

PENN POWER SYSTEMS

Power Generation Systems Specialists

Date of Proposal: 07/21/2017

Proposal#: IA78-90EA-CS

EMERGENCY GENERATOR SET PLANNED MAINTENANCE AGREEMENT PREPARED FOR: Kenmore-Town of Tonawanda UFSD

Penn Power Systems hereby agrees to perform regularly scheduled maintenance and inspections of the emergency power generation systems as listed:

SERVICES TO BE PERFORMED:

1. Check fuel system day tank operation, fuel lines, connections, vents, main and day tank fuel levels.
2. **Change fuel filter and water separator elements during the full P.M. service annually.**
3. Visually check fuel system injection pump, solenoid(s), check valves governor controls, linkages.
4. Check oil lube system inclusive of the engine and governor oil levels, oil heater, lines and connections.
5. **Change the lube oil and filters during the full P.M. service annually.**
6. Check the cooling system inclusive of the coolant level, antifreeze, freeze point, inhibitor level, louvers, radiator air flow and core condition. Block heater(s), hoses, connections, pressure test radiator cap, belt condition and tension, fan shrouds, guards and brackets.
7. Check for external fuel, lube oil, coolant and exhaust leaks.
8. Check and record lube oil pressure, fuel oil pressure and engine coolant temperature gauge readings.
9. Check exhaust system, flex connection, supports, insulation and rain cap. Drain condensation drip legs.
10. Check batteries, charging system, terminals and cables. Check electrolyte level and specific gravity.
11. Load test Batteries. Clean battery post and terminals apply corrosion inhibiting film.
12. Check electrical system wiring connections and condition. Inspect lamps and fuses.
13. Check engine and generator instruments and meters for proper operation.
14. Check and test alarm sending units, pre-alarms, and safety shutdowns.
15. Check remote annunciator operation.
16. Check air intake piping, hoses, clamps, louvers, bypass actuators and air box Dampers.
17. Visually check air filter elements, air box canisters, breathers and crankcase ventilation systems.
18. Check engine and generator mounting bolts and vibration isolators.
19. Visually check generator bearings.
20. Check exciter assembly, stator and field for cleanliness and integrity.
21. Visually check rotating rectifiers and surge suppressor.
22. Check and record residual, no-load voltage.
23. Check voltage regulator and adjust if necessary.
24. Visually inspect generator breaker and bus bar connections for cleanliness and signs of overheating.
25. Check transfer switch compartment and components for cleanliness, integrity, overheating and wear.
26. Evaluate time delay settings
27. Check transfer switch exercise functions.
28. **Perform (1) one annual (2) two-hour resistive load bank test per NFPA110 specifications.**
29. **All readings, temperatures, transfer and retransfer times, Hour meter readings, and discrepancies annotated and submitted with detailed report to the appropriate individual(s) following each round of service.**

All planned inspection services will be performed during standard business hours unless both parties have agreed otherwise. Adjustments, calibrations and repairs will be made at an additional charge upon customer approval and a firm Purchase Order is issued.

A Division of Penn Detroit Diesel Allison, LLC.

SALES • RENTALS • PARTS • SERVICE

PHILADELPHIA	PITTSBURGH	HARRISBURG AREA	SYRACUSE	BUFFALO
8330 State Road Philadelphia, PA 19136-2986 215-335-5010 Fax: 215-335-2163	21260 Route 19 Cranberry Twp., PA 16066-5808 724-631-1260 Fax: 724-631-1206	13974 Kutztown Rd. Fleetwood, PA 19522-8653 717-273-4544 Fax: 610-944-6019	7044 Interstate Island Rd Syracuse, NY 13209-9799 315-451-3838 Fax: 315-461-8662	350 Bailey Avenue Buffalo, NY 14210-1737 716-822-0051 Fax: 716-826-1544



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Both parties further agree as follows:

A. This is a One Year Agreement

B. Pricing – Semi-Annual Package per SOW to include (1) one – (2) two hour resistive load bank test using test equipment per NFPA110 specifications. Firm pricing for all units included within this agreement shall be:

Period	Package Type	Total Value Per Year
10/01/2017 to 09/30/2018	One Year Semi-Annual Package	Equipment: \$11,931.00
Equipment: 13 Generator Set(s) and Transfer Switch(s)		

