1. PARTIES – In these terms and conditions, the words we, us, our and ours mean Seller or Seller’s authorized representative. The words you, your, and yours mean the Buyer.

2. SERVICE – We will provide service (including parts and labor) as set forth on our service brochure and the front of this agreement and subject to these terms and conditions. Our acceptance of this Agreement is subject to equipment conditions at the time of the first service call.

3. EXCLUSIONS – THIS AGREEMENT DOES NOT COVER SERVICE REQUIRED FOR INSUFFICIENT HOT WATER DUE TO SEDIMENT OR CORROSION. PARTS ARE NOT COVERED IF THEY ARE OBSOLETE OR INACCESSIBLE. WE WILL BILL YOU FOR REPAIRS OR SERVICE NOT COVERED BY THIS AGREEMENT AT OUR PREVAILING RATES IN EFFECT AT THE TIME SERVICE IS RENDERED.

4. CONDITIONS OF COVERAGE – THIS AGREEMENT IS AVAILABLE ONLY TO OUR AUTOMATIC DELIVERY CUSTOMERS WHO PURCHASE ALL THEIR FUEL REQUIREMENTS FROM US FOR RESIDENTIAL PROPANE/GAS EQUIPMENT OR RESIDENTIAL OIL HEATING EQUIPMENT WITH A MAXIMUM FIRING RATE OF 2.5 GALLONS PER HOUR.

5. YOUR RESPONSIBILITIES – YOU ARE RESPONSIBLE FOR THE FOLLOWING ITEMS, WHICH ARE NOT COVERED BY THIS AGREEMENT: VENTING AIR FROM THE HEATING SYSTEM; FLUSHING THE FLOW WATER CUTOFF; MAINTAINING AN ADEQUATE WATER LEVEL IN THE BOILER; PROVIDING ADEQUATE BOILER ROOM VENTILATION FOR PROPER COMBUSTION; PROPERLY REMOVING ASBESTOS CONTAINING MATERIALS; CHANGES IN FUEL CONSUMPTION; MAINTAINING CLEAN AIR FILTERS; DRAINING THE EXPANSION TANK; REPLACING FUSES; RESETTING CIRCUIT BREAKERS; TURNING ON THE EMERGENCY SWITCH; SETTING THERMOSTAT TEMPERATURE OR CLOCKS; REPLACING BATTERIES IN SYSTEM DEVICES; MAINTAINING THE CONDITION OF THE CHIMNEY, FUEL TANK, FUEL LINES, AND PIPING; AND SCHEDULING SERVICE CALLS AND TUNE-UPS. YOU ARE RESPONSIBLE FOR PROVIDING ADVANCE NOTICE OF THE REPLACEMENT OR MOVEMENT OF ANY HEATING EQUIPMENT INCLUDING THE FUEL TANK AND RELATED PIPING. CUSTOMERS ARE ALSO EXPECTED TO MONITOR THE CONDITION OF ALL FILTERS (HEATING, COOLING, HUMIDIFIER, AIR CLEANER, ETC.). WE WILL CLEAN/REPLACE THESE FILTERS AS NEEDED DURING OUR MAINTENANCE SERVICE. IT IS THE CUSTOMER’S RESPONSIBILITY TO SUPPLY THE APPROPRIATE FILTERS.

6. BILLING – You will receive an invoice (an “Invoice”) with your agreement. The Invoice amount is due in full upon receipt. If the Invoice is not paid in full, we will send you a statement (“Statement”) showing all amounts due (which may also include amounts due for fuel deliveries). We will charge you a $25.00 fee for all returned checks ($20.00 for New York State customers).

7. WHEN A LATE FEE WILL BE ADDED – If we do not receive full payment of your Invoice by thirty (30) days from the Invoice date, you must pay a late fee. The late fee will appear on your next Statement. We compute the late fee based on a periodic rate of 1.5% per month, which is an ANNUAL PERCENTAGE RATE of 18%, with a minimum late fee of $0.50. We will figure the late fee using the Adjusted Balance Method. In no event will the late fees be more than the law allows.

8. COLLECTION COSTS – You agree to pay, in addition to your balance, all costs of collection as permitted by law, including without limitation, reasonable attorneys’ fees and court costs.

9. IRREGULAR PAYMENT AND DELAY IN ENFORCEMENT – We can accept late payments, partial payments or payments marked “payment in full” without losing any of our rights under this Agreement. We can also delay enforcing any of our rights under this Agreement without losing any of our rights under this Agreement.

