

## GOODS AND SERVICES CONTRACT

**THIS CONTRACT** is made by and between the City of Riverside, California, a California charter city and municipal corporation organized and existing under the laws of State of California, hereinafter referred to as "Owner", and Ice Energy Holdings Inc., a Delaware corporation authorized to do business in California, hereinafter referred to as "Contractor" Owner and Contractor are collectively referred to as "Parties", and individually as a "Party".

**WHEREAS**, Owner and Contractor have agreed that Contractor will supply to Owner on a turnkey basis Ice Bear Units that will provide thermal energy storage and demand response and at the same time replace aged AC units to improve energy efficiency.

**NOW, THEREFORE**, the Parties covenant and agree, for good consideration which is hereby acknowledged, as follows:

### SECTION 1. DEFINITIONS

In this Contract, the following terms have the following meanings:

- A. "Applicable Laws" means all applicable laws, statutes, rules, regulations, ordinances and orders of any Governmental Authority.
- B. "Basic Maintenance" has the meaning given that term in Exhibit A.
- C. "Business Day" means a day other than a Saturday, a Sunday or a day on which commercial banking institutions in the State of California are authorized or obligated by Applicable Laws to be closed.
- D. "Commissioned Units" has the meaning given that term in Exhibit A.
- E. "Commissioning Report" has the meaning given that term in Exhibit A.
- F. "Contractor" has the meaning given that term in the Preamble above.
- G. "Contractor Taxes" has the meaning given that term in Exhibit B.
- H. "Customer" means a customer of Owner.
- I. "Effective Date" has the meaning given that term in Section 4.A.
- J. "Enhanced Maintenance" has the meaning given that term in Exhibit A.
- K. "Governmental Authority" means any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, any foreign country or any domestic or foreign state, county, city, irrigation district or other political subdivision or similar governing entity.
- L. "Ice Bear Unit" means the Ice Bear thermal energy storage system as described in Exhibit A.
- M. "Maintenance" means Basic Maintenance, and if applicable, Enhanced Maintenance.
- N. "Optional Years" has the meaning given that term in Exhibit A.
- O. "Owner" has the meaning given that term in the Preamble above.
- P. "Owner Taxes" has the meaning given that term in Exhibit B.
- Q. "Party" or "Parties" has the meaning given that term in the Preamble above.

- R. "Performance Assurance" has the meaning given that term in Exhibit A.
- S. "Permits" means all licenses, permits, certificates of authority, authorizations, approvals, registrations, franchises and similar consents granted or issued by any Governmental Authority having jurisdiction over a Party.
- T. "PLR" means peak load reduction as described in Exhibit A.
- U. "Purchase Price" has the meaning given that term in Exhibit B.
- V. "Prudent Industry Practices" means the professional practices, methods and industry codes of conduct of skilled and experienced HVAC firms in the State of California now in effect and as modified during the performance of the Work, with respect to the manufacture, supply, installation and commissioning of equipment associated with HVAC (including equipment of the same type and nature as the Ice Bear Units), all of the above in compliance with Qualified Contractor Rules and the standards of safety, output, dependability, efficiency and economy, including recommended practice, of a good, safe, prudent and workman-like character and in compliance with all Applicable Laws. Prudent Industry Practices are not intended to be limited to the optimum or minimum practice or method to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices and methods.
- W. "Remote Control and Reporting" means the services described under that title in Exhibit A.
- X. "Subcontractors" means any person or entity with whom Contractor has entered into (including by virtue of assignment) any contract or agreement for such person or entity to perform any part of the Work or to provide any materials, equipment or supplies on behalf of the Contractor (including any person or entity at any tier with whom any Subcontractor has further subcontracted any part of the Work).
- Y. "Termination Date" has the meaning given that term in Section 4.A.
- Z. "Work" has the meaning given that Exhibit A.

## **SECTION 2. GOODS AND SERVICES**

Subject to the terms and conditions set forth in this Contract, Contractor shall supply to Owner the goods and services described in Exhibit A, attached and incorporated herein. Contractor shall supply the goods and services at the time, place, and in the manner specified in Exhibit A.

## **SECTION 3. COMPENSATION**

- A. Owner shall pay Contractor for goods and services supplied pursuant to this Contract, at the times and in the manner set forth in Exhibit B, attached and incorporated herein.
- B. All invoices submitted by the Contractor shall be as specified in Exhibit B.