Site	Location	Equipment	Mfr.	Qty	SA-PM	Load Bank
1 Ken-Ton UFSD	Hoover	Generator & ATS	250kw Kohler	1	\$713.00	\$403.00
2 Ken-Ton UFSD	Admin Bldg	Generator & ATS	300kw Kohler	1	\$747.00	\$383.00
3 Ken-Ton UFSD	Lindbergh	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00
4 Ken-Ton UFSD	Jefferson	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00
5 Ken-Ton UFSD	Franklin	Generator & ATS	250kw Kohler	1	\$713.00	\$383.00
6 Ken-Ton UFSD	East High	Generator & ATS	250kw Kohler	1	\$713.00	\$383.00
7 Ken-Ton UFSD	Hamilton	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00
8 Ken-Ton UFSD	Transportation	Generator & ATS	35kw Onan	1	\$482.00	\$281.00
9 Ken-Ton UFSD	Holmes	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00
10 Ken-Ton UFSD	Roosevelt	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00
11 Ken-Ton UFSD	Kenmore Middle	Generator & ATS	200kw Kohler	1	\$673.00	\$383.00
12 Ken-Ton UFSD	West High	Generator & ATS	250kw Kohler	1	\$713.00	\$383.00
13 Ken-Ton UFSD	Edison	Generator & ATS	100kw Kohler	1	\$482.00	\$281.00

of Inspections: (One) – December 2017 – (First visit inspection and testing services) Level I
 # of PMs: (One) – July 2018 – (Second visit full PM and inspection testing services) Level II

C. Three year contract pricing option: This contract may be extended for an additional (2) two years with an annual price increase of 2.0% annually with mutual agreement by both parties. This agreement may also be cancelled by either party with 30 days written notice prior to annual effective start date.

D. Penn Power Systems shall provide the Client with a Certificate of Insurance, directly from the policyholder. Insurance coverage includes general, automotive, garage and inland marine liability. There shall be no waivers of subrogation.

F. Penn Power Systems attached standard terms and conditions apply. Pricing above does not include any local state or federal taxes. Please provide exempt form if applicable.

E. All additional and/or emergency repairs shall be invoiced at the following rates for the duration this Agreement remains valid.

Straight time	Monday – Friday	7:30 AM – 4:30 PM	\$ 105.00 per hour
Overtime	Monday – Friday	4:30 PM – 7:30 AM	\$ 141.50 per hour – non holiday
	Saturday	All day	\$ 141.50 per hour – non holiday
Double Time	Sunday	All day	\$ 186.00 per hour
	Holiday	All day	\$ 186.00 per hour
Mileage			\$ 2.00 per mile portal to portal

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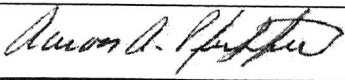
F. Discounted Generator Rental Rate Pricing: The following listed pricing below will reflect charges for rental generators if needed to support Kenmore – Town of Tonawanda UFSD in the event of an emergency or to support a generator down situation based on standby and prime power rental charges. This is not a guaranteed rental contract, all rental orders will be on a first come first serve basis. Rental rates are as follows to support the following facilities, Admin Bldg, East High, West High, Franklin, and Hoover:

<u>Equipment</u>	<u>Daily Rate Standby</u>	<u>Daily Rate Prime</u>	<u>Weekly Rate Standby</u>	<u>Weekly Rate Prime</u>
100kW Rental	\$220.00	\$440.00	\$650.00	\$1,300.00
250kW Rental	\$440.00	\$880.00	\$1,300.00	\$2,600.00

Additional Rental Charges That May Apply:

Delivery to Site (Time and Material)	\$100.00 per hour
Pickup from Site (Time and Material).....	\$100.00 per hour
Cable Charges.....	\$22.00 per 50ft. section
Pigtails.....	\$3.00 per pigtail
Generator Connection (T &M).....	\$100.00 per hour
Generator Disconnection (T&M).....	\$100.00 per hour
Generator Fuel Usage.....	\$ 20% over current market value

Notes: One year semi-annual generator and transfer switch PMA as per PPS terms and conditions

Purchase Order #:	Agreed and accepted by Client # 89027
Aaron Pfeiffer Penn Power Systems 350 Bailey Avenue Buffalo, NY 14210 716-822-0051	Mr. Tim Ames / Jill O'Malley, BOE President Kenmore-Town of Tonawanda UFSD 1494 Colvin Blvd. Buffalo, NY 14223 (716) 874-8475
	
Signature	Signature

TERMS AND CONDITIONS

Penn Detroit Diesel Allison, LLC, is a Pennsylvania Limited Liability Company doing business under the name Penn Detroit-Allison, as well as through certain named divisions, including but not limited to Penn Power Systems and Carrier Transcold of Pennsylvania East and West, of North Jersey and of Upstate New York. All current and future dealings and/or transactions between Penn Detroit Diesel Allison, LLC, any of its divisions, related entities and/or successors in interest and the Applicant, or any entity related to said Applicant, shall be subject to the following terms and conditions unless modified, in writing, by Penn Detroit Diesel Allison, LLC, and said terms and conditions shall supersede any inconsistent terms and conditions submitted by the Applicant or any other individual or entity unless expressly accepted in writing by Penn Detroit Diesel Allison, LLC.