10. LIMITS OF LIABILITY – We will not be responsible for loss or damages due to or resulting from: changes in fuel consumption; improper operation of attic fan or alternate fuel device; your failure to schedule service and or tune-ups; acts of God; terrorism; strikes; riots; material or labor shortages; fire; flood; hurricane; power interruption or loss; accidents; governmental acts; abuse or misuse of equipment; spontaneous part failure; insufficient water; frozen or jellied pipes/lines; or any other conditions beyond our reasonable control, including a vacant, unattended or unoccupied premises (in this Agreement, the term “vacant or unattended premises” shall mean premises at which no adult occupant is present for at least twenty-four (24) consecutive hours). TO THE MAXIMUM EXTENT PERMITTED BY LAW, we will have no liability for direct or indirect, special or consequential damages of any kind. We are not responsible for secondary damage as a result of delay in rendering service. To the extent any warranty exists, our liability for any warranty claim will be limited, as permitted by law, to the repair or replacement of defective parts or services provided under this Agreement. Any and all actions, whether based in contract or tort, whether for personal injury or property damage, and whether brought by Buyer or Buyer’s insurance company, must be commenced within one year of the cause of action or shall be barred as a matter of law. IN NO EVENT SHALL OUR LIABILITY TO YOU OR OTHERS UNDER THIS AGREEMENT OR OTHERWISE EXCEED $1,000, INCLUDING ANY LIABILITY UNDER SECTION 11.

11. FUEL TANK, PIPING AND ENVIRONMENTAL LIABILITY DISCLAIMER (NON-TANKSURE® PROGRAM CUSTOMERS) – Under no circumstances are we obligated to repair or replace a tank, lines and/or piping. You are responsible for the condition and maintenance of the fuel tank, lines and piping. We assume no liability for same. This Agreement does not insure against tank or line leakage or any damages to person or property resulting from tank or line leakage. This Agreement does not cover any installation, cleanup, removal, remedial, or other costs of compliance with any environmental or other laws, rules or regulations. We are not liable to render any service for which are not licensed. WE WILL NOT BE RESPONSIBLE FOR BODILY INJURY, A DECREASE IN PROPERTY VALUE OR PROPERTY DAMAGE ARISING OUT OF THE DISPOSAL, DISCHARGE, DISPERSAL, RELEASE, OR ESCAPE OF OIL, PROPANE OR OTHER SUBSTANCES OR DERIVATIVES INTO OR UPON YOUR PROPERTY, SURROUNDING PROPERTY, THE ATMOSPHERE OR ANY WATER COURSE OR BODY OF WATER UNLESS DIRECTLY AND SOLELY CAUSED BY OUR NEGLIGENCE.

12. TANKSURE® PROGRAM – The Company will pay up to $1,500 toward the replacement of your tank, once tested and qualified for the TankSure® Program, if a tank leak occurs subsequent to this test due to internal corrosion, or a tank leak occurs due to a manufacturer’s defect or a non-leaking tank is identified for proactive replacement. While we cannot guarantee that a leak will not occur or your tank will not fail after testing, we are providing these new services with the hope that by testing and monitoring, we are offering a long-term proactive tank replacement program for our customers. Accidental damage is not covered by the TankSure Program. The TankSure Program does not cover environmental clean-up, property damage, waste disposal services or other damages or losses caused by a tank leak or system failure, even if the tank has been tested and qualified ultrasonically and is enrolled in the TankSure Program.

13. WAIVER OF SUBROGATION RIGHTS – Both Buyer and Seller do hereby mutually waive, any and all rights of subrogation and or recovery, against each other, including our officers, members, agents and employees, occurring on or arising out of this Agreement, the delivery of fuel and any system service or repair at your premises to the extent such loss or damage is covered by proceeds received from casualty, homeowners or other insurance carried by the other party. The party sustaining such loss shall have no right of recovery against the other party, or the agents, servants, contractors or employees of the other party; and no third party, including but not limited to any insurance carrier, shall have any right of recovery (whether based in tort, contract or otherwise) by way of subrogation or assignment or otherwise.

14. NO WARRANTIES – UNLESS EXPRESSLY SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES, EXPRESS OR IMPLIED, IN LAW OR IN EQUITY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHETHER OR NOT PURPOSES OR SPECIFICATIONS ARE DESCRIBED HEREIN. NO WARRANTY IS MADE AS TO THE ABILITY OF THE SYSTEM TO SUPPLY HEAT OR HOT WATER AS REQUIRED BY YOU.

