.7. “Insolvent” means that:
 - 1.7.1. a party makes an assignment for the benefit of creditors, or petitions or applies for or arranges for the appointment of a trustee, liquidator or receiver, or commences any

proceeding relating to itself under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation or similar law of the country under which the insolvent party is organized or a country in which the insolvent party conducts business, now or hereafter in effect (collectively "Bankruptcy Laws"), or shall be adjudicated bankrupt or insolvent in such a country; or

1.7.2. a party gives its approval of, consent to, or acquiesces in, any of the following: the filing of a petition or application for the appointment of a trustee, liquidator or receiver against that party; the commencement of any proceeding under any Bankruptcy Laws against that party; or the entry of an order appointing any trustee, liquidator or receiver; or

1.7.3. a party is generally unable to pay its debts when due or is late in making two or more consecutive payments required under this Agreement.

1.8. "Monitoring & Performance System" means a system or systems which may be used from time to time by Contractor for monitoring of the Covered Unit(s) and/or provision of performance information and support, generally consisting of hardware, software, and a connection to a source of technical oversight or review

1.9. "Parts" means new, repaired, or refurbished parts, materials, components and other goods furnished by Contractor, or its subcontractors or suppliers, under this Agreement for the Covered Unit(s).

1.10. "Scheduled Maintenance" means scheduled maintenance services and necessary Parts in accordance with the maintenance specifications and schedules attached hereto as Appendix 1 for the equipment scope pursuant to Section 2.

1.11. "Site" means the real property upon which the Facility is located.

2. Scope of Supply

The Contractor shall provide the Scheduled Maintenance and necessary Parts according to this Agreement for the components of the Covered Unit(s) as set forth below:

- Generator Set as delivered

3. Obligations of the Contractor

3.1. Scheduled Maintenance and Parts.

The Contractor shall be responsible to carry out the Scheduled Maintenance on the Covered Units and to provide the necessary Parts. Subject to the condition of components of the Covered Unit, Contractor may vary intervals and scope stated in the maintenance specifications and schedules (Appendix 1). Both parties will agree in writing on the exact date for carrying out Scheduled Maintenance.

3.2. Spark Plugs / Cylinder Heads / Oil Filters.

Spark plugs (not exceeding 7 sets of 20 pieces per Covered Unit), oil filters and cylinder heads are considered to be Parts according to Section 3.1. Customer is responsible for spark plugs management in accordance with Contractor's technical instructions in order to ensure the maximum lifetime of the

spark plugs. Additional costs due to deviations from Contractor's technical instructions with respect to spark plug maintenance shall be invoiced separately as Extra Work by Contractor in accordance with Section 3.4.

3.3. Overhauls.

The Contractor shall be responsible to carry out scheduled minor overhauls in accordance with maintenance specifications and schedules (Appendix 1) and to provide the necessary Parts. Both parties will agree in writing on the date of such minor overhauls at least one (1) month in advance of starting any work. Major overhauls are not covered by this Agreement but may be provided by Contractor on terms negotiated and agreed to in writing by the parties.

3.4. Extra Work.

Contractor may agree to furnish Parts and services needed to perform work beyond the Scope of Supply set forth in this Agreement, including, but not limited to, commercially available conversions and modifications or upgrades to a Covered Unit. Upon Customer's request, Contractor will submit a written price quote for any Extra Work. Contractor shall have no obligation to perform any Extra Work unless it has accepted a separate written purchase order from Customer for such Extra Work.

3.5. Remote Service and Hotline.

Contractor shall provide a service hotline on a 24-hour/365-day basis and carry out remote service from time to time, by making use of the Monitoring & Performance System. Remote service may include performance of remote diagnosis, fault location on Covered Units and the inspection of existing data stock. Remote Service does not include permanent monitoring of the Covered Units.

3.6. Lube Oil.

All costs for lube oil analysis shall be borne by the Customer including the cost for taking oil samples and forwarding these oil samples to a laboratory. No lube oil service is included in this agreement.

3.7. Use of Certain Refurbished Parts.

In performance of the Scope of Supply under this Agreement, Contractor may use Parts which have been previously installed at a power generation facility other than the Facility and subsequently refurbished, providing such refurbished Parts shall be subject to the warranty provisions of Section 12.

4. Not included in the Obligations of the Contractor

The following are expressly beyond the scope of the Contractor's obligations under this Agreement and are therefore not a part of this Agreement:

- 4.1. Major overhauls are not covered by this Agreement but may be provided by Contractor on terms negotiated and agreed to in writing by the parties.
- 4.2. Conversion and/or modification of the Covered Units.
- 4.3. Repairs and troubleshooting.

- 4.4. Delivery, transport, storage and disposal of commodities necessary for the operation of Covered Units as given in the technical instructions, including, but not limited to, lubrication oils, fuel gas, flushing compounds, battery acid, anti-freezing compound, or cleaning materials.
- 4.5. Additional expenditures due to shut-down of Covered Units for an uninterrupted period of time of more than 3 months (e.g., conservation), as well as cost for mounting / demounting and transport of Covered Units during a major overhaul.
- 4.6. Any services (e.g. construction or rebuilding activities, hydraulic modifications, cost for cranes etc.) required after a necessary replacement of a Covered Unit as well as any cost for dismounting, transportation and remounting of the Covered Unit from / into the plant in the course of a major overhaul.
- 4.7. Any repair necessary because of damages due to any kind of force, water or fire, corrosion, contamination, an Excusable Event as described in Section 21 or Customer's failure to comply with technical instructions in accordance with Appendix 2. These instructions form an integral part of this Agreement and any repairs necessary because of Customer's failure to comply with such instructions are beyond the scope of the Contractor's obligations under this Agreement and shall constitute Extra Work. Intervention by unauthorized persons or third parties shall void any warranty or claims under this Agreement, including, but not limited to claims for warranty or corrective maintenance.
- 4.8. Repair of damages which are covered by Customer's or third parties' insurance policies , and the Customer hereby waives any and all rights and claims against the Contractor and its employees, subcontractors and/or agents for any such damages.
- 4.9. Troubleshooting, implicating rather simple activities like the exchange of minor components (e.g., pressure and temperature transmitter, thermometer, gauges, ignition coils, etc.) and the elimination of insignificant leaks not being detrimental for a safe operation.
- 4.10. Any activities on components that are not explicitly defined to be within Scope of Supply agreed upon (e.g., ventilation, boiler, etc.).
- 4.11. Material not scheduled but which must be changed due to adverse changes in the specific operating conditions.
- 4.12. Contractor shall not be responsible for the cost of removal or replacement of systems, structures or parts of the Facility other than the Covered Unit(s) and such work and such costs beyond the opening and closing of the Covered Unit(s) as necessary for the performance of Scheduled Maintenance as well as Contractor's Warranty obligations shall be paid as Extra Work pursuant to Section 3.4.

