

INSURANCE FOCUS

Insurance Benefits of the Owner | Contractor Service Agreement

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The *contractor service agreement* provides a key role in formally establishing several property owner's and manager's obligations including compliance with general industry standards, building rules and regulations, contractor employees' standards of performance, technical service scope of work, and the building owner's and manager's specific insurance requirements.

While defining the specific contractor insurance coverages required, and obtaining a contractor's proof of insurance (Certificate of Insurance - COI), in itself, is an essential component of the property owner's service contractor insurance program, there is no substitute for a well-written service agreement. The service agreement provides the formal structure and legal basis in ensuring the building's owner and manager is protected and insured for the service contractor's potential accidents, incidents, poor performance or negligence.

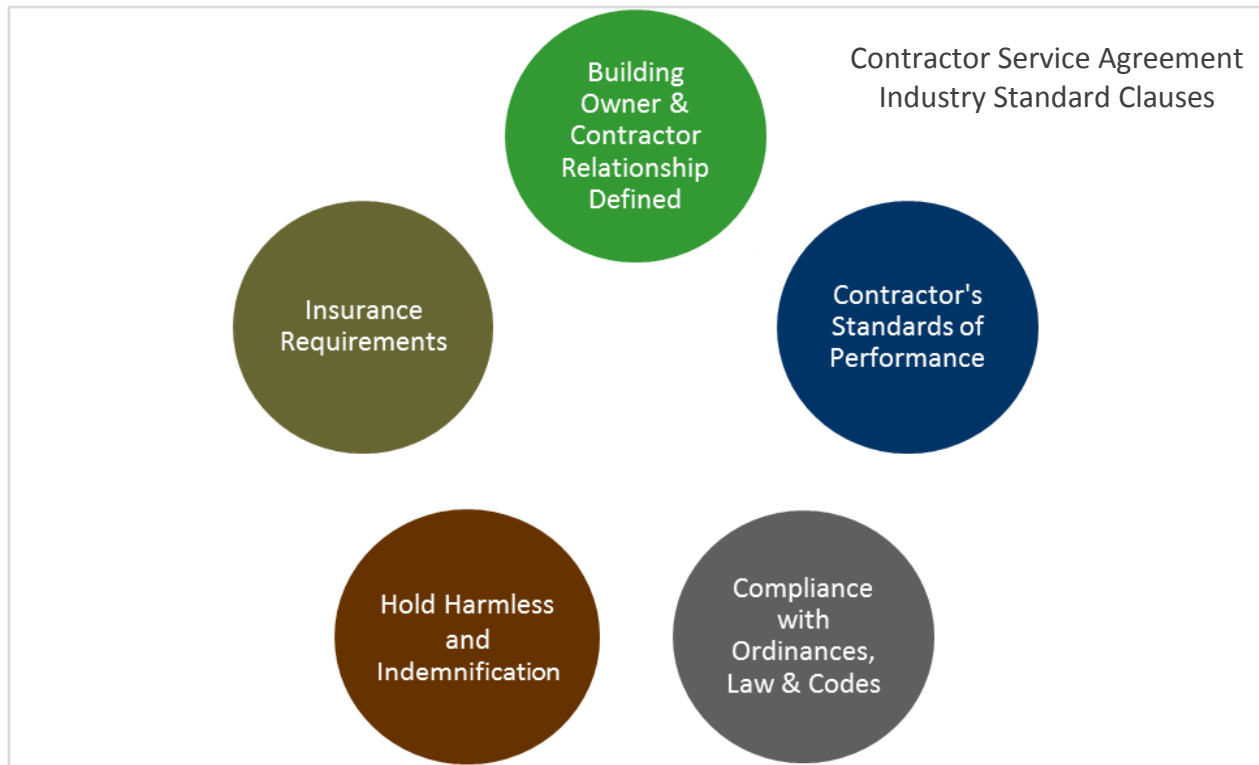
A written service agreement should be in place for every contractor that performs labor at the owner's property. This includes contractors that may perform work infrequently or on an *'ad-hoc'* or *'call in'* basis. The service agreement can be implemented, in advance each year, in order to provide an *'umbrella of insurance'*, even when the specific services or timing of services are unknown at the time the service agreement is drafted and executed. A basic contract, including a few sentences specifying the length of term, e.g., one year, typical services to be performed and the service provider's billing rates, will suffice (see next page).



INSURANCE BENEFITS - PROPERTY OWNER | CONTRACTOR SERVICE AGREEMENT

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The illustration below, along with supporting service agreement text samples on the following page, highlights the various components, within the typical service agreement, that have both legal and insurance implications. In addition to the service contractor’s general liability, worker’s compensation and other required insurance coverages, the service contract terms and conditions play an essential role, in enforcing the insurance rights of the property owner and management services firm, following instances of contract negligence, incidents or accidents.



Annual Service Agreement - Sample scope of work language for 'open ended' service

<u>Scope of Work - Electrical Maintenance & Repairs</u>	<u>Labor Rates & Supplies Schedule</u>
<p>During the contract term, and upon receipt of the Owner representative’s written purchase order, Contractor shall provide labor and materials necessary for the periodic maintenance, testing and repair of electrical systems and equipment such as:</p> <p>Motor repair & replacement Infra-red thermal imaging Replacing circuit breakers, fuses and lighting ballasts Replace or repair electrical controllers, switches and other electrical equipment</p>	<p>Journeyman \$__ per hour Master Electrician \$__ per hour Rates include overhead & profit Overtime rates \$__ per hour</p> <p>Supplies to be provided at cost + __ %.</p> <p>Payment terms are...</p>

Building Owner & Contractor - Relationship Defined

“Service provider’s relationship, with the building owner, is as an independent contractor”.

“No assignment, or sub-contracting, of the work shall be performed without the building owner’s prior consent and written approval”.

Contractor’s Standards of Performance

“Contractor shall provide competent, trained workers, having the experience and skills necessary, within the _____ trade, in order to ensure the work is completed in accordance with standards accepted in the _____ industry”.

“Contractor’s employees shall perform duties in a professional, workmanlike manner in accordance with standards accepted in the _____ industry”.

“The Contractor shall inspect, and become familiar with, on site conditions and the specific scope of work to be performed under this agreement, prior to the commencement of work”.

Compliance with Ordinances, Laws and Codes

“All work shall be completed in accordance with federal, state and local laws, codes, ordinances and other legal requirements”.

“Contractor is responsible for obtaining and maintaining, all necessary licenses and permits, associated with the completion of the work, as required by law”.

Hold Harmless - Indemnification

“Contractor shall indemnify Owner and Manager against all claims arising out of Contractor’s negligence or omissions”.

Insurance Requirements

“Prior to the commencement of work, Contractor shall provide Owner’s representative with evidence of insurance, in the form of a Certificate of Insurance (COI).”