15. CANCELLATION BY YOU – You may cancel this Agreement at any time on thirty (30) days written notice. You agree to remain responsible for all purchases made and/or services rendered before the thirty (30) day period expires and for any collection costs. You understand and acknowledge that the service fee paid for this Agreement is not refundable.

16. CANCELLATION BY US – We can suspend service under or terminate this Agreement with or without notice and without further responsibility if: you fail to purchase all of your fuel requirements from us; you fail to make a payment on time or if we deem your payment history unsatisfactory: you file for bankruptcy; you fail to remedy conditions identified as hazard to life are property; you permit any person other than our authorized representatives to service your equipment; you temporarily or permanently suspend fuel deliveries; if equipment becomes outdated and parts are not readily available; if annual propane consumption drops or annual fuel oil consumption drops below six-hundred (600) gallons per year; and/or you fail to comply with your obligations under this Agreement.

17. TERM – The term of this Agreement is twelve (12) months. For each twelve (12) months thereafter, you will receive an Invoice for the annual cost of the Agreement, as determined by us and disclosed on your Invoice. If you do not pay the Invoice in full within thirty (30) days of the date of the Invoice, this Agreement will be considered expired of the expiry date and you will be billed for all services we perform at our prevailing rates in effect at the time service is rendered. We can change the terms of this Agreement each subsequent twelve (12) month term, provided we give you thirty (30) days’ (ninety (90) days in New Jersey) written notice before the period in which the change becomes effective or billing takes place.

18. ARBITRATION OF DISPUTES – Any controversy or claim arising out of or relating to this contract or any breach thereof shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Consumer Arbitration Rules. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the forgoing, any controversy or claim may be submitted by either Buyer or Seller to a small claims court having jurisdiction of the controversy or claim. Buyer and Seller agree that for any claim initiated after the Effective Date either MAY BRING CLAIMS AGAINST THE OTHER ONLY IN BUYER OR SELLER’S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, Buyer and Seller agree that the arbitrator may not consolidate proceedings or more than one person’s claims, and may not otherwise preside over any form of representative or class proceeding.

19. ENTIRE AGREEMENT – We and you agree that this written Agreement along with the Service Brochure constitute the entire Agreement. Any statements not contained in this Agreement or the Service Brochure are not part of this Agreement. To the extent that these terms of this Agreement and Service Brochure are inconsistent, this Agreement shall control.

20. BRONZE PLAN offers a 15% discount on diagnostic and repair charges, PLUS scheduled routine maintenance.

21. GOLD PLAN covers labor and listed parts when customer has a problem with covered equipment, PLUS scheduled routine maintenance.

22. Equipment is subject to the inspection and approval of Griffith Energy before acceptance in the Gold Service Plan. System must receive a satisfactory rating before coverage begins. Any repairs required to place equipment in acceptable condition are excluded and will be charged separately.

23. Upon approval, acceptance and payment, service plans will be effective immediately. Preventive maintenance and combustion service will be performed during the period the plan is in effect at the mutual convenience of you and GRIFFITH.

24. The service plans are not written on a prorated basis and no refunds will be made if the customer cancels plan prior to its normal expiration date. The service plans are transferable to another homeowner subject to credit approval but not from one heating system to another. The plans are void if anyone other than a Griffith Energy employee works on the equipment.

25. GRIFFITH’S responsibility under a service plan will automatically cease without notice and without refund if service or any parts or equipment covered by the plan are procured from another source, if the customer purchases fuel oil from any other source, if customer refuses automatic delivery, or if customer’s account is past due.

26. The service plans at prices quoted are for ordinary residential or comparably sized commercial heating systems that fire at a rate of up to 2.5 gph. Both plans apply to a single heating unit and one zone only. Additional units require separate plans. Each additional zone will be added for $15.

27. Priority service. Plan customers receive priority scheduling, ahead of customers without a plan. Most calls are answered within 24 hours. However, longer response times may be encountered during peak periods. GRIFFITH makes no guarantee of any specific response time.

28. Replacement of the entire unit or of the following systems and devices is not covered under either plan: condensing coils, flues, duct systems, evaporator coils, radiators, registers and grilles, and heating system piping, condensate drain lines, condensate pumps, UV lights, emergency drain pan and switch. The following services are not covered: electrical service from breaker to unit, gas and water leak repairs; refrigerant leak tests and repairs. In addition, these service plans DO NOT COVER backflow preventors, condensing furnaces or boilers, chimney maintenance, sidewall vents, discovery and removal of asbestos material, fuel storage/supply systems, separately fired domestic water-heating equipment, indirect-fired water-heating storage systems, compressors, heat exchangers, burners, refrigerant recovery or filters, humidifiers, electronic air cleaners, radiant heating systems, Blueray heating systems, forced-warm-air zone controls and dampers, combination solid/oil units, wood or coal add-on units, tankless coils, oil tanks, underground lines and fittings, oil lines, programmable or clock thermostats, and other accessories not an integral part of the air conditioner or furnace.

