



Peace of Mind Maintenance and Service Solutions

TERMS & CONDITIONS **April 2008**

1. DEFINITIONS

1.1 The following terms shall have the following meanings:

- (i) 'Company' means MHS Boilers Limited.
- (ii) 'Additional Work' means any work carried out on or in connection with the equipment in addition to the Regular Maintenance Work.
- (iii) 'Equipment' means the plant or equipment identified in the "Peace of Mind" Maintenance Agreement.
- (iv) 'Owner' means the person or organisation identified as such in the "Peace of Mind" Maintenance Agreement.
- (v) 'Regular Maintenance Work' means the work referred to in Clause (2.1) and described in the "Peace of Mind" Maintenance and Service Solutions brochure.
- (vi) 'Regular Maintenance Contract Charge' means the charge stated as such in the Agreement.
- (vii) 'Service' means the Regular Maintenance Work and the Additional Work.
- (viii) 'Agreement' means the agreement between the Company and the owner set out on the Company's standard form for "pay as you go", two, five, and ten year Regular Maintenance Contracts.

2. THE SERVICE

- 2.1 The Company shall carry out on the equipment the Regular Maintenance Work described in and at the frequency or on the occasions set out in the Agreement.
- 2.2 The Company shall, with reasonable promptness during the Company's normal working hours, attend at the request of the Owner to carry out necessary Additional Work.
- 2.3 The company shall subject to its availability supply parts and materials necessary to the carrying out of the Regular Maintenance Work and the Additional Work but does not warrant their availability.

3. THE CHARGES

- 3.1 The Owner shall pay the Regular Maintenance Contract Charge stated and upon the terms set out in the Agreement.
- 3.2 Regular Maintenance Contracts not paid via annual invoicing arrangements set out on the initial agreement will be subject to an annual price review, with the contract premium being increased by an amount equal to the increase in the RPI.
- 3.3 The Owner shall, in addition to Regular Maintenance Contract Charge, pay the charges made by the Company, in respect of any Additional Work carried out pursuant to Clause 2.2 and in respect of any parts or materials supplied pursuant to Clause 2.3, within 30 days of such charges being invoiced by the Company.
- 3.4 In the event that payment is not made in accordance with the agreed terms, either in full or otherwise, then the whole of the account whether due or not shall become payable and become overdue and be payable forthwith. Furthermore in the event of late or non payment in accordance with these terms and conditions (or any other terms so agreed in writing), MHS Boilers Ltd reserve the right to rely on the Late Payment of Commercial Debts (Interest) Act 1998, as amended by the Late Payment of Commercial Debts Regulations 2002, and charge, at a daily rate, until payment, interest upon the debt then due at the rate prevailing at the date of default (currently 8% above the prevailing Bank of England base rate) together with the late payment charges set out in the Act, until payment or sooner settlement.

4. WARRANTY BY THE COMPANY

- 4.1 The Company warrants that it will perform the service with reasonable skill and care.
- 4.2 The Company warrants that the Owner shall have free and unencumbered title and enjoy quiet possession of any parts or materials supplied under this agreement and that such parts or materials shall be satisfactory quality and reasonably fit for their purpose.
- 4.3 The Company does not give any warranty in regard to the performance of the equipment and subject to the foregoing, all conditions warranties, terms and undertakings express or implied statutory or otherwise in respect of the performance by the Company of the services are excluded.

MHS

BOILERS

5. LIMITATIONS OF LIABILITY

5.1 The following provisions of this clause 5 set out the Company's entire liability to the Owner in respect of any breach of its obligations under this agreement and any representation, statement or tortious act or omission arising under or in connection with this agreement but, for the avoidance of doubt, do not exclude or limit any liability that the Company may have in respect of death or personal injury but do not confer any right or remedy upon the Owner to which it would not otherwise be entitled.

5.2 The Company shall not be liable in respect of any loss of profits, goodwill or any special, indirect or consequential or economic loss (including loss or damage suffered by the Owner as a result of an action brought by a third party) even if such loss was reasonably foreseeable or the Company was aware of the prospect of such loss.

5.3 The Company shall not be liable for any breach, act or omission unless the Owner serves written notice upon the Company giving full details of such within 14 days of becoming aware of the same.

