

MASTER EQUIPMENT & SERVICES AGREEMENT

This MASTER EQUIPMENT & SERVICES AGREEMENT (this “Agreement”) is made as of this ____ day of _____, 20____ (“Effective Date”), by and between POWERTECH WATER, INC., d/b/a ElectraMet a Delaware corporation, having a principal place of business at 749 W. Short Street, Lexington, Kentucky 40508 (“Company”) and [CUSTOMER ENTITY NAME], a [STATE OF INCORPORATION/ORGANIZATION] [ENTITY TYPE], having a principal place of business at [FULL ADDRESS] (“Customer”).

WHEREAS, Customer desires to receive from Company, and Company desires to provide to Customer, various equipment (collectively, “Equipment”); and

WHEREAS, Customer desires to receive from Company, and Company desires to render to Customer, various services as set forth on Exhibit A (collectively, the “Services”), upon the terms and conditions set forth herein.

NOW, THEREFORE, Company and Customer, intending to be legally bound, mutually agree that the terms and conditions of this Agreement shall apply to all Equipment and Services received by Customer from Company after the Effective Date hereof until such time as this Agreement is terminated pursuant to the terms hereof.

1. Delivery and Acceptance of Equipment. Upon execution of this Agreement and the Equipment & Services Schedule attached hereto as Exhibit A with respect to each item of Equipment (each, an “Equipment & Services Schedule”), Company agrees to provide Customer the Equipment set forth on the applicable Equipment & Services Schedule. Following the installation and commissioning of the Equipment, the Customer shall have three (3) days (“Acceptance Period”) to either accept the Equipment or notify the Company of faults to be corrected. If the Purchaser is unable to support the Site Acceptance test within two (2) weeks of the equipment delivery, this MSA shall commence upon that date. Customer agrees to immediately take control, possession, management, use and operation of the Equipment for the duration set forth on the applicable Equipment & Services Schedule on the terms and conditions set forth in this Agreement. Customer shall assume complete responsibility at all times for the Equipment under all applicable laws, and shall further keep the Equipment free of all liens or encumbrances and other security interests of any kind. Customer shall not acquire any right, title or interest in or to the Equipment, except for the right to possess and use the Equipment as provided herein, subject to the earlier termination of such right as provided herein. The Company may inspect the Equipment at any time without prior notice during regular business hours.

2. Surrender of Equipment. Customer shall return the Equipment to the Company at the address noted in this agreement, or such other place as may be agreed to by the Company. Customer shall pay the crating and freight fees. Customer shall be responsible for the payment of any and all damages incurred with respect to the Equipment during the Term set forth in the Equipment & Services Schedule, and for any and all repairs necessary to place the Equipment in the same condition as when delivered, reasonable wear and tear excepted and otherwise in the condition required by this Agreement.

3. Fees, Taxes and Late Charges. If any payment due hereunder is not paid on the due date, Customer agrees to pay Company interest on such paid amount equal to the lesser of 1.5% per month for the period such amount remains unpaid or the maximum amount allowed by law. Customer shall pay or, if requested by Company, reimburse Company for any and all sales, use, personal property taxes, or other taxes, fees or assessments levied against or imposed upon the Equipment, its value, use or operation, or levied against or based upon the fees paid or to be paid hereunder. Customer’s obligation (without prior notice or demand) to pay undisputed Monthly Service Fees and all other undisputed amounts due hereunder shall be absolute and unconditional, and not subject to any abatement, set off, defense, recoupment, or reduction.

4. Limited Warranties. Company warrants that it shall perform the Services in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services. CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY HAS NOT MADE, AND HEREBY

DISCLAIMS, ANY EXPRESS OR IMPLIED WARRANTY AS TO MERCHANTABILITY, FITNESS FOR ANY PURPOSE OR USE, DESIGN OR CONDITION OF THE EQUIPMENT, QUALITY OF MATERIAL OR WORKMANSHIP, OR AS TO ANY OTHER MATTER WHATSOEVER RELATING TO THE EQUIPMENT OR SERVICES EXCEPT AS SET OUT ABOVE. CUSTOMER AGREES THAT CUSTOMER ACCEPTS THE EQUIPMENT “AS IS”.

5. Lawful Use; Records. Customer shall use the Equipment only in its business and in compliance with all laws, rules, and regulations of any jurisdiction where the Equipment is used or located. Customer assumes all responsibility for any and all licenses, titles, permits and other certificates as may be required by law or otherwise for Customer’s lawful operation of the Equipment. Customer represents and warrants to Company at all times that (i) Customer has the right and ability to enter into this Agreement; and (ii) this Agreement constitutes a valid, legal, and binding obligation and agreement of Customer, enforceable against Customer in accordance with its terms. Customer shall use and operate the Equipment in a careful and prudent manner for the purposes and in the manner intended to be used, in strict compliance with any and all instructions provided by the Company.

6. Alterations. Customer shall not make or suffer any changes, alterations or improvements to the Equipment and shall not permit the Equipment to go or remain out of Customer’s possession without the written approval of Company and then only to the extent of such approval. Customer shall be liable for and shall pay Company for any loss or damage resulting from changes, alterations or improvements to the Equipment made without Company’s written approval.

7. Service and Maintenance. Company shall provide the Services set forth on the applicable Equipment & Services Schedule and End User License Agreement (<https://electramet.com/eula/>) which is incorporated herein by reference. Unless otherwise specified in the applicable Equipment & Services Schedule, Customer shall service the Equipment at reasonable intervals as necessary and proper in accordance with industry standards and, in connection therewith, maintain the Equipment in good working order, condition and appearance, and return the Equipment to the same level as when the Equipment was delivered to Customer.

8. Damage. Customer shall bear the entire risk of loss, theft, destruction of or damage to any item of Equipment from any cause whatsoever (“Loss or Damage”). Customer shall promptly notify Company in writing of any Loss or Damage. No Loss or Damage to any item of Equipment shall relieve Customer of any obligation with respect to such Equipment under this Agreement. In the event of Loss or Damage, Customer shall, at the option of Company: (a) put such Equipment in good condition and repair in accordance with the manufacturer’s recommendations, and to the reasonable satisfaction of Company, at Customer’s expense; or (b) pay Company the full replacement value.

9. Defaults And Remedies. Customer shall be deemed to be in default hereunder upon the occurrence of any of the following events (“Events of Default”): (1) Customer shall fail to make any payment due hereunder within 30 days after its due date; (2) Customer shall fail to perform or observe any other term, covenant, or condition of this Agreement and such failure is not cured within 30 days following written notice from the Company detailing the failure; (3) Customer shall have abandoned the Equipment; or (4) Customer shall have defaulted under any other agreement with Company beyond all applicable cure periods. Upon the occurrence of an Event of Default, Company may declare this Agreement to be in default, and thereafter may exercise any one or more of the following remedies: (1) declare all amounts due and owed by Customer to Company, including any amounts relating to partial monthly periods currently in process, and all other unpaid fees, taxes and charges, for any or all Equipment & Services Schedules under this Agreement immediately due and payable; (2) repossess, retake and/or retain any or all of the Equipment free of all rights and claims of Customer without notice, legal process, or judicial intervention, and without releasing Customer of any term, covenant or condition provided herein; (3) terminate this Agreement with respect to one or more Equipment & Services Schedules or the entire Agreement, at Company’s sole option. and/or (4) exercise any other right or remedy available to Company at law or in equity. Company’s waiver of any Event of Default shall not constitute a waiver of any other Event of Default or a waiver of any term or condition of this Agreement. Customer shall pay all Company’s legal fees and all other costs and expenses incurred by reason of any Event of Default. No right or remedy referred to herein is intended

to be exclusive, and each may be exercised concurrently or separately and from time to time. Unless otherwise provided elsewhere in this Agreement, a termination hereunder shall occur only upon written notice by Company to Customer and only with respect to such items of Equipment as Company specifically elects to terminate in such notice. Except as to such items of Equipment with respect to which there is a termination, this Agreement shall remain in full force and effect and Customer shall be and remain liable for the full performance of all of its obligations hereunder.

10. **Term.** This Agreement shall remain in full force and effect for so long as there are active Equipment & Services Schedules outstanding, unless terminated earlier as provided herein. Customer may terminate this Agreement immediately in the event that Company breaches this Agreement and such breach remains uncured for a period of thirty (30) days following Company's receipt of written notice from Customer regarding such breach. If the Agreement is terminated early by Customer for any reason other than as a result of a breach by Company of this Agreement, Customer shall be obligated to pay all Monthly Service Fees due for the remainder of the term set forth in any active Equipment & Services Schedule.

11. **Assignment; Subleasing.** Customer shall not have the right to assign this Agreement or sublet, rent or otherwise hire out the Equipment to any person, firm, partnership, association or corporation other than Company, without the prior written consent of Company. Company shall have the right to assign this Agreement, and in the event of such an assignment, the assignee shall acquire all rights and remedies possessed by or available to Company.