5. Obligations of the Customer

The Customer shall be responsible for the following:

- 5.1. Performance and recording of operation, inspection and maintenance works, which in accordance with the operation log and maintenance schedule, are obligations of the Customer. Customer shall keep the operation log daily.

- 5.2. Performance of maintenance work in operating hours intervals according to the maintenance schedule. Contractor reserves the right to perform such maintenance and charge for Parts and Services as Extra Work pursuant to Section 3.4 in cases where Customer fails to meet the required skills and qualifications and, as a result, Contractor incurs higher risk of Corrective Maintenance. During the term of the Agreement, Customer shall perform necessary training to ensure an appropriate skill level.
- 5.3. Performance of lube oil analyses, and the evaluation thereof, according to relevant technical instructions and make sure that oil changes are made in due course. The results of the lube oil analyses must be forwarded to the Contractor promptly.
- 5.4. Minimum gas quality as defined in TA 1000 - 0300 (with catalytic converter operation without warranty limitation) (i.e. Sulphur < 200 mg/10kWh). Maintenance necessary due to gas quality, not in accordance with the above, shall be charged separately as Extra Work.
- 5.5. To provide Contractor promptly with the fuel gas analysis which must be carried out by the Customer every three (3) months. Contractor is not liable for damages resulting from an unacceptable gas quality. If the gas quality changes remarkably, the Contractor reserves the right to request increased fuel gas analysis frequency and/or demand a gas analysis by an authorized laboratory.
- 5.6. Provision of a secured room suitable for storage at Site free of charge.
- 5.7. Customer is obliged to make any modifications or manipulation to the plant operations to minimize the impact of an emergency with possible physical harm to people or damage to the plant. Any other manipulations and modifications require written approval by the service manager in charge of Contractor.
- 5.8. To permit the Contractor to carry out the maintenance during the normal working time from 7.30 a.m. to 5.00 p.m. from Monday to Friday, without assertion of any compensation.
- 5.9. To strictly meet the requirements for engine lubrication oil or the oil changes, parameters for Jenbacher Gas engines, cooling water quality and anti-freezing compound and anti-corrosion compound and fuel gas quality, all according to the technical instructions (see Appendix 2).
- 5.10. Customer shall accept on-line monitoring that allows the Contractor to take off-site readings of the status of the oph and certain relevant performance measurements. The Contractor has the right to take on-site readings for accounting purposes or ask for written records of the performed operating hours.
- 5.11. Delivery, transport, storage and disposal of commodities necessary for the operation of Covered Units as given in the technical instructions, including, but not limited to, lubrication oils, fuel gas, flushing compounds, battery acid, anti-freezing compound, or cleaning materials.
- 5.12. Repairs and troubleshooting.

6. Price

The price to be paid by Customer to Contractor is set forth in this Section 6. The obligations of Customer to pay any amounts due hereunder are absolute and unconditional. Customer shall not be entitled to perform and/or carry-out withholdings, discounts, reductions or offsets of any amounts owed to Contractor, including, but not limited to, those derived or supposedly derived from claims (present or future alleged or effective and including claims derived from supposed objective liability or negligence from Contractor) of Customer against Contractor in accordance with this Agreement or derived from another cause..

6.1. Price for Services.

As charges for the services carried out by the Contractor according to this Agreement the following price, exclusive of VAT and any additional taxes other than “Contractor Taxes”, is agreed upon:

USD \$8.29 /operating hour (oph) per Covered Unit

This price is valid until December, 31, 2016. The price for 2017 and each year thereafter will be adjusted according to the price variation clause given in Section 6.4.

6.2. Customer Payments.

The Customer shall be responsible to pay the charges as described in Section 6.1 for each Covered Unit subject to this Agreement within fifteen (15) days after receipt of Contractor’s invoice. Billing shall take place Quarterly based on actual oph’s. The standard built-in operating hour counters are the basis for the billings.

All payments to be made under this Agreement must be made by Customer to: (i) the bank account number: 4121532659. Bank: Wells Fargo Bank. Branch office: 299 South Main, 9th Floor, S.L.C., UT 84111. ABA number: 121000248. Swift number: WFBIUS6S, or (ii) any other bank account notified by Contractor in pursuant to Section 28 below. All payments under this Agreement will be considered made upon receipt of the agreed amounts in immediately available funds in Contractor’s bank account identified hereinabove. Any and all payments received from Customer will be applied to the following concepts set forth in this Agreement and in the following order: (i) expenses, (ii) penalties, if any, (iii) interest, and (iv) price. If Contractor retains a collection agency, an attorney or other third party to collect outstanding claims, all collection charges (including legal fees) shall be borne by Customer.

6.3. Cost Identified for Major Overhaul.

Both parties to this Agreement are interested in establishing a cost for services, specific to a “Major Overhaul.” While pricing and potential escalation charges are identified for such service in this section, this Agreement does not include services specific to a “Major Overhaul.” Any such contract for that future need will be negotiated at the time the overhaul may be required. At this time, it is contemplated that the Customer shall make all payments with regards to a major overhaul without deduction or set-off according to the following schedule:

	Payment Event	Percentage	Amount (USD)
1	Within fifteen (15) days after receipt of Customer purchase order	30%	\$80,210.40
2	Upon notice of Ready to Ship	60%	\$160,420.80

3	Within fifteen (15) days after re-commissioning of the Covered Unit, but no later than 60 days upon notice of Ready to Ship	10%	\$26,736.80
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The price for the major overhaul is USD *\$267,368.00 and covers a long block overhaul as described in Appendix 4.