5.4 The Company's entire liability for any breach, act or omission or any related combination or series of such shall, in respect of physical damage to the property of the Owner, be limited to the amount stated in the Agreement and in any other respect be limited to the Regular Maintenance Contract Charge for the immediately preceding 12 months.

6. OBLIGATIONS OF THE OWNER

6.1 The Owner shall permit the Company at all reasonable times to have access to the equipment and reasonable facilities to enable the Company to carry out the Service during the Company's normal business hours.

6.2 The Owner shall not carry out any maintenance, alteration adjustment or other such work on the equipment without forthwith notifying the Company of such work.

7. TERMINATION

7.1 This agreement shall commence on the date stated and shall continue for a period of one, two, five or ten years depending on the agreement unless amended as shown within paragraph 16. The Owner can terminate the agreement by giving not less than 3 calendar months notice of the renewal date. A penalty charge may be levied.

7.2 This agreement may be terminated forthwith by the Company if the Owner fails to comply with any of its obligations under this agreement and such failure if capable of being remedied remains unremedied for 7 days after being called to the Owner's attention by written notice from the Company.

7.3 This agreement shall automatically terminate if: -

(i) The Owner dies, becomes bankrupt, has a receiving order made against him, makes any arrangement with his creditors generally or takes or suffers any similar action as a result of debt.

(ii) The Owner purports to assign the burden or benefits or charge the benefits of this agreement.

(iii) The Owner convenes a meeting of its creditors or suffers a petition to be presented or a meeting to be convened or action to be taken with a view to its liquidation except for the purpose of and followed by amalgamation or reconstruction.

(iv) A receiver or administrative receiver is appointed of any of the Owner's property.

(v) Any execution or distress is levied upon the Owner's goods or on the property where the equipment is installed.

(vi) The Owner being a partnership is dissolved.

7.1 Any termination of this agreement pursuant to this clause 7 shall be without prejudice to any other rights a party may have under or in connection with this agreement and shall not affect any accrue rights or liabilities of either party or the coming into or continuance in force of any provision of this agreement which is expressly or by implication intended to operate on or after such termination.

8. WAIVER

8.1 The Company may release or compromise the Owner's liability under this agreement or grant to the Owner time or other indulgence without affecting the Owner's liability.

9. FORCE MAJEURE

9.1 The Company shall not be liable for any failure in the performance of any of its obligations under this agreement caused by factors outside its control.

10. VARIATION

10.1 The Company reserve the right to amend the Regular Maintenance Contract Agreement at its sole discretion.

MHS

BOILERS

11. PREVIOUS CONTRACTS

11.1 This agreement is in substitution for all previous contracts express or implied between the Company and the Owner, which are hereby terminated by mutual consent from the commencement date.

12. LAW AND JURISDICTION

12.1 English law shall govern this agreement and the Owner consents to the exclusive jurisdiction of the English Courts in all matters regarding this agreement except to the extent that the Company invokes the jurisdiction of the Courts of any other country.

13. NOTICES

13.1 Any notice given under this agreement shall be in writing and may be served personally by registered or recorded delivery mail or by telex or facsimile transmission and each party's address for the service of notice shall be his last known address within the jurisdiction notified to the other party in writing.

14. VALIDITY

14.1 This agreement shall not be binding until signed on behalf of the Owner and on behalf of the Company by its duly authorised Manager.

15. EXCLUSIONS

15.1 MHS Boilers Limited reserve the right to decline any agreement where the equipment is in excess of two years old or has not previously been maintained to the manufacturers standard specification or has not been commissioned by MHS Boilers Ltd .

15.2 The sum does not include for the following, which will be charged at the current rates: -

1. Consumables (e.g. cleaning material, antifreeze, inhibitor, solar-fluid, etc.).
2. Damage due to customer misuse or vandalism.

16. PERIOD OF AGREEMENT

REGULAR MAINTENANCE CONTRACT	Please Initial - to confirm Level of agreement required
Pay As You Go	
Second Year Plan	
5 Year Long Life	
10 Year Long life contract	

We agree to be bound by the terms & conditions and confirm our acceptance.

Authorised Signatory
(Owner)

Name:

Position:

Date:

Authorised Signatory
(MHS Boilers limited)

Name:

Position:

Date: