



Guardian Service Agreement

May 6, 2022

Vestal Central School District
201 Main Street
Vestal, NY 13850

ATTN: Jim Gana

30-VESTALS

GUARDIAN CSC is pleased to submit this proposal for the water management program for the closed heating and chilled systems at Vestal Central School District.

We agree to provide the chemicals required to maintain system integrity and energy efficient at your facilities in Vestal NY Schools. We will provide monthly technical service visit on the closed loop cooling and heating when systems are in operation. A service report will be generated and emailed at each visit.

The chemical treatment program is designed to manage:

1. Corrosion of and deposition onto the metal portions of the closed loop cooling and heating systems.
2. All treatment is included in the price. Additions will be made by Guardian CSC Account Manager.

The service agreement covers.

- Vestal High closed loop heating, closed loop chilled, pool boiler.
- African Road closed loop heating.
- Clayton Ave closed loop heating.
- Glenwood closed loop heating.
- Tioga Hills closed loop heating.
- Vestal Hills closed loop heating, closed loop chilled.
- Admin Building closed loop heating, steam boiler.

The term of the agreement will be July 1, 2022, through June 31, 2023. Automatic renewal for successive one- (1) year terms will occur unless modified or cancelled upon thirty- (30) days' written notice from either party.

The annual cost of the program will be \$5,096.00 plus applicable taxes, payable quarterly in advance at \$1,274.00 per month. After the first 12 month term, the program cost will be adjusted annually by the greater of: (i) up to 3%; or (ii) a combination of two BLS indices in which 50% of the payment amount shall be adjusted by an amount equal to the percentage increase of the index for Chemicals and Allied Products (WPU06) and 50% of the payment amount shall be adjusted by an amount equal to the percentage increase of the index for Total Private Average Hourly Earnings of Production-Workers Not Seasonally Adjusted (CEU0500000006). Both indices are reported by the US Dept. Labor Statistics-monthly for PPI & quarterly for CEU.



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This agreement does not include the cost of, repair to, or replacement of equipment, or any services or materials supplied by any party other than Guardian CSC, or any services or materials that may be recommended and/or required should a legionella detection occur.

We are pleased to present this proposal to you and ask you to authorize the terms and conditions along with the continuation of the GUARDIAN CSC water treatment program by signing this proposal and/or issuing a purchase order.

GUARDIAN CSC

X Patricia Ketrick CFO
Authorized Signature

X 5/6/2022
Date

X Patricia Ketrick
Print Name

VESTAL CENTRAL SCHOOL DISTRICT

X _____
Authorized Signature

X _____
Date

X _____
Print Name

Customer Purchase Order #

Guardian Service Agreement

Terms and Conditions of Service Agreement

GUARDIAN CSC

6000 Susquehanna Plaza Drive

York, PA 17406

- 1. Exclusive Terms and Conditions** – These Terms and Conditions of Sale, together with any proposals of Guardian CSC (“Seller”), are the exclusive contract terms between Buyer and Seller (“Agreement”) with respect to all chemicals, equipment, tanks, software (“Goods”), and services, advice and instructions (“Services”) to be delivered or provided by Seller. By accepting the Goods and Services, Buyer confirms that the following terms and conditions apply. Even if Buyer sends Seller other terms of contract and Seller does not respond, these terms will be the terms of Seller’s agreement. Any modifications must be in writing and signed by Seller. In the case of any conflict between these Terms and Conditions and any written proposal of Seller, the terms of the proposal shall prevail. If Buyer already has a fully signed sales agreement currently in effect with Seller, then any term in that agreement that conflicts with these terms and conditions will be applied to Buyer’s purchase; the rest of these terms and conditions will otherwise apply.
- 2. Time Limit** – All quotations are valid for a period of sixty (60) days, unless otherwise specified.
- 3. Payment Terms-** Payments will be made in accordance with the specified payment schedule. All payments are due net thirty (30) days from date of invoice, unless otherwise specified. Buyer’s failure to make payment when due will be a breach of the agreement and these terms and conditions. Guardian CSC, at its sole option and without incurring any liability, may suspend its performance until such time as the overdue payment is made or Guardian CSC receives assurances, adequate in Guardian CSC opinion that the payment will be promptly made. In the event of such suspension of performance by Guardian CSC, there will be equitable adjustment made to the service price reflecting the duration and cost resulting from such suspension. Buyer agrees to furnish Guardian CSC with the required credit information. **A 3.5% surcharge is imposed on the transaction amount on all Visa, MasterCard, Discover and American Express credit card products, which is not greater than our cost of acceptance. We do not process debit cards.**
- 4. Taxes**– All sales, use, property or gross receipts taxes imposed on the sale, shipment, or use of the goods and services shall be the obligation of and paid by the buyer.
- 5. Processing Charges** – All processing charges incurred through the use of third party account receivable services, software, or portals shall be the obligation of and paid by the buyer.
- 6. Guardian CSC’s Right to Cure** – Buyer shall give Seller written notice specifying any performance deficiencies and allow Seller a meaningful opportunity of 60 days to correct prior to taking actions adverse to Seller.
- 7. Payment for Excessive Usage; Lost and Damaged Goods** – If payment is a fixed amount, or based on Buyer’s usage or production (and payment is not for the actual amount of Goods delivered), then Buyer shall pay for all Goods **(a)** consumed as a result of a failure to comply with the terms of section 2 above or **(b)** lost or damaged after delivery to Buyer, including loss from theft, force majeure, unexplained disappearance, damage, or otherwise (“Excessive Consumption”). Seller shall replace Goods lost through Excessive Consumption and shall invoice separately for such Goods upon their delivery, this invoice shall be paid within 30 days of receipt.
- 8. Limited Warranties** – Seller warrants to Buyer, for a period of 12 months from the date of the delivery of the Goods or Services, that Goods manufactured by Seller shall conform to Seller’s published specifications and shall be free from defect in material and workmanship and that the Services will be consistent with Good Industry Practice. Good Industry Practice means the exercise of that degree of skill, diligence, prudence and foresight which can reasonably be expected from a competent seller who is engaged in the same type of supply under similar circumstances. For Goods not manufactured by Seller, the warranty shall be the manufacturer’s transferable warranty. A claim for breach of the foregoing warranties must be received by Seller within 12 months of the delivery of the Goods or Service or the claim shall be void. Seller’s sole liability and Buyer’s exclusive remedy for any breach of these warranties is limited to replacement of non-conforming Goods or payment in an amount not to exceed the purchase price of the non-conforming Goods. If any Service fails to meet the foregoing warranty, Seller shall re-perform the Service or refund an amount not to exceed the amount paid for the Service, or, if the Services were provided free of charge, pay an amount not to exceed amounts paid for the Goods to which the defective Services relate in the 12 months prior to the event of the liability. **THE FOREGOING WARRANTIES ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THESE REMEDIES ARE THE SOLE REMEDIES WITH RESPECT TO THE WARRANTIES.**