*Note: Additional components identified during the major overhaul that may require rebuilding are not included in this price and will be quoted separately and presented at that time (i.e.: gearbox, generator refurbish, supercharger station, heat exchangers etc.). Also does not include freight which will be an adder at time of overhaul.

This price is valid until December 31, 2016. The price for 2017 and each year thereafter will be adjusted according to the price variation clause given in Section 6.4.

Payments for a major overhaul become due upon each respective payment event and shall be made by Customer without delay.

6.4. Price Escalation.

The price per operating hour stated in Section 6.1 shall be escalated in accordance with this Section 6.4. The said price per operating hour shall be adjusted on an annual basis beginning on January 1, 2017, and on January 1st of each year thereafter, by an amount determined in accordance with the definitions and formulas described in this Section 6.4.

Escalation Procedure: The adjusted price per operating hour for each year, beginning January 1, 2017, shall be computed as early in that year as the indices are available and effective as to all payments for goods and services provided commencing January 1st of that year. In the event the indices are published as “preliminary,” invoices and/or payments shall be calculated and submitted according to such “preliminary” indices and shall be adjusted as necessary once the “final” indices are published and invoices issued for the retroactive amounts.

Definitions: The following definitions shall apply:

For escalation purposes, the \$/oph set forth in Section 6.1 shall be made up of 60% Material Index and 40% Labor Index.

The Material Index shall be the annual change in the Index of the German Statistical Federal Authority for “combustion engines and turbines,” No. GP-2811 in October of each year.

For determining Base and Actual Exchange Rate, the daily interbank Euro/US Dollar exchange rates shall be sourced from the website: <http://www.oanda.com/convert/fxhistory>. In case such website ceases to exist, a similar, mutually agreed upon website will be identified.

The Labor Index shall be the annual percentage change in the Producer Price Index Industry Data:

Series ID: PCU811310811310
Industry: Commercial machinery repair and maintenance
Product: Commercial machinery repair and maintenance

The following definitions shall be utilized in the escalation procedure:

P = new price after application of the formula

PO = starting price

E0 = exchange rate (“Base Exchange Rate”) at the time of contract signing pursuant to Section 29, that being Euro \$1 - US\$ 1, -- =..., or any subsequent exchange rate as determined pursuant to Section 6.5 below. For purposes determining Base Exchange Rate, the daily interbank Euro/US Dollar exchange rates shall be sourced from the website: <http://www.oanda.com/convert/fxhistory>. In case such website ceases to exist, a similar, mutually agreed website will be identified.

E1 = average of last calendar year’s daily spot rates (“Actual Exchange Rate”). For purposes determining Actual Exchange Rate, the daily interbank Euro/US Dollar exchange rates shall be sourced from the website: <http://www.oanda.com/convert/fxhistory>. In case such website ceases to exist, a similar, mutually agreed website will be identified.

MO = index of the German Statistical Federal Authority for “combustion engines and turbines;” no. GP-2811, price indexes for industrial products, state October 2015 = 102.5. See <https://www-genesis.destatis.de/genesis/online>.

M1 = like MO, but at time of escalation computation

The Customer will be informed by the Contractor about the new index values and new prices within the first quarter of each calendar year, subject to adjustment if the “final” indexes have not been published.

The following formula shall apply:

$$P = PO * \frac{M1}{M0} * \frac{E1}{E0}$$

The price (P) of the applicable payments shall equal the greater of starting price (PO) or the result from the calculation in accordance with the above formula.

In the event that the specified indices are discontinued, or the basis of their calculation is materially modified, equivalent indices shall be reasonably substituted by Contractor.

Foreign Exchange Rate Adjustment.

The foreign exchange rate adjustment will be used only in case that the Actual Exchange Rate increases or decreases by more than five percent (5%) compared with the Base Exchange Rate, then the Contractor shall adjust the then prevailing prices as per Sections 6.1 and 6.2 by applying the values for Base Exchange Rate (E0) and Actual Exchange Rate (E1) into the formula as per Section 6.4.

If the Actual Exchange Rate increases or decreases by less than five percent (5%) compared with the Base Exchange Rate, then no foreign exchange adjustment shall be made to the price as per Sections 6.1 and 6.2.

After any foreign exchange adjustment the Actual Exchange Rate will be used as the new Base Exchange Rate for the following period. If no foreign exchange adjustment is made, the Base Exchange Rate will remain unchanged.

Any foreign exchange rate adjustment will be done annually at the beginning of each calendar year.

Formula:

The new Price ("P") shall be determined with the following formula using the Starting Price ("PO"):

$$P = [(PO \times 0.40) \times (\text{annual \% increase in Labor Index})] + [(PO \times 0.60) \times (\text{annual \% increase in Material Index})]$$

In the event that the specified indices are discontinued, or the basis of this calculation is materially modified, equivalent indices shall be substituted by mutual agreement of the parties.

Contractor shall provide all data concerning escalation at the time such price adjustments are required. This shall include all relevant data for the start of the contract (base year) and every year for which escalation is to be implemented. Rates adjusted in accordance with the formula shall not be greater than six percent (6%) nor less than zero percent (0%) in any one year regardless of the percentage change in the formula.

- 6.5. If, during the term of this Agreement, any new legislation, taxes or regulations are established that are related to oil and/or other waste removal requirements or fees, then Contractor shall be entitled to pass on such charges to Customer if such services form a part of this Agreement. If oil services are included and the price of oil will change for more than twenty percent (20%), then, an equitable adjustment will be negotiated between the parties.
- 6.6. In case work, within the responsibility of the Contractor, must be done on Saturdays, Sundays, holidays or working days (Monday to Friday) beyond the normal working time, which is 7:30 a.m. to 5:00 p.m., the actually consumed working time and costs incurred will be additionally invoiced based on the difference between Contractor's standard normal working hour fees and standard overtime fees.
- 6.7. Extra Work shall be provided at time and material rates in effect at the time the work is performed. Contractor shall submit invoices for Extra Work as such work is performed and as Parts for such work are shipped. Customer shall make payment for Extra Work within fifteen (15) days after the date of Contractor's invoices.
- 6.8. In addition to the foregoing, Customer shall pay interest to Contractor, at the rate of one percent (1%) per month (or any fraction thereof), not to exceed the lesser of twelve percent (12%) per annum or the maximum amount permitted by applicable law, on all amounts not timely paid in accordance with this Agreement.