Penn Detroit Diesel Allison, LLC ("PennDDA") agrees to extend credit, provide goods and/or services, rent equipment, and transact other business, as is from time to time necessary in accordance with the following terms and conditions ("Terms and Conditions").

1. **Orders.** Orders are subject to acceptance by PennDDA, in writing, and shall not be subject to cancellation or change in specifications, shipping schedules or other conditions originally agreed upon without PennDDA's written consent, and then only upon agreement to compensate PennDDA for loss caused by such cancellation or change, including costs of purchased materials, engineering costs, and reasonable profit.

2. **Payment.** Subject to the establishment of satisfactory credit, terms of payment are as set forth on any invoice; however, in no case shall the terms exceed net thirty (30) days from the date of said invoice. Partial billing will be made for partial shipments and stored materials. No retainage will be allowed unless agreed to in writing by PennDDA. Any sum that Applicant owes under an invoice, but fails to pay when due, shall be subject to a finance charge computed by applying a monthly periodic rate of 1.5% (corresponding annual rate of 18%), or the highest rate permitted by applicable law, if less, to the adjusted balance of an account. All prices are F.O.B. point of manufacture unless specified otherwise by PennDDA. Quotations expire thirty (30) days from the date issued, and are subject to termination within that period. At its sole discretion, PennDDA may extend quotations.

Goods held beyond delivery date for convenience of Applicant will be invoiced on the date of completion and terms of payment in such case will apply from invoice date. Such goods will be subject to charges for warehousing and other expenses incident to such delays.

The Applicant shall immediately inform PennDDA of any change in its financial condition or in the structure of its business entity, including, but not limited to, changes to or additions of bank or brokerage accounts, mergers and/or acquisitions, asset purchases or sales, name changes, changes of officers, and any litigation to which the Applicant is a party, including pending and/or threatened suits, both civil and criminal.

If the financial condition or the business structure of Applicant at any time does not, in the sole judgment of PennDDA, justify the continued extension of credit or the continuance of the work performed or the goods to be supplied on the terms of payment as set forth above, PennDDA may require partial or full payment in advance, or shall be entitled to cancel any part of any order then outstanding, and shall be entitled to payment for reasonable cancellations charges.

In the event of bankruptcy or insolvency of Applicant, or in the event any proceeding is brought against Applicant, whether voluntary or involuntary, under the bankruptcy or any insolvency laws, PennDDA shall be entitled to cancel any credit account and/or any order or portion thereof then outstanding at any time during the period for filing claims against the estate, and shall be entitled to payment for reasonable cancellation charges.

3. **Designs.** All designs and specifications shown in PennDDA's catalogues are subject to change without notice. PennDDA shall not be obligated to furnish Applicant with such changes on equipment previously delivered.

4. **Force Majeure.** PennDDA shall not be liable for any loss, damage, failure, inability and/or delay in delivery or performance due to: the acts of any government, acts of civil or military authority, accidents; fires; wars; act of terrorism; insurrections; civil disorders; floods; strikes; or other labor disturbances or difficulties; shortages of fuel or power; breakdowns of machinery; acts of God; acts of Applicant; failures in source of supply; or any other cause beyond the control of PennDDA; and PennDDA shall then have the right to cancel any order or pending work, or extend any shipping or delivery date, if one or more such contingencies prevent or delay shipment or performance hereunder.

5. **Claims.** All material is carefully packed for shipment. Risk of loss shall pass to Applicant after delivery to the transportation carrier, and Applicant shall continue to be obligated to pay the purchase price for the goods in the event of any damage, loss or destruction after delivery at the F.O.B. point. PennDDA will provide Applicant with all reasonable assistance in securing satisfactory adjustment of claims.

6. **Equipment and Services Provided by Others.** PennDDA shall not be responsible for equipment and/or materials supplied by others, nor for the overall operation of any system comprised of both equipment and/or materials furnished by PennDDA and others. Accordingly, any comments from PennDDA regarding Applicant-furnished drawings are responsive only and PennDDA shall have no liability therefore. PennDDA offers no opinion of a professional nature, including, but not limited to, the preparation or approval of plans, opinions, reports, surveys, designs, specifications and/or supervisory, inspection, or engineering services provided by others.

7. **Installation and Start-Up.** If requested in writing, PennDDA will provide field service technicians and engineers, if available, to supervise installation and start-up of its equipment at then-current rates.