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9. **Events Beyond Seller's Control** – Seller will not be responsible if Seller cannot perform if events beyond Seller's control occur make it impossible or commercially unreasonable for Seller to perform, including so-called "Acts of God" or "force majeure" events and raw material shortages. Seller shall have the right to apportion deliveries of Goods on such basis as may appear to it to be equitable.
10. **Ownership, Return of Equipment and Tanks**– Upon termination of agreement by buyer or seller, any equipment, and tanks supplied by the seller, but not actually purchased by the buyer, will be returned immediately to the seller in good condition.
11. **Secondary Containment and Safety Features** – Buyer shall provide all secondary containment and shall not remove or deactivate any safety features or secondary containment, and Buyer hereby indemnifies Seller from and against all Costs Seller may suffer as a result of Buyer's breach or default of this covenant.
12. **Compliance with Laws** – Buyer shall be responsible for complying with all laws related to the installation, registration, labeling and operation of all Goods after delivery to it, and Buyer hereby indemnifies Seller from and against all Costs Seller may suffer as a result of Buyer's breach or default of this covenant. Seller will give Buyer Material Safety Data Sheets ("MSDSs") and Buyer will provide the MSDSs to all those required by law to receive them. Buyer will take such precautions as may be appropriate for hazards identified in the MSDSs and properly manage and dispose of all wastes and residues resulting from Buyer's use of the materials in accordance with applicable laws and regulations.
13. **Export Control Compliance** – Buyer agrees to institute such actions so that products, technology or software Buyer receives from Seller are exported by Buyer only in compliance with applicable laws, including U.S. export control laws. Buyer certifies that it will not use or knowingly support the use by others of such Goods, Services, technology or software in the design, development, production or use of nuclear, chemical or biological weapons or ballistic missiles.
14. **Indemnification** – Seller does not agree to indemnify Buyer for any Costs and any such provisions in any contract documents from Buyer.
15. **Limitation on Liability** – IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, SPECIAL OR CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES ARISING FROM THE GOODS OR SERVICES, IRRESPECTIVE OF WHETHER THE CLAIM RISES FROM ACTUAL OR ALLEGED BREACH OF WARRANTY, INDEMNIFICATION, BREACH OF CONTRACT, PRODUCT LIABILITY, CONTRIBUTION OR ANY LEGAL THEORY AND IN NO EVENT WILL SELLER BE LIABLE FOR LOST PROFITS, COSTS OR LOSSES NOT ASSOCIATED WITH DIRECT PHYSICAL DAMAGE TO PROPERTY.
16. **Termination** – This Agreement and any order or delivery or any Services may be terminated or suspended: **(a)** by either party if any proceeding under bankruptcy or insolvency laws is brought by or against the party; **(b)** by a party if the other party defaults in its material obligations and such default is not cured within 60 days of receipt of written notice specifying in detail the default and allowing a meaningful opportunity to correct; **(c)** by Seller if it has reason to doubt the ability or willingness of Buyer to pay for the Goods; **(d)** by Seller if Buyer fails to follow recommendations of Seller or fails to exercise good product stewardship; or **(e)** by Seller if the sale or use of any of the Goods might violate any intellectual property rights. **(f)** Buyer agrees to pay for all Goods in Buyer's possession or for which title has passed to Buyer, at current prices or at such other prices as have been agreed to in writing