7. Term of Agreement

- 7.1. This Agreement shall become effective upon execution by the parties and shall end for each Covered Unit without the need for a notice of termination when such Covered Unit reaches

59,999 operating hours or 8,000 starts, whichever occurs first. In any event this Agreement expires Ten (10) years after the effective date of this Agreement.

Rendering of services shall commence with the first operating hour performed under this Agreement.

7.2. Minimum Operating Hours Provision.

Both parties understand by signing this Agreement that the prices quoted are based upon a certain minimum expected operating hours during the term of this Agreement. The defined yearly minimum operating hours for this Agreement are 3,000 operating hours per year for each Covered Unit. If the actual yearly operating hours for a Covered Unit fall short by more than twenty percent (20%) of the minimum expected operating hours, outside the Contractor's control, Contractor will have the right to bill up to eighty percent (80%) of the minimum expected operating hours for such unit(s).

8. Termination

8.1. Termination for Default and/or Insolvency.

Either party (the "Non-Defaulting Party") may terminate this Agreement if the other party (the "Defaulting Party") (i) becomes Insolvent or (ii) the Defaulting Party commits a material breach of this Agreement and fails to cure the breach within thirty (30) days of notice from the Non-Defaulting Party, or if it is not possible to cure such breach within thirty (30) days of such notice, fails to commence to cure the breach within thirty (30) days or fails to thereafter continue diligent efforts to complete the cure as soon as reasonably possible. Failure to make a payment required by Section 6 of this Agreement is a material breach. For any default other than a default in payment under Section 6, this provision for Termination for Default may only be exercised by notice in writing within ninety (90) days of the event(s) giving rise to the default and effective thirty (30) days from such written notice.

In the case of Termination for Default and/or Insolvency pursuant to this Section, the Defaulting Party shall pay the Non-Defaulting Party the Termination Amount as specified in Section 8.2. In addition, all payments required under this Agreement for Contractor's performance prior to the effective date of such termination and all payments due prior to such termination date shall also be paid in accordance with this Agreement. Moreover, in the event that Termination is the result of Default or Insolvency by the Customer, Contractor shall also be entitled to recover all out-of-pocket costs and expenses incurred by the Contractor relating to this Agreement, including, but not limited to, any amounts owing by Contractor to the manufacturer of the Covered Units. The foregoing specified in this Section 8.1 shall be the sole exclusive rights and liabilities of the Non-Defaulting Party and Defaulting Party, respectively, on account of Termination for Default and/or Insolvency and the breach giving rise to such termination.

8.2. Termination Amount.

The "Termination Amount" shall be 30% of the remaining balance of the 59,999 operating hours for each Covered Unit set forth in Section 7.1 multiplied by the price per operating hour set forth in Section 6.1. The parties agree that the damages likely to be incurred by a Non-Defaulting Party or Non-Terminating Party in the event of termination will be difficult to measure, that the Termination Amount is reasonable, and that the Termination Amount shall be paid as liquidated damages in lieu of all such actual damages and not as a penalty.

If this Agreement is terminated on account of an Excusable Event as defined in Section 21.1, Customer shall pay to Contractor all payments required under this Agreement for Contractor's performance prior to the effective date of such termination and all payments due prior to such termination date. In the event this Agreement is terminated on account of an Excusable Event, payment of the Termination Amount specified in this Section 8.2 is not required.

8.3. Obligations Prior to Termination.

Termination or expiration of this Agreement shall not relieve either party of any obligation arising out of work performed prior to termination.

9. Technical Instructions

Development works carried out by the manufacturer of the Covered Unit(s) may result in new findings as to optimization of the operation and maintenance, which might cause modifications of the maintenance schedules and technical instructions. As soon as reasonably practicable after these documents are released, the Contractor will provide the Customer with the latest edition of these documents and adjust the maintenance accordingly. The Contractor will inform the Customer about changes, if any, in the maintenance procedure and whether and to which extent the new measures will be applied to this Agreement.

10. Insurance Coverage

10.1. Contractor's Insurance.

During the Term of this Agreement, Contractor shall maintain the following insurance coverage. Contractor shall furnish the Customer with certificates of insurance and with original endorsements affecting coverage required by this contract. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Prior to the start of any Work, Contractor must provide the following documents to City of Sparks, Attention: Purchasing Division, P.O. Box 857, Sparks, NV 89432-0857:

- A. Certificate of Insurance.** Contractor must provide a Certificate of Insurance form to the City of Sparks to evidence the insurance policies and coverage required of Contractor.
- B. Additional Insured Endorsements.** An original Additional Insured Endorsement, signed by an authorized insurance company representative, must be submitted to the City of Sparks, by attachment to the Certificate of Insurance, to evidence the endorsement of the City of Sparks as additional insured.

10.1.1. Workers' Compensation and any other statutory insurance required by law with respect to work related injuries or disease of employees of Contractor applicable to Contractor's employees in such form(s) and amount(s) as required by all applicable laws.

10.1.2. Commercial General Liability or Public Liability ("CGL") insurance for Contractor's protection, in broad form including coverage for liability assumed under contract, providing coverage for bodily injury and property damage with a combined single limit of not less than Five Million US Dollars (\$5,000,000) cumulative total of underlying and excess coverage.

10.1.3. **Business Automobile Liability - Minimum Limits of Insurance - \$1,000,000**
Combined Single Limit per accident for bodily injury and property damage or the limit customarily carried by Contractor, whichever is greater. No aggregate limit may apply. Coverage may be combined with Excess/Umbrella Liability coverage to meet the required limit.

10.2. Customer's Insurance.

During the Term of this Agreement, Customer shall maintain the following insurance coverage:

10.2.1. Workers' Compensation and any other statutory insurance required by law with respect to work-related injuries or disease of employees of Customer applicable to Customer's employees in such form(s) and amount(s) as required by all applicable laws.

10.2.2. Commercial General Liability or Public Liability ("CGL") insurance for Customer's protection, in broad form including coverage for liability assumed under contract, providing coverage for bodily injury and property damage with a combined single limit of not less than Five Million US Dollars (\$5,000,000) cumulative total of underlying and excess coverage.

