

# Boiler Monitoring Services Non-Exclusive License Agreement (Season long; Dealer subscribes to BoilerBrowser)

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**This Boiler Monitoring Services Non-Exclusive License Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the following parties:**

**Parties:**

Licensor:

DCM Logic LLC, a Delaware corporation registered to do business in New Hampshire, with operating headquarters at 64 Peg Shop Road, Keene, NH 03431; Telephone: 603-283-9184; Email: [custserv@dcmlogic.com](mailto:custserv@dcmlogic.com)

Licensee:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone and Email: \_\_\_\_\_

**WHEREAS**, Licensor owns a proprietary platform for monitoring the operation of boilers online “BoilerBrowser™”; and

**WHEREAS**, Licensee desires to use BoilerBrowser™ in the operation of its business, and Licensor is willing to authorize Licensee to use BoilerBrowser™, subject to the terms of this Agreement, to monitor BoilerScopes™ (hereinafter defined).

**NOW THEREFORE**, in consideration of the covenants, promises and undertakings contained herein, the parties hereby agree as follows:

**Definition**

BoilerBrowser™ includes a set of web-based online services developed by Licensor that allows Licensee to view, monitor, log, and analyze certain parameters related to the operation of boilers gathered and transmitted to internet servers with the help of Licensor's product, the "BoilerScope™." In a separate transaction, Licensee has already purchased, or will soon purchase, from Licensor a BoilerScope™ for each boiler facility it wishes to monitor.

### **Notice to Licensor about Additional Boilers to be Monitored**

When Licensee wishes to use Licensor's BoilerBrowser™ services to monitor boilers not previously the subject of an agreement between the parties ("New Boilers"), Licensee shall provide to Licensor, using the Boiler Data Sheet form or any other means of Licensor's choosing, information about New Boilers, including, but not limited to:

1. The make, model, and serial number(s) of the boiler(s),
2. The number of boiler(s) installed,
3. The name and address of the Boiler Plant Owner,
4. The address of Boiler Plant ("Site")

Licensee shall also provide to Licensor a "Consent to Use Boiler Data" form filled out and signed by Boiler Plant Owner.

1. **Grant of License.** Licensor hereby grants to Licensee a non-exclusive license to use BoilerBrowser™ to view, monitor, log, and analyze data gathered from New Boilers and transmitted by a BoilerScope™. BoilerBrowser™, its related intellectual property, and all data viewed, monitored, logged, and analyzed using BoilerBrowser™ shall remain the property of the Licensor.
2. **Terms of Use.** Licensee shall use BoilerBrowser™ primarily for the purpose of personally monitoring, viewing, logging, and analyzing data from New Boilers. Licensee is encouraged to grant Boiler Plant Owner access to BoilerBrowser™ on a continuous, "always on" basis. Licensee may also grant permission to outside parties such as the manufacturer, importer, distributor and/or reseller of New Boilers and/or relevant HVAC professionals (hereafter, "Related Parties") to access BoilerBrowser™ for limited periods of time only for the purposes of improving the functioning of New Boilers. Licensee may not transfer its right of access to BoilerBrowser™ to other parties, nor may Licensee sell the right to use data from New Boilers.
3. **Operation of BoilerBrowser™.** Licensor makes no representation to Licensee that BoilerBrowser™ will operate and be available in a fault-free, uninterrupted manner. Scheduled and unscheduled service outages by Licensor

or its suppliers may affect the performance of BoilerBrowser™, resulting in lost data. In the event of such occurrences, Licensor shall use commercially reasonable efforts to notify Licensee of any problems or outages in BoilerBrowser™ and to rectify any problems within its control in a commercially reasonable amount of time. Licensee recognizes that interruptions in the supply of electricity to BoilerScope™ or in BoilerScope™'s access to a working internet connection will make it impossible to use BoilerBrowser™ for the period of such outages. Licensee understands that BoilerScope™ and BoilerBrowser™ are merely an aid to help it monitor the operation of New Boilers and shall not hold Licensor liable for the failure of any party to ensure the successful operation or a certain level of performance of New Boilers, even in the event that BoilerScope™ and/or BoilerBrowser™ malfunction or their service is interrupted.

**4. Term of Agreement.** This Agreement shall be valid for New Boilers for which Licensee has provided Boiler Information, a Consent to Use Boiler Data, and consideration set forth hereinafter and purchased a BoilerScope™ to be used at Site before June 30, 2015 and shall extend for a period of one year. The term (the "Term") of this Agreement shall continue to be valid for New Boilers provided Licensee extends this Agreement as hereinafter provided and Licensor agrees to such extension.

**5. Consideration.** As consideration for the use of BoilerBrowser™ during the Term, Licensee shall remit to Licensor a fee (hereafter, "Subscription Fee") payable in full no later than one month after the commencement of the Term.

**6. Renewal.** Should Licensee desire to renew this Agreement, it may do so by remitting the aforementioned Subscription Fee to Licensor at least 30 days before the expiration of the Term and each succeeding one (1) year renewal term.

**7. Installation of Equipment.** Licensee represents that it has secured from Boiler Plant Owner the permission to install BoilerScope™ at Site and to photograph New Boilers. Licensee shall be responsible for installation (or, if necessary, reinstallation) costs.

**8. Non-Interference in Licensee's Provision of Services to Boiler Plant Owner.** Licensor agrees that it will not provide data to outside parties about the operation of New Boilers with the intent to allow such parties to provide services of a nature normally provided by Licensee to Boiler Plant Owner.

**9. No Infringement Warranty.** Licensor makes no representation or warranty that Licensee's use of BoilerBrowser™ will not infringe patents or other intellectual property rights of third parties.

**10. No Validity or Enforceability Representation.** Licensor makes no representation or warranty, nor does it assume any responsibility or obligation regarding, the scope, validity, or enforcement of BoilerBrowser™.

**11. Authority.** Each party represents and warrants that it has all right and authority to enter into this Agreement. Licensor represents and warrants that it has, and its affiliates have, all right and authority to grant the rights and license granted hereunder.

**12. Representation, Warranties and Covenants of Licensee.** Licensee further covenants and agrees that Licensee will have no claim against Licensor for damages or liability of any nature in the event the use of BoilerBrowser™ by Licensee infringes the rights of any third party.

**13. Notices.** All notices, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if delivered personally or if mailed via standard carrier or electronic mail to recipient's address set forth above.

**14. Miscellaneous.**

**14.1.** This Agreement contains the entire understanding of the parties in respect of its subject matter and supersedes all prior agreements and understandings between the parties with respect to such subject matter.

**14.2.** This Agreement may not be amended, supplemented, cancelled or discharged, except by a written instrument executed by the parties hereto. No failure to exercise, and no delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof. No waiver of any breach of any provision of this Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same of any other provision.

**14.3.** This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, their successors and assigns.

**14.4.** The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

**14.5.** This Agreement shall be construed in accordance with and governed for all purposes by the laws of the State of New Hampshire applicable to contracts executed and to be wholly performed within such State.

**14.6.** If any one or more of the terms, provisions, covenants or restrictions of this Agreement shall be determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms,



provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Licensee:

By Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

DCM Logic LLC, Licensor:

By Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**Please email completed and signed agreement to: [orders@dcmlogic.com](mailto:orders@dcmlogic.com)**