8. **Warranty.** PennDDA warrants each product of its manufacture to be free from defects in materials and workmanship at the time of delivery. This warranty is non-assignable and shall not inure to the benefit of any person or entity other than Applicant.

This warranty covers only malfunctions resulting from defects in materials or workmanship. The Applicant is responsible for proper equipment installation and the performance of regular maintenance services as specified in the written materials accompanying the equipment or elsewhere.

This warranty does not cover conditions arising from the misuse, negligence, alteration, accident or lack of performance of normal maintenance services; any equipment which shall have been repaired by other than a PennDDA-authorized service outlet so as in any way, in the sole judgment of PennDDA, to affect adversely its performance and/or reliability; the replacement of maintenance items made in connection with normal maintenance services; loss of time, convenience, anticipated profits, use of the equipment or any other incidental, indirect, punitive, special or consequential damages; or equipment removal or reinstallation costs incurred in connection with the repair or replacement of defective equipment.

If any equipment, parts and/or materials supplied by PennDDA are manufactured by someone other than PennDDA, and said manufacturer provides its own warranty, PennDDA's warranty shall be superseded with respect to such equipment, parts and/or materials. In that event, the manufacturer's warranty shall be the sole applicable warranty and PennDDA shall have no further liability or responsibility whatsoever, including any failure on the part of any other manufacturer to meet the conditions of its warranty. There is no warranty liability hereunder unless payment in full for the equipment supplied pursuant to any invoice has been received by PennDDA.

The repair or replacement, at PennDDA's option, of defective equipment under this warranty shall be performed by a PennDDA-authorized service outlet using new parts or, where applicable, remanufactured parts. Said repair or replacement shall take place within a reasonable time following the delivery, transportation prepaid, and in accordance with PennDDA's instructions, of the equipment to PennDDA, or its service outlet's place of business. If Applicant believes any equipment obtained from PennDDA is defective within the meaning of this warranty, Applicant shall notify PennDDA, in writing, within thirty (30) days of the discovery of such defect.

No equipment shall be returned to PennDDA or its service outlet without written authorization and shipping instructions first having been obtained from PennDDA. PennDDA must be in timely receipt of the warranty registration materials which accompanied the equipment, properly filled out, before any such warranty authorization will be issued.

THIS WARRANTY IS THE ONLY WARRANTY MADE BY PENNDDA, AND IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTY OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, USE OR WORKMANLIKE PERFORMANCE. EXCEPT AS OTHERWISE SPECIFICALLY SET FORTH HEREIN, REPAIR OR REPLACEMENT, AT PENNDDA'S OPTION, OF DEFECTIVE EQUIPMENT, IN THE MANNER PROVIDED HEREIN, SHALL CONSTITUTE FULFILLMENT OF ALL LIABILITIES OF PENNDDA TO APPLICANT, WHETHER BASED ON CONTRACT, NEGLIGENCE OR OTHERWISE, WITH RESPECT TO EQUIPMENT PROVIDED PURSUANT TO THIS INVOICE, AND IN NO EVENT SHALL PENNDDA BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, FOR LOSS OF USE, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, FAILURE TO REALIZE EXPECTED SAVINGS, DELAY, DETENTION, AND/OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OF ANY KIND. IN NO EVENT SHALL PENNDDA'S AGGREGATE LIABILITY TO APPLICANT, IN DAMAGES OR OTHERWISE, EXCEED THE TOTAL OF ALL PAYMENTS, IF ANY, RECEIVED BY PENNDDA FOR THE EQUIPMENT AND SERVICES PROVIDED PURSUANT TO THE TERMS OF ANY INVOICE. THE REMEDIES OF APPLICANT SHALL BE LIMITED TO THOSE PROVIDED HEREIN. IN NO EVENT SHALL PENNDDA BE LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, OR FOR DAMAGE TO PROPERTY OF THIRD PARTIES, UNLESS THE SAME IS THE RESULT OF THE SOLE GROSS NEGLIGENCE OF PENNDDA OR ITS EMPLOYEES.

9. **Taxes.** Prices quoted and/or invoiced are exclusive of taxes unless specifically stated. The amount of any present or any future sales, occupation, use, tariff, excise or other similar taxes and/or duties for which PennDDA may be liable, either on its own behalf or on behalf of Applicant, with respect to any orders for equipment and/or services, shall be in addition to the billing prices set forth in any invoice, and shall be paid by Applicant.