#### **SECTION 4. TERM AND TERMINATION**

- A. The effective date of this Contract (the "Effective Date") shall be the later of 1) January 1, 2015 or 2) the date Owner signs this Contract, provided that if Contractor has signed but Owner has not signed by April 1, 2015, unless Contractor agrees in writing to extend the April 1, 2015 date, Contractor's signature shall be void. The date this Contract terminates (the "Termination Date") shall be December 31, 2019 unless terminated early by 1) Owner exercising its cancellation right with respect to the Optional Years in Exhibit A or 2) pursuant to Termination clauses in Section 4.B, C, D and E, provided that Remote Control and Reporting and Maintenance services and compensation shall survive beyond the Termination Date in accordance with a separate term agreed upon in Exhibit A .
- B. Termination for Cause by Owner. The Owner shall have the right, but not the obligation, to terminate this Contract for cause if:
1. Contractor voluntarily commences bankruptcy, insolvency, reorganization, stay, moratorium or similar debtor-relief proceedings, or shall have become insolvent or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors, or insolvency, receivership, reorganization, bankruptcy, or similar proceedings shall have been commenced against Contractor and such proceedings are not dismissed or stayed within sixty (60) days;
  2. Contractor fails to install and commission 1 MW of PLR in any given calendar year by the last day of that year, and such failure is not cured within the subsequent ninety (90) calendar days; or
  3. Contractor fails to perform any material obligation other than that of Section 4.B.2 under this Contract and such failure is not cured within thirty (30) calendar days after receipt of notice thereof from Owner, but if such default cannot be cured within such thirty (30) day period, Contractor shall have a period not to exceed one-hundred twenty (120) days if its attempts to cure commence within the initial thirty (30) days following notice from Owner.
- C. Remedy in the Event of Owner Termination. If Owner terminates this Contract as provided in Section 4.B, then Owner shall pay Contractor for that portion of the Purchase Price allocable to that portion of the Work performed by Contractor and the Commissioned Units at the Sites as of the termination. If the payments received by Contractor as of the date of termination are in excess of such portion of the Purchase Price, then Contractor shall return the excess of such payments to Owner within thirty (30) days following termination. Owner shall have all other rights available at law or in equity.
- D. Termination for Cause by Contractor. Contractor shall have the right, but not the obligation, to terminate this Contract for cause if:

1. Owner voluntarily commences bankruptcy, insolvency, reorganization, stay, moratorium or similar debtor-relief proceedings, or shall have become insolvent or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors, or insolvency, receivership, reorganization, bankruptcy, or similar proceedings shall have been commenced against Owner and such proceedings are not dismissed or stayed within sixty (60) days;
  2. Owner fails to make any payment to the Seller within sixty (60) days after Contractor's notice to Owner of Owner's failure to make such payment when due pursuant to the terms of this Contract; or
  3. Any act or omission by Owner, or any other Person (if such Person is acting on behalf of or under the direction or supervision of Owner) materially adversely affects Contractor's ability to timely fulfill any of its material obligations under this Contract.
- E. Remedy in the Event of Contractor Termination. If Contractor terminates this Contract as provided in Section 4.D, then Owner shall pay Contractor for that portion of the Purchase Price allocable to that portion of the Work performed prior to the termination. If the payments received by Contractor as of the date of termination are in excess of such portion of the Purchase Price, then Contractor shall return the excess of such payments to Owner within thirty (30) days following termination, and Contractor shall have any other rights available to it at law or in equity.
- F. In no event shall the termination or expiration of this Contract be construed as a waiver of any right to seek remedies in law, equity or otherwise for a Party's failure to perform each obligation required by this Contract.

## **SECTION 5. MISCELLANEOUS TERMS AND CONDITIONS OF CONTRACT**

- A. Contractor represents and warrants to Owner that it has or will obtain all licenses, permits, qualifications and approvals of any nature whatsoever that are legally required for Contractor to perform its obligations hereunder.
- B. Contractor shall, during the entire term of this Contract, be construed to be an independent contractor and nothing in this Contract is intended, nor shall it be construed, to create an employer/employee relationship, association, joint venture relationship, trust or partnership or to allow Owner to exercise discretion or control over the professional manner in which Contractor performs under this Contract; provided, however, that the goods and services to be provided by Contractor shall be supplied in a manner consistent with the industry standards applicable to such goods and services. The sole interest of Owner is to insure that goods and



services are supplied in a competent, efficient and satisfactory manner. Contractor shall be fully responsible for payment of all taxes due to state and federal governments which would be withheld from compensation if Contractor were a Owner employee. Owner shall not be liable for deductions for any amount for any purpose relating to Contractor's compensation. Contractor shall not be eligible for coverage under Owner's workers' compensation insurance plan, benefits under the Public Employee Retirement System or be eligible for any other Owner benefit. No Party shall be the agent of, or have a right or power to bind, the other Party without its express written consent.