29. If “oil tank needs replacement” diagnosis is made and customer declines replacement, all subsequent calls related to clogged oil lines, filters, nozzles, etc., will not be covered.

30. Griffith Energy’s obligation to furnish parts shall be subject to their availability through normal supply sources. These service plans do not cover replacement of a complete boiler, furnace, burner, domestic (indirect or oil-fired) water heater, humidifier or piping; baffles; combustion chambers, vent piping, oil lines; oil storage tanks or any parts or services not mentioned explicitly in the plan.

31. The following items are not covered under the heat pump plans: backup heating systems (oil, natural gas, propane), groundwater heat pumps and geothermal heat pumps.

32. These service plans include only repair and replacement of parts specifically listed herein that are defective due to ordinary use or wear and tear, based on the judgment of Griffith Energy.

33. These service plans do not cover parts or labor when failure is due to lack of fuel when delivery has been delayed due to delinquency of payments; customer leaving emergency switch in off position; customer setting thermostat too low to call for heat; customer failing to check for blown fuses or tripped circuit breakers; customer failing to flush steam boilers, correct low water levels or change clogged air filters; air in baseboards or radiators.

34. Parts and labor not covered by a service plan will be billed at prevailing rates.

35. Griffith Energy shall be released from liability for “run-outs” of fuel when the customer is using a supplemental heat source.

36. Calls for replacing dirty filters; balancing heat and/or cooling to individual rooms; and air bleeding of hot water radiator systems and repairs to radiators will be considered chargeable calls.

37. It is the customer’s obligation to ensure that the heating or cooling unit is accessible for service. If it is not accessible, service will not be performed.

38. GRIFFITH will endeavor to render prompt and efficient service, but it is expressly agreed that GRIFFITH shall in no event be liable for damage or loss caused by delay, or any loss arising out of the performance of this agreement.

39. Annual tune-ups may be scheduled at any time during the service plan year. Through a regular program of postcard reminders and follow-up phone calls, GRIFFITH will make every attempt to schedule the tune-up; however, this responsibility is shared with the customer, who must make the unit accessible to be worked on during normal working hours (Monday–Friday, 8 a.m.–5 p.m.). GRIFFITH is not responsible if maintenance is not performed due to unavailability of customer to schedule this service. Maintenance is recommended in 18-month intervals, dependent upon annual fuel use.

40. For Griffith Gold Plan customers, Griffith Energy will provide emergency service 7 days a week, 365 days a year. Emergency service is defined as 'no-heat', serious fuel leaks, or other dangerous situations. ‘No-cooling’ calls must be made during daylight hours for safety reasons, and attic units must have floor covers to service the system. All other service will be performed during normal working hours, Monday–Friday, 8 a.m.–4:30 p.m.

41. For Bronze Plan customers, Griffith Energy will provide emergency service 7 days a week, 365 days a year. Emergency service is defined the same as above and such service will be billed at the prevailing overtime rate at the time of the service call (less the 15% discount per the Bronze Plan benefit). Normal working hours for Bronze Plan customers are 8 a.m.–4:30 p.m.

42. The Loyalty Credits program gives each customer with a BRONZE or GOLD Plan $50 for each consecutive year the plan is in place, toward the purchase of a replacement furnace, heat pump, air handler or condensing unit, up to a maximum of $500. Credits cannot be used for repairs, installation of accessories or any other purchases, or for paying any outstanding balance to GRIFFITH.

43. Loyalty Credits are not transferable and cannot be paid in any form in lieu of purchase.

44. When customer uses Loyalty Credits toward a purchase, the equipment being replaced must have been covered under a current service plan with GRIFFITH.

45. GRIFFITH reserves the right to modify the Loyalty Credits program, including terminating it without prior notice. In the event of program termination all earned credits will be available for use by customer for a period of one year following program termination.

46. This agreement does not cover sidewall vented equipment.

47. GRIFFITH is not obligated to perform rooftop service.

48. This is the entire plan (both Bronze and Gold plans); it cancels and supersedes all prior plans.