10.3. Failure to Maintain Insurance.

Failure of either of the parties to maintain any insurance required under this Section 10 shall constitute an event of material breach for the purposes of Section 8.1 and, in addition to termination rights, either party shall have the right to immediately suspend performance and delivery until such breach is cured. The suspending party shall give notice of said suspension within twenty-four (24) hours of suspension.

11. Taxes and Duties

11.1. Contractor shall be responsible for, and shall pay directly all Contractor Taxes, permits and licenses required in the course of their work, including maintenance of a current City of Sparks Business License.

11.2. If Customer intends to claim any exemption from taxes or duties related to this Agreement or its performance, Customer agrees to furnish without charge evidence of tax or duty exemption acceptable to the taxing or customs authorities. Furthermore, if Customer arranges for export shipment, Customer agrees to provide Contractor, without charge, an export bill of lading. The City of Sparks is exempt from direct payment of Nevada State Sales Tax (per NRS 372.325) and Federal Excise Tax.

12. Warranty

12.1. Contractor Warranty.

The sole and exclusive warranties under this Agreement are the Limited Warranty on New GE Jenbacher Equipment, attached hereto as Appendix 3, and the Limited Warranty on Service Exchange Products, attached as Appendix 4. The Parts provided by Contractor hereunder are covered by Appendix 3 and the long block provided as part of the major overhaul is covered by Appendix 4.

In fulfilling its warranty responsibilities as described in this Section, Contractor shall be responsible for the cost of opening and closing of the Covered Unit(s) in order to access Parts for warranty repair

or replacement, but Contactor shall not be responsible for removal or replacement of systems, structures or parts of the Facility other than the Covered Unit(s).

The preceding paragraphs of this Section set forth the exclusive remedies for all claims based on failure of, or defect in, the Parts and services provided under the Agreement or Contractor's performance, whether the failure or defect arises before or during the applicable warranty period and whether a claim, however instituted, is based on contract, indemnity, warranty, tort (including negligence), strict liability or otherwise. The foregoing warranties and guarantees are exclusive and are in lieu of all other warranties and guarantees whether written, oral, implied or statutory. NO IMPLIED WARRANTY OF ANY TYPE, INCLUDING BUT NOT LIMITED TO, THE STATUTORY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY.

13. Delivery, Title Transfer, Risk of Loss

13.1. Delivery.

13.1.1. General Delivery Terms.

Contractor shall be responsible for scheduling delivery of Parts for the Scheduled Maintenance under this Agreement, pursuant to any work schedule discussed and agreed with Customer. Partial deliveries will be permitted.

13.1.2. Shipment to Storage.

If any of the Parts cannot be delivered to Customer when ready, due to any cause not attributable to Contractor, Contractor may ship such Parts to storage. If such Parts are placed in storage, including storage at the facility where manufactured or at the Site, the following conditions shall apply: (a) any reasonable amounts otherwise payable to Contractor upon delivery or shipment shall be payable upon presentation of Contractor's invoices and certification of cause for storage; (b) all reasonable expenses incurred by Contractor, such as for preparation for and placement into storage, handling, inspection, preservation, insurance, storage, removal charges and any taxes shall be payable by Customer upon submission of Contractor's invoices; and (c) when conditions permit and upon payment of all amounts due hereunder, Contractor shall resume delivery of the Parts to the Site.

13.1.3. Delivery of Parts.

Parts shall be delivered FOB the Site.

13.2. Passage of Title.

13.2.1. Passage of Title to Customer.

Title to Parts shall not pass to Customer until they are installed on the Covered Units at the Site. Title to service work in progress at Site shall pass when such services are performed and completed in accordance with this Agreement.

13.2.2. Passage of Title to Contractor.

Contractor shall have the right, at its option, to take title to and possession of, and remove from Site, any parts or components of the Covered Unit(s) which have been replaced with Parts supplied by the Contractor under this Agreement. Title to such parts and components shall pass from Customer to Contractor at Site upon completion of the outage during which the replacement Part is installed. Customer warrants to Contractor good title to such parts and components, free and clear of all liens, encumbrances, and claims. Contractor shall be responsible for packing such parts and components at the Site.

13.3. Risk of Loss.

Risk of Loss or damage to Parts supplied by Contractor shall pass to Customer when made available for shipment from the place of manufacture, the warehouse, or other point of shipment to the Customer.

14. Repair Services Logistics, Inventory Utilization

14.1. Repair Services Conducted at Off-Site Repair Facilities.

If Customer retains title to parts and components of a Covered Unit that are removed from a Covered Unit and which are to be repaired or refurbished at a facility or location other than the Site (“Repair Facilities”) and returned to Customer, the following provisions, Sections 14.1.1, 14.1.2 and 14.1.3 shall apply:

14.1.1. Contractor shall be responsible for all actions and costs related to packing and transporting the parts and components of the Covered Unit(s) to and from the Site and the Repair Facilities.

14.1.2. When the repair services at Repair Facilities for parts and components owned by Customer have been completed, Contractor shall arrange for shipment to the Site. In the event that Customer is not able to accept delivery of repaired parts and components from the Repair Facilities at such time and shipment is postponed, Customer shall reimburse Contractor at Contractor’s then current storage rate for the additional days the parts and components of the Covered Unit(s) remain at the Repair Facilities.

14.1.3. All scrap and used parts and components which have been replaced during repair services made at the Repair Facilities shall be the property of Contractor.

14.2. Services Conducted at the Site.

Contractor shall retain title to any Contractor equipment, tools, systems and materials (“Contractor Equipment”) utilized by Contractor in connection with this Agreement, or loaned or made available to Customer, at the Site. Contractor shall be responsible for transit costs and risk of loss and insurance costs for such Contractor Equipment to and from the Site. Customer shall be responsible for risk and loss and insurance costs for such Contractor Equipment at the Site to the extent loaned or made available to the Customer, and Contractor shall be responsible for risk of loss while Contractor Equipment is in use by Contractor at the Site. Under no circumstances shall Contractor be obligated to loan or make any Contractor Equipment available to Customer.