12. **Indemnification.** Customer shall indemnify Company against, and hold Company harmless from, any and all claims, actions, damages, obligations, liabilities, liens (including any arising or imposed under the doctrines of strict liability in tort or product liability), and costs and expenses (including attorney's fees), arising from or out of the manufacture, purchase, lease, possession, operation, condition, return, or use of the Equipment, or by operation of law, excluding however any of foregoing resulting solely from the gross negligence or willful misconduct of Company. Customer agrees that upon written notice by Company of assertion of any such claim, action, damage, obligation, liability, or lien, Customer, at Customer's expense shall assume full responsibility for the defense thereof, provided that Company shall have the right, but not the obligation, to participate in any defense conducted by Customer without relieving Customer of any of its obligations hereunder. The provisions of this Section shall survive termination of this Agreement.

13. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES ARISING FROM OR RELATING TO ANY BREACH OF THIS AGREEMENT, REGARDLESS OF ANY NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS PARAGRAPH IS INTENDED TO LIMIT OR RESTRICT THE INDEMNIFICATION RIGHTS OR OBLIGATIONS OF ANY PARTY UNDER SECTION 12.

14. **Insurance.** Customer shall obtain and maintain insurance on or with respect to each item of Equipment at its own expense and in the amounts and forms satisfactory to Company. In no event shall any insurance coverage be less than the following: (a) physical damage insurance insuring against loss or damage to the Equipment in an amount not less than the full replacement value of such Equipment; and (b) \$500,000 combined single limit for bodily injury liability and property damage; and (c) \$100,000 property damage liability. Customer shall furnish Company with a certificate of insurance evidencing issuance of such insurance to Customer in at least the minimum amount required herein, naming Company and such other parties designated by Company as additional insured thereunder for liability coverage, and as loss payee for property damage coverage. If Customer fails to provide such insurance, Company shall have the right, but no duty, to obtain such insurance, and Customer shall pay Company all costs thereof.

15. **Intellectual Property.** Customer acknowledges that Company is the owner of all right, title and interest in and to the Equipment (including any software embedded in the Equipment and any documentation related thereto), all prior and subsequent versions thereof, and all other intellectual property related to the Equipment, including without limitation patents, designs, mask works, trademarks, know-how and other proprietary rights (collectively,

the “Company Intellectual Property”), and that, Customer shall obtain no right whatsoever in the Company Intellectual Property except to the extent necessary to use the Company Intellectual Property exclusively in accordance with the Equipment and Services for their intended purpose. Company shall have the right, in its sole discretion, to disclose, publish, and apply for and prosecute to issuance or grant, at its expense, under any applicable international laws or treaties, patent, copyright, design registration, or other intellectual property protection anywhere in the world, in connection with Company Intellectual Property. Customer agrees to use all commercially reasonable efforts and security precautions to protect the Company Intellectual Property from unauthorized access, reproduction or distribution. Customer shall not modify any of the Company Intellectual Property or attempt to reverse engineer, disassemble, or decompile any Company Intellectual Property, translate or create any derivative works, compilations, or collective works related thereto, or apply any process, technique, defeat device, circumvention mechanism or procedure to ascertain or derive the source code to the Company Intellectual Property. As between Customer and Company, Company is and will remain the sole and exclusive owner of all right, title, and interest in and to all information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from any use of the Equipment or Services, including all intellectual property rights relating thereto.

16. Confidentiality. All non-public, confidential or proprietary information of Company (“Confidential Information”), including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, consumer data, or rebates disclosed learned by Customer during its engagement with Company, whether disclosed orally or disclosed or accessed in written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as “confidential,” is confidential, and is solely for Customer’s use in utilizing the Equipment and Services during the Term, and may not be disclosed or copied unless authorized by Company in writing. Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Customer’s breach of this Agreement; (b) is obtained by Customer on a non-confidential basis from a third-party that was not legally or contractually restricted from disclosing such information; or (c) Customer establishes by documentary evidence, was in Customer’s possession prior to Company’s disclosure hereunder.

17. Attorneys’ Fees. If any legal action or proceeding shall be commenced at any time by Company in connection with the enforcement of its right under this Agreement and Company is the prevailing party in such action or proceeding, Company shall be entitled to reimbursement of its reasonable attorneys’ fees and costs in connection therewith, in addition to all other relief to which it may be entitled. If Company refers this account to a third party for collections due to Customer’s late payment or non-payment, Company shall be reimbursed for all collection costs, including court costs and reasonable attorneys’ fees related thereto.