10. **Remedies.** Upon the failure of Applicant to make any payment when due under any invoice, to accept delivery at times stated, or to comply with all provisions of any invoice, and these Terms and Conditions, PennDDA shall have the right to suspend or cancel delivery to Applicant, and Applicant shall not have any cause of action or be entitled to any offset, counterclaim or recoupment against PennDDA by reason of such action. In addition to any remedies set forth in these Terms and Conditions, PennDDA shall be entitled to any and all rights and remedies available to it under law, and all rights and remedies available to PennDDA shall be cumulative. PennDDA shall be entitled to and Applicant responsible for any attorney's fees and costs incurred in connection with Applicant's failure to make any payment when due under any invoice, to accept delivery at times stated, retrieve any vehicle or other equipment from PennDDA property upon 30 days written notice or to comply with all provisions of any invoice and/or these Terms and Conditions.

11. **Title.** Title to any equipment provided by PennDDA shall not pass to Applicant until the purchase price for any such equipment and for services related thereto are paid in full. In order to ensure payment in full, Applicant grants to PennDDA a security interest in the said equipment and authorizes PennDDA to file applicable Uniform Commercial Code financing statements with respect to said equipment, and Applicant shall, upon request, execute such financing statements and/or other instruments deemed necessary by PennDDA. PennDDA shall release such filings upon full payment. Where PennDDA installs parts and/or performs service on and/or stores any equipment or vehicles owned by Applicant or others on behalf of or at Applicant's request or direction, Applicant agrees that such installation and/or service and/or storage shall create a lien against such equipment and/or vehicles and PennDDA shall be entitled to hold said equipments and/or vehicles in its sole possession until payment in full has been received by PennDDA. If, after 30 days written notice to Applicant of Applicant's failure to pay and PennDDA's request for removal of said equipment and/or vehicle from PennDDA's property Applicant has not made payment in full and removed vehicle from PennDDA's property, Applicant shall be deemed to have abandoned said equipment and/or vehicle and PennDDA may dispose of said equipment and/or vehicle or sell said equipment and/or vehicle and retain all proceeds of said sale which are in excess of the balance owed by Applicant to PennDDA as liquidated damages. If said equipment and/or vehicle is titled or otherwise registered in a way which prohibits transfer without the title holder or registrant's acknowledgement, authorization and/or signature, Applicant shall acknowledge, authorize and/or execute any required document to facilitate any transfer contemplated hereunder and if Applicant fails to do so, this Application shall act as Applicant's acknowledgement and authorization for any Court to Order such transfer without judgment and/or any other process including advertisement and or public or sheriff sale otherwise required by law or regulation.

12. **Export Shipments.** All equipment shall be delivered packed in accordance with PennDDA's standard domestic packing methods, unless export packing is expressly ordered, in which case special packing requirements must be specified. PennDDA does not assume responsibility for obtaining any export or import license or certificate. Export shipment is subject to PennDDA's ability to ship under the laws and/or regulations of the United States and other governments. PennDDA reserves the right to cancel any order, whether or not previously acknowledged, without liability, if at the time of the sale or shipment said shipment is subject to restrictions or prohibitions by any governmental agency or department of the United States or of any foreign country claiming jurisdiction over the shipment's transit route or destination.

13. **Indemnification.** To the fullest extent permitted by law, Applicant agrees to indemnify and hold harmless PennDDA and all of its agents and employees from all claims, damages, losses, liabilities, actions, causes of action, costs, fines and expenses, including, but not limited to, interest, penalties, reasonable attorneys' fees and expenses, and all other amounts reasonably incurred in investigation, defense or settlement of any of the foregoing, arising out of, relating to, or resulting from, any act or failure to act pursuant to any invoice and these Terms and Conditions, except to the extent caused solely by the gross negligence of PennDDA or its employees.

14. **Miscellaneous.** All clerical errors are subject to correction. None of Applicant's rights under these Terms and Conditions shall be assigned or transferred by Applicant to any other person or entity, whether by operation of law or otherwise, without PennDDA's prior written approval. The failure of PennDDA to enforce any rights under these Terms and Conditions shall not constitute a waiver of any such rights, or any other rights, under these Terms and Conditions. This invoice and these Terms and Conditions, as set forth herein, or as changed or modified by written instrument executed by persons duly authorized by PennDDA and Applicant, shall constitute the entire agreement between PennDDA and Applicant. Any invoice and these Terms and Conditions shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, notwithstanding any conflict of law provision to the contrary, and all disputes arising under any invoice and/or these Terms and Conditions shall be resolved in the state courts of the Commonwealth of Pennsylvania, or in the United States District Court for the Eastern District of Pennsylvania. All of the provisions of these Terms and Conditions are separate and severable. If any of the provisions hereof are held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision hereof.