



HVAC PERFORMANCE / OUTCOME-BASED AGREEMENT

This HVAC Performance / Outcome-Based Agreement (“Agreement”) is entered into as of the ___ day of _____, 20__ (“Effective Date”), by and between:

Service Provider (Contractor):

[Company Name]

[Address]

[City, State, Zip]

Phone: [Phone]

Email: [Email]

License #: [License Number]

AND

Client:

[Client Name / Organization Name]

Facility Address: [Project Address]

Billing Address: [Billing Address if different]

Phone: [Client Phone]

Email: [Client Email]

Collectively referred to as the “Parties.”

1. PURPOSE AND INTENT

The purpose of this Agreement is to establish a performance-based HVAC services arrangement in which Service Provider assumes responsibility for achieving defined operational, energy, comfort, and/or reliability outcomes at Client’s facility.

Unlike traditional time-and-materials or fixed-fee contracts, compensation under this Agreement is linked to measurable performance results.

2. DEFINITIONS

For purposes of this Agreement:

- **Baseline Performance:** The pre-contract operating condition and energy usage of HVAC systems.
- **Performance Period:** The contract duration during which metrics are measured.
- **Guaranteed Metrics:** Quantifiable outcomes Service Provider commits to achieve.
- **Measurement & Verification (M&V):** Agreed method to evaluate performance results.
- **Savings:** Verified reductions in energy consumption or operating cost compared to baseline.

3. TERM

Initial Term: ___ years

Commencement Date: _____

Expiration Date: _____

The Agreement may renew automatically for ___ year terms unless terminated in writing ___ days prior to expiration.



4. SCOPE OF SERVICES

Service Provider shall provide comprehensive HVAC services including:

1. System assessment and baseline development
2. Preventive maintenance
3. Predictive maintenance
4. Repairs and corrective maintenance
5. Controls optimization
6. Energy management adjustments
7. Equipment upgrades (if applicable)
8. Air balancing
9. Commissioning and re-commissioning
10. Continuous monitoring (if applicable)

Service Provider shall maintain the following systems (check all applicable):

- Rooftop Units
- Split Systems
- Chillers
- Boilers
- Cooling Towers
- VAV Systems
- Heat Pumps
- Ductwork Systems
- Building Automation Systems

5. PERFORMANCE GUARANTEES

Service Provider guarantees the following measurable outcomes:

5.1 Energy Performance

- ___% reduction in HVAC-related energy consumption compared to baseline; OR
- Annual energy usage shall not exceed ___ kWh / therms; OR
- Utility cost reduction of \$_____ annually.

5.2 Equipment Reliability

- Minimum ___% system uptime during operational hours.
- Emergency response time within ___ hours.
- Resolution of critical failures within ___ hours.

5.3 Comfort Standards

- Indoor temperature maintained between ___°F and ___°F during occupied hours.
- Relative humidity maintained between ___% and ___%.
- Temperature variance not to exceed \pm ___°F within designated zones.

5.4 Indoor Air Quality (Optional)

- CO₂ levels not to exceed ___ ppm above outdoor levels.
- Air changes per hour (ACH) to meet ASHRAE standards.
- Filter MERV rating maintained at ___ or greater.



6. BASELINE DEVELOPMENT

Prior to performance period, Service Provider shall:

1. Review 12–36 months of historical utility data.
2. Conduct site inspections.
3. Analyze system capacity and load profiles.
4. Document operational schedules.
5. Identify inefficiencies.

Baseline calculations shall be mutually agreed upon and documented in Exhibit A.

Adjustments may be made for:

- Weather normalization (degree days)
- Occupancy changes
- Facility expansion
- Operating hour changes

7. MEASUREMENT & VERIFICATION (M&V)

Performance shall be verified using one or more of the following:

- Utility bill analysis
- Submetering
- Building Automation System data
- Data loggers
- Third-party engineering review

M&V methodology shall align with IPMVP (International Performance Measurement and Verification Protocol) where applicable.

Quarterly and annual performance reports shall be provided.

8. COMPENSATION STRUCTURE

Compensation may include one or more of the following:

8.1 Fixed Performance Fee

Client shall pay a base service fee of \$_____ per month.