- C. No provision of this Contract is intended to, or shall be for the benefit of, or construed to create rights in, or grant remedies to, any person or entity not a party hereto.
- D. Any or all of the work to be performed by Contractor under this Contract may be subcontracted by Contractor provided that Contractor shall have an affirmative duty to assure that said subcontractors comply with all applicable requirements of this Contract and Contractor is liable for all work they perform as if Contractor performed the work itself.
- E. Contractor, at such times and in such form as Owner may require, shall furnish Owner with such periodic reports as it may request pertaining to the work undertaken pursuant to this Contract, and any other matters covered by this Contract.
- F. Notwithstanding anything else in this Contract, all intellectual property rights associated with the Ice Bear thermal energy storage systems to be supplied pursuant to this Contract will remain the sole property of Contractor except that Owner will have a license to use the systems supplied pursuant to this Contract as intended.
- G. Neither Party will be liable to the other for any failure to perform an obligation that is the result of circumstances beyond such Party's reasonable control and will be granted a reasonable extension of time to perform, provided that such Party uses all reasonable efforts to overcome such circumstances and provided further that lack of money is deemed not beyond a Party's reasonable control.

## **SECTION 6.      INSURANCE**

- 6.1 **General Provisions.** Prior to Owner's execution of this Agreement, Contractor shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and

coverages may be modified in writing by the Owner's Risk Manager or Owner's City Attorney, or a designee, unless such modification is prohibited by law.

**6.1.1 Limitations.** These minimum amounts of coverage shall not affect the cap on Contractor's indemnification obligations set forth herein.

**6.1.2 Ratings.** Any insurance policy or coverage provided by Contractor or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

**6.1.3 Cancellation.** The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to Owner by certified or registered mail, postage prepaid.

**6.1.4 Adequacy.** Owner, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage as Contractor deems adequate, at Contractor's sole expense.

**6.2 Workers' Compensation Insurance.** By executing this Agreement, Contractor certifies that Contractor is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Contractor shall carry the insurance or provide for self-insurance required by California law to protect said Contractor from claims under the Workers' Compensation Act. Prior to Owner's execution of this Agreement, Contractor shall file with Owner either 1) a certificate of insurance showing that such insurance is in effect, or that Contractor is self-insured for such coverage, or 2) a certified statement that Contractor has no employees, and acknowledging that if Contractor does employ any person, the necessary certificate of insurance will immediately be filed with Owner. Any certificate filed with Owner shall provide that Owner will be given ten (10) days prior written notice before modification or cancellation thereof.

**6.3 Commercial General Liability and Automobile Insurance.** Prior to Owner's execution of this Agreement, Contractor shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Contractor against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of

Contractor, Owner, and its officers, employees and agents, shall be named as additional insureds under the Contractor's insurance policies.

6.3.1 Contractor's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

6.3.2 Contractor's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Contractor's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Contractor's performance of this Agreement, which vehicles shall include, but are not limited to, Contractor owned vehicles, Contractor leased vehicles, Contractor's employee vehicles, non-Contractor owned vehicles and hired vehicles.

6.3.3 Prior to Owner's execution of this Agreement, copies of insurance policies or original certificates along with additional insured endorsements acceptable to the Owner evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with Owner and shall include the Owner and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

"It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

6.3.4 The insurance policy or policies shall also comply with the following provisions:

a. The policy shall be endorsed to waive any right of subrogation against Owner and its sub-consultants, employees, officers and agents for services performed under this Agreement.

b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.

c. The policy shall specify that the insurance provided by Contractor will be considered primary and not contributory to any other insurance available to Owner and Endorsement No. CG 20010413 shall be provided to Owner.

6.4 **Errors and Omissions Insurance.** Prior to Owner's execution of this Agreement, Contractor shall obtain, and shall thereafter maintain during the term of this

Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect Owner from claims resulting from the Contractor's activities.

- 6.5 Subcontractors' Insurance.** Contractor shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon Owner's request, Contractor shall provide Owner with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

## **SECTION 7. INDEMNIFICATION AND LIMITATION OF LIABILITY**

- A. Contractor shall indemnify protect, defend and hold harmless, Owner, its officers, employees, agents and council members, and each and every one of them, from and against all actions, damages, costs, liability, claims, losses, penalties and expenses (including, but not limited to, reasonable attorney's fees, expert fees, litigation costs, and investigation costs) of every type and description to which