14.3. Inventory Utilization.

Customer shall permit Contractor to utilize parts, which Customer has in storage. Except as set forth in this Section 14.3, Contractor shall be responsible for delivering replacement parts at Contractor's expense within a reasonable time (considering among other things the repair and transportation time and anticipated Scheduled Maintenance) after Contractor has used Customer's spare parts. Contractor may at its option, replace such parts with new, refurbished or repaired Parts. Customer shall retain title to and properly keep and store the Customer spare parts at the Site during the Term of this Agreement. If any Customer spare part is found to be unsuitable for use due to improper storage or maintenance by Customer, Contractor shall provide a replacement part as Extra Work at Time and Material Rates.

Upon termination or expiration of this Agreement, Contractor shall have the right to remove any parts, equipment, tools, systems and materials remaining at the Site to which Contractor has title.

15. Health and Safety, Hazardous Materials

- 15.1. Customer will take necessary precautions for the safety and security of Contractor's personnel and property at the Site, including, but not limited to, complying with all health and safety laws and regulations. This includes, but is not limited to, provision for review by Contractor of, and instruction by Customer on, Customer's safety practices, proper and safe handling and disposal of hazardous substances and protection of Contractor's personnel from exposure thereto, energization/ de-energization of all power systems (electrical, mechanical and hydraulic) using a safe and effective lock-out tag procedure, and conducting periodic safety meetings.
- 15.2. Contractor shall comply with reasonable health and safety requirements established from time to time by Customer at the Facility, provided, however, that if Customer imposes unusual or new requirements, or requirements that materially impact Contractor's costs or performance, the parties will negotiate appropriate amendments to this Agreement to address such impact, including an equitable adjustment in price and/or payment terms.
- 15.3. Contractor may, from time to time, conduct safety audits to ensure safe conditions exist and make recommendations to Customer concerning same. Neither the conduct or non-conduct of safety audits nor the making of any recommendation by Contractor shall relieve Customer of the responsibility to provide a safe place to work. If Contractor personnel require medical attention, local Customer first aid facilities will be made available to Contractor personnel for the duration of such needs.
- 15.4. If, in Contractor's opinion, the safe execution of services at the Site is, or is apt to be, imperilled by local conditions, Contractor may remove some or all of its personnel from the Site and/or supervise performances of all or any part of its services and/or evacuate its personnel and Customer shall assist in said evacuation, any of which shall be considered to be an Excusable Delay.
- 15.5. The operation of equipment at the Site is the responsibility of Customer. If Customer requires or permits Contractor's personnel to operate equipment at the Site, Customer shall indemnify and save Contractor, its employees and agents, harmless from expense and liability (including reasonable attorney's fees) incurred by or imposed upon Contractor, its employees and agents, based upon injury to persons (including death) or damage to property resulting from operation of equipment at the Site by Contractor personnel. However, despite anything to the contrary in this Section 15.5, in the event that Contractor starts the Unit following regularly Scheduled Maintenance on the Unit to verify that the Unit is operating properly and the Unit

is somehow damaged as a result of the Contractor's prior Scheduled Maintenance work, Contractor shall be responsible for any damage directly resulting from its Scheduled Maintenance Work.

- 15.6. If, at the Site, Contractor encounters any Hazardous Material which requires special handling and/or disposal, Customer shall immediately take whatever precautions are required to legally eliminate such hazardous conditions so that the work under the Agreement may safely proceed. If any such Hazardous Materials cause an increase in Contractor's cost of or the time required for performance of any part of the work, an equitable adjustment shall be made in the price and schedule. Customer agrees to properly dispose of all Hazardous Materials produced or generated in the course of Contractor's work at the Site. Customer shall indemnify Contractor for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to (i) the presence of any Hazardous Materials which are present on the Site prior to the commencement of Contractor's work; or (ii) improperly handled or disposed of by Customer; or (iii) brought on to the Site or produced thereon by parties other than Contractor.
- 15.7. Contractor shall not be responsible for any costs in any manner related to Hazardous Materials, for remediation or otherwise, unless such Hazardous Materials were brought onto the Site or produced thereon by Contractor.

16. Assignment of Services

16.1. Contractor Affiliates.

Contractor shall have the right to transfer, in whole or in part, by way of assignment or novation to any Contractor affiliated company, that is authorized by the manufacturer to service GE Jenbacher engines, its rights and/or obligations under this Agreement. Customer agrees to execute such subsequent documentation, including consent to such transfer fully releasing assignor from further obligations and liabilities, as may be necessary to effectuate the assignment or novation.

16.2. No Assignment.

Except as set forth in Section 16.1, neither party may transfer or assign, in whole or in part, any of its rights or obligations under this Agreement without the express written consent of the other party, such consent not to be unreasonably withheld. Any transfer or assignment, or attempted transfer or assignment, in contravention of this Section 16.2, whether by operation of law or otherwise, shall be null and void.

Nothing in this Section 16.2 shall restrict Contractor from subcontracting portions of its work, provided that Contractor shall remain responsible to Customer for performance of subcontracted work.

17. Indemnification

To the fullest extent permitted by law, upon award, Contractor shall hold harmless, indemnify, defend and protect Customer, its affiliates, officers, agents, employees, volunteers, successors and assigns ("Indemnified Parties"), and each of them from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or related to any act or omission of Contractor, its employees, agents, representatives, or Subcontractors in any way related to the performance of work under this

Agreement by Contractor, or to work performed by others under the direction or supervision of Contractor, including but not limited to:

1. Personal injury, including but not limited to bodily injury, emotional injury, sickness or disease, or death to persons;
2. Damage to property of anyone, including loss of use thereof;
3. Penalties from violation of any law or regulation caused by Contractor's action or inaction;
4. Failure of Contractor to comply with the Insurance requirements established under this Agreement;
5. Any violation by Contractor of any law or regulation in any way related to the occupational safety and health of employees.

In determining the nature of the claim against Customer, the incident underlying the claim shall determine the nature of the claim, notwithstanding the form of the allegations against Customer.

Nothing in this contract shall be interpreted to waive nor does the City, by entering into this contract, waive any of the provisions found in Chapter 41 of the Nevada Revised Statutes.