8.2 Shared Savings Model

If verified savings exceed baseline:

- Client retains ___%
- Service Provider receives ___%

8.3 Performance Incentives

If Service Provider exceeds guaranteed metrics:

- Bonus of \$_____ per year; OR
- Additional ___% of incremental savings.

8.4 Performance Penalties

If Service Provider fails to meet guaranteed outcomes:

- Service credits equal to \$_____; OR
- Reduction in annual fee of ___%; OR
- Direct reimbursement for shortfall in savings.



9. CLIENT RESPONSIBILITIES

Client agrees to:

1. Provide access to mechanical rooms and equipment.
2. Maintain consistent building occupancy patterns.
3. Promptly report comfort issues.
4. Avoid unauthorized system adjustments.
5. Provide utility consumption data.
6. Approve recommended capital upgrades if required to meet targets.

Failure to comply may void performance guarantees.

10. CAPITAL IMPROVEMENTS (IF APPLICABLE)

If upgrades are required to achieve performance goals, they may include:

- High-efficiency equipment
- Variable frequency drives (VFDs)
- Advanced thermostats
- Energy recovery ventilators
- Duct sealing
- Insulation upgrades
- Controls retrofits

Funding options:

- Client-funded
- Financed by Service Provider
- Third-party financing
- Shared investment

Ownership of installed equipment shall transfer to Client upon full payment.

11. RISK ALLOCATION

Service Provider assumes operational risk associated with meeting defined outcomes.

Client assumes risk associated with:

- Structural deficiencies
- Envelope issues
- Changes in occupancy
- Utility rate fluctuations
- Extreme weather beyond historical norms (if defined)

12. FORCE MAJEURE

Neither Party shall be liable for delays caused by:

- Natural disasters
- Government action
- War



- Supply chain shortages
- Pandemics
- Labor strikes

Performance guarantees may be adjusted accordingly.

13. WARRANTY

Service Provider warrants workmanship for ___ months.

Equipment warranties shall follow manufacturer terms.

Extended warranty programs may be available.

14. LIMITATION OF LIABILITY

Service Provider's total liability shall not exceed total annual compensation under this Agreement.

Neither Party shall be liable for consequential or indirect damages including business interruption.

15. INSURANCE

Service Provider shall maintain:

- General Liability: \$ _____
- Workers' Compensation: Statutory
- Professional Liability (if engineering services included): \$ _____
- Automobile Liability: \$ _____

Certificates available upon request.

16. HEALTH, SAFETY & COMPLIANCE

Service Provider shall comply with all:

- Federal regulations
- State regulations
- Local building codes
- OSHA standards
- EPA refrigerant regulations

Hazardous materials remediation remains Client responsibility unless otherwise agreed.

17. TERMINATION

17.1 For Convenience

Either Party may terminate with ___ days written notice.

Early termination may require reconciliation of shared savings and capital investments.

17.2 For Cause

Immediate termination permitted for:

- Material breach
- Non-payment
- Fraud
- Unsafe site conditions



18. DISPUTE RESOLUTION

Disputes shall first be addressed through good-faith negotiation.

If unresolved:

- Mediation
- Binding arbitration
- Litigation in State of _____

19. CONFIDENTIALITY

All proprietary data, energy reports, pricing structures, and system designs shall remain confidential.

20. DATA OWNERSHIP

Operational data collected from the facility:

- Belongs to Client
- Shared ownership
- Owned by Service Provider with licensed use granted to Client

21. INDEMNIFICATION

Each Party shall indemnify the other for claims arising from its negligence or willful misconduct.

22. ASSIGNMENT

Neither Party may assign this Agreement without written consent, except to affiliates or successors.

23. ENTIRE AGREEMENT

This document represents the entire Agreement between Parties regarding performance-based HVAC services.

Any amendments must be in writing and signed by both Parties.

24. SEVERABILITY

If any provision is found unenforceable, remaining provisions remain valid.

25. NOTICES

All notices must be delivered via:

- Certified mail
- Courier
- Confirmed email

To addresses listed above.

26. SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this HVAC Performance / Outcome-Based Agreement as of the Effective Date.



SERVICE PROVIDER

Signature: _____

Name: _____

Title: _____

Date: _____

CLIENT

Signature: _____

Name: _____

Title: _____

Date: _____