18. Miscellaneous. This Agreement takes effect upon its acceptance and execution by Company, and shall be governed, interpreted and construed under the laws of the State of Kentucky. Kentucky law shall prevail in the event of any conflict of law without regard to, and without giving effect to, the application of choice of law rules. CUSTOMER WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY LITIGATION ARISING FROM OR RELATED TO THIS AGREEMENT. Time is of the essence with respect to this Agreement. Neither party shall be responsible for delays beyond its control. This Agreement represents the entire Agreement between the parties with respect to the subject matter hereof and supersedes all previous agreements between the parties covering the same subject matter. In the event of any conflict or inconsistency between the terms and provisions of this Agreement and the terms and provisions of any Equipment & Services Schedule, the terms and provisions of this Agreement shall control. This Agreement cannot be amended or altered except by a written instrument signed by both parties. The failure of Company to insist upon the punctual or strict performance of any covenant of Customer hereunder or Company’s failure to exercise any right or remedy available under this Agreement shall not constitute a waiver of any subsequent default hereunder or of any subsequent right or remedy of Company. All notices, demands, communications or requests required or permitted to be given under this Agreement shall be sufficiently given if delivered personally, mailed by registered mail, postage prepaid, return receipt requested, or by Federal Express or similar overnight delivery service, at the address specified above. The obligations of the parties under this Agreement which by their nature are intended to survive termination or expiration (including,



without limitation Sections 12, 13, 15 and 16) shall survive the termination or expiration of this Agreement for a period of three years. In case any one or more of the provisions contained in this Agreement is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and such invalid, illegal, or unenforceable provision shall be reformed and construed so that it will be valid, legal, and enforceable to the maximum extent permitted by law.

[Remainder of Page Intentionally Left Blank. Signature Page Follows.]



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

CUSTOMER:

[REDACTED]

By: _____

Print Name: _____

Title: _____

COMPANY:

POWERTECH WATER, INC. d/b/a ElectraMet

By: _____

Print Name: _____

Title: _____

EXHIBIT A

EQUIPMENT & SERVICES SCHEDULE NO. [●]

This EQUIPMENT & SERVICES SCHEDULE (this “Equipment & Services Schedule”) is subject to and governed by the MASTER SERVICES AGREEMENT dated _____, __, 20__, by and between POWERTECH WATER, INC., a Delaware corporation, with its primary place of business located at 140 Trade Street, Lexington, KY 40511 (the “Company”) and [CUSTOMER ENTITY NAME], a [STATE OF INCORPORATION/ORGANIZATION] [ENTITY TYPE], having a principal place of business at [FULL ADDRESS] (“Customer”).

Services and Equipment: Company shall provide to Customer the following described Services and Equipment, together with all present and future attachments, replacement parts, additions or proceeds therefrom (collectively, the “Equipment”), delivery and acceptance of which in good order is hereby acknowledged, upon the terms and conditions described in the Agreement. Customer hereby acknowledges and agrees that any Equipment usage beyond the maximum volume indicated below or variation in the feed water quality could result in additional Monthly Service Fees and replacement parts beyond that set forth in the below table(s).

SERVICES AND EQUIPMENT			
Model Number / Serial Number	Description	Maximum Volume Per Day	Annual Fee
[●]	ElectraMet [] Cartridge System to include ancillary Equipment (pumps, filter, piping)	[Insert gallons]	[\$●]
	_____ removal (ppm-level) from wastewater		
	Flow rate up to _____ gpm		
	Feed Water criteria <ul style="list-style-type: none"> • 		
	Up to [●] ElectraMet™ replacement cartridges per year during Service Agreement term and other replacement parts		
	Remote Monitoring and Technical Support for duration of Service Agreement Term		

Services: Company shall provide the following services to customer (the “Services”), in accordance with the terms and conditions of the Agreement attached hereto and incorporated by reference.

OTHER SERVICES		
Item Number	Description	Fee
	ElectraMet™ installation and commissioning	\$ (one time)
P/N xxx	Additional ElectraMet cartridges (optional)	\$ per cartridge
	On-site Technical Support visit (optional)	\$ per day



Term: The term shall begin on the Acceptance Date as defined in Section 1 of the Master Services Agreement (the “Acceptance Date”) and end on the last day of the month that is [INSERT] months after the Acceptance Date (the “Initial Term”). Upon the expiration of the Initial Term, this Equipment & Services Schedule will automatically extend for additional 12-month terms (each, a “Renewal Term”, and together with the Initial Term, the “Term”). Company and Customer shall provide notice of non-renewal to the other party not less than 60 days prior to the completion of the then current Term. Renewal Terms will continue in perpetuity or for the maximum periods allowed by law, whichever is lesser.

Fees and Payment Terms: In exchange for the continued use of the Equipment and provision of the Services by the Company, Customer shall pay the following Fees in the amount and upon the terms set forth below. The Services Fee shall automatically increase by three percent (3%) every twelve (12) months during the Term.

Cash Security Deposit:	\$ _____	Due upon Execution of this agreement
One-Time Installation/Commissioning Fee:	\$ _____	Due upon Execution of this agreement
Services Fee	\$ _____	Invoiced upon Acceptance date

Use of Equipment. Unless otherwise agreed by the Company in writing, Customer shall only use the Equipment at the following location(s): _____.