To the fullest extent permitted by law, upon award, Customer shall hold harmless, indemnify, defend and protect Contractor, its affiliates, officers, agents, employees, volunteers, successors and assigns ("Indemnified Parties"), and each of them from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or related to any act or omission of Customer, its employees, agents, representatives, or subcontractors in any way related to the performance of work under this Agreement, or to work performed by others under the direction or supervision of Customer, including but not limited to:

1. Personal injury, including but not limited to bodily injury, emotional injury, sickness or disease, or death to persons;
2. Damage to property of anyone, including loss of use thereof;
3. Penalties from violation of any law or regulation caused by Customer's action or inaction;
4. Failure of Customer to comply with the Insurance requirements established under this Agreement;
5. Any violation by Customer of any law or regulation in any way related to the occupational safety and health of employees.

In determining the nature of the claim against Contractor, the incident underlying the claim shall determine the nature of the claim, notwithstanding the form of the allegations against Contractor.

The indemnities provided for in this Section 17 shall only apply if the party demanding to be indemnified gives the other party prompt notice of any such claim and all necessary information and assistance so that the other party, at its option, may defend or settle such claim and the party demanding to be indemnified does not take any adverse position in connection with such claim.

18. Changes

Each party may, from time to time, propose changes to this Agreement, which changes will be subject to mutual written and express agreement of the parties. Contractor will advise Customer if any proposed change will result in a change in the price or payments, anticipated schedule of performance, or have other cost or performance impacts. Contractor shall not be obligated to proceed with any change until the parties have agreed upon its effect and signed a written amendment or change order document.

19. Contractor's Suspension Right

In addition to its other rights, if Customer fails to fulfil any of the payment conditions in this Contract, becomes generally unable to pay its debts when they become due, or sustains a material deterioration of its financial condition, Contractor may suspend performance of services and delivery of Parts and/or thereafter require full or partial payment in advance. Any cost incurred by Contractor in accordance with such suspension (including storage costs) shall be payable by Customer upon submission of Contractor's invoices.

20. Laws, Codes and Standards

- 20.1. The prices set forth in this Agreement are based on Contractor's manufacture and delivery of the Parts and performance of the services pursuant to (i) its manufacturing processes and procedures and quality assurance program; (ii) those portions of industry specifications, codes and standards, in effect as of the date of Contractor's proposal to Customer, which Contractor has deemed applicable to the Parts and services; and (iii) applicable laws, rules and regulations in effect on the date of Contractor's proposal to Customer.
- 20.2. The prices will be equitably increased to reflect additional costs incurred by Contractor resulting from a change in industry specifications, codes, standards, laws, rules or regulations described in Section 20.1 after the date of Contractor's proposal to Customer which affect the Parts and services. Reasonable adjustments will also be made to the delivery date, Service performance dates, and other provisions as may be appropriate on account of compliance with the foregoing.

21. Excusable Events

- 21.1. Neither Customer nor Contractor shall have any liability or be considered to be in breach or default of its obligations under this Agreement to the extent that performance of such obligations is delayed or prevented, directly or indirectly, due to: (i) causes beyond its reasonable control; or (ii) acts of God, act (or failure to act) of governmental authorities or third parties not engaged by the party claiming Excusable Delay, fires, severe weather conditions, earthquakes, strikes or other labor disturbances, floods, war (declared or undeclared), epidemics, civil unrest, riot, acts of terrorism; or (iii) acts (or omissions) of the other party including failure to promptly perform its obligations under this Agreement; or (iv) inability on account of causes beyond its reasonable control to obtain necessary materials, necessary Parts or services. The party claiming Excusable Delay shall notify the other party of any such delay. The date of delivery or of performance shall be extended for a period equal to the time lost by reason of delay, provided that the Term of this Agreement shall not be extended due to any Excusable Event, unless mutually agreed upon in writing by the parties. If Contractor is delayed by acts or omissions of Customer, or by the prerequisite work of Customer's other contractors or suppliers, Contractor shall also be entitled to any equitable price adjustment. The occurrence of an Excusable Event shall not excuse any delay or failure of Customer to make any payment to be paid to Contractor pursuant to this Agreement unless the Excusable Event directly delays or prevents the transmission of the payment, itself.
- 21.2. If any delay excused by Section 21.1 extends for more than one hundred eighty (180) days and the parties have not agreed upon a revised basis for continuing the Agreement at the end of the delay, including an equitable price adjustment, then either party (except where delay is caused by acts or omissions of a party, in which event only the party not committing the acts

or omissions), upon thirty (30) days written notice, may terminate this Agreement in accordance with Section 8.2 of this Agreement.

22. Limitation of Liability

- 22.1. The total liability of Contractor, on all claims of any kind accruing during any calendar year, whether in contract, extra work, warranty, indemnity, tort (including negligence), strict liability, or otherwise, arising out of the performance or breach of this Agreement, or the use of any Parts or the provision of any services, shall not exceed the average billing amount per year, calculated as anticipated oph of the respective year multiplied by the oph charge of the same year. In no event shall the cumulative total liability of Contractor on all such claims of any kind arising from or relating to this Agreement, until the time all such liability ends, exceed the total amount to be billed to Customer under this Agreement. Notwithstanding anything to the contrary, all Contractor liability shall end no later than one (1) year following termination or expiration of this Agreement.
- 22.2. In no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise, shall the Contractor or its related contractors, subcontractors or suppliers be liable for loss of profit or revenues, loss of use of the Facility or the Covered Unit(s) or any associated equipment, cost of capital, cost of substitute equipment, facilities, services or replacement power, downtime costs, claims of Customer's customers for such damages, or for any special, consequential, incidental, indirect, punitive or exemplary damages.
- 22.3. For the purpose of this Section 22, the term "Contractor" shall mean Contractor, its parent, affiliates, subcontractors and suppliers of any tier, and their respective agents and employees, whether individually or collectively. The provisions of this Section 22 shall prevail over any conflicting or inconsistent provision contained in any of the documents comprising this Agreement, except to the extent that such provisions further restrict Contractor's liability.

23. Dispute Resolution

- 23.1. All disputes arising in connection with this Agreement shall be settled, if possible, by negotiation of the parties. If the matter is not resolved by such negotiations, either party may, by the giving of written notice, cause the matter to be referred to a meeting of appropriate higher management of the parties. Such meeting shall be held within ten (10) business days following the giving of the written notice.
- 23.2. If the matter is not resolved within twenty (20) business days after the date of the notice referring the matter to appropriate higher management, either party may proceed pursuant to Section 24 below.

24. Place of Jurisdiction/Governing Law

- 24.1. This Agreement and the parties' relationship thereunder shall be governed exclusively by and construed in accordance with the laws of the State of Nevada.
- 24.2. Any and all actions arising out of or relating to this Agreement or the breach or enforcement thereof shall be brought and maintained in the court having local and subject-matter

jurisdiction for Customer's registered offices, with each of the parties hereto consenting the exclusive personal jurisdiction of such courts as if they were personally present in such state.

25. Confidential Information

Information, suggestions or ideas transmitted in connection with performance hereunder are not to be regarded as secret or submitted in confidence except in accordance with this Section 25. Any information disclosed by either party in connection with this Agreement and designated in writing, by label, stamp or other written communication by the disclosing party as "confidential" or "proprietary" at the time of disclosure shall be treated as "Confidential Information." The recipient party agrees to (i) treat such Confidential Information as confidential and not disclose it to third parties other than Contractor affiliate entities as necessary for performance of this Agreement; (ii) restrict the use of such Confidential Information to matters relating to the recipient party's performance of this Agreement; and (iii) restrict access to such information to employees of the recipient party and Contractor's affiliate entities whose access is necessary in the implementation of this Agreement. All copies of written Confidential Information will be returned to the disclosing party upon request (i) except to the extent that an item of such information is designated to be retained by the recipient party pursuant to a specific provision of this Agreement, and (ii) Contractor may retain one copy of Customer Confidential Information until such time as all its liability under this Agreement terminates. Information shall not be considered to be Confidential Information, and the recipient party shall not be liable for the use and disclosure thereof, if such information: (i) was in the public domain at the time of disclosure, or thereafter comes into the public domain through no fault of the recipient party; or (ii) is otherwise available to the recipient party without restrictions on the recipient party's use and disclosure similar to those restrictions contained in this Agreement; or (iii) is independently developed by the recipient party.

Notwithstanding the foregoing provisions, Customer will comply with public document/information requests as required by applicable law, and compliance with those laws as determined by the Customer will control over any of the foregoing provisions.

26. General Conditions

- 26.1. Customer and Contractor are each independent of the other and nothing in this Agreement is intended, or shall be deemed, to create a partnership or joint venture of the parties.
- 26.2. The provisions of this Agreement are for the benefit of the parties hereto and not for any other or third party.
- 26.3. Notwithstanding anything to the contrary, Contractor shall have the right, in its discretion, to gather and use data and information concerning Parts, Covered Unit and Facility performance, so long as Contractor does not disclose to any party not a Contractor affiliate entity an identification of the Customer in connection with a particular item of data or information. Contractor's rights under this Section 26.3 include, without limitation, the right to interface directly to the Facility distributed control system and to utilize a dedicated network or internet connection or telephone line.
- 26.4. No modification, amendment, rescission, waiver or other change shall be binding on a party unless agreed in writing by that party. This Agreement represents the entire agreement between the parties. Any oral or written representation, warranty, course of dealing or trade usage not contained or referenced herein shall not be binding on either party. Each party

agrees that it has not relied on, or been induced by, any representations of the other party not contained in this Agreement.

- 26.5. The invalidity in whole or in part of any portion of this Agreement shall not affect the validity of the remainder of this Agreement. The rights and remedies set forth in this Agreement are the exclusive rights and remedies of each party with respect to this Agreement, its performance or breach.
- 26.6. The language of this Agreement, and all documents, materials and training, if any, to be supplied by Contractor under this Agreement shall be English.
- 26.7. Customer represents that it is entity responsible for all daily operations and maintenance of the facility where the Unit is located and that it is authorized by the owner of the Unit to enter into this Agreement.
- 26.8. Subject to liability time limitations contained herein, the following Sections shall survive termination of the Agreement: Section 8 (Termination), Section 11 (Taxes and Duties), Section 12 (Warranty), Section 16 (Assignment of Services), Section 17 (Indemnification), Section 20 (Laws, Codes and Standards), Section 21 (Excusable Events), Section 22 (Limitation of Liability), Section 23 (Dispute Resolution), Section 24 (Place of Jurisdiction/Governing Law), Section 25 (Confidential Information) and Section 26 (General Conditions).
- 26.9. This Agreement may be signed in counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute one and the same contract.

27. Appendices

These Appendices form an integral part of this Agreement. In the event of any conflict between the terms of this Agreement and the Appendices, the terms and conditions of this Agreement shall prevail. The provisions of the remaining Appendices listed below shall prevail in the order listed above.

- 1) Maintenance specifications and schedules
- 2) Technical Instructions
- 3) Limited Warranty on New GE Jenbacher Equipment
- 4) Limited Warranty on Service Exchange Products
- 5) Technical Overhaul Description (subject to revision by GE Jenbacher)
- 6) Spare Parts List (To be provided at a later date)

28. Notice

The parties will send all notices or communications necessary under this Agreement in writing to the following addresses:

To Contractor:

In care of: Jeff Hart
Smith Power Products, Inc.
3065 California Ave
Salt Lake City, UT 84104

With a copy to: Michael R. Carlston
Snow, Christensen & Martineau
10 Exchange Place, 11th Floor
P.O. Box 45000
Salt Lake City, UT 84145

To Customer:

In care of: City of Sparks
TMWRF Plant Manager
PO Box 857
Sparks, NV 89432

With a copy to: City of Sparks
Contracts and Risk Manager
PO Box 857
Sparks, NV 89432

29. Signatures

The parties hereby acknowledge and accept the terms and conditions contained in this Agreement and agree to be bound by the terms and conditions contained herein and the Appendices. This Agreement shall become effective upon the date of signature of both parties.

CUSTOMER: CITY OF SPARKS

By: _____
Name: Geno R. Martini
Its: Mayor

Date: _____

CONTRACTOR: SMITH POWER PRODUCTS, INC.

By: _____
Name:
Its:

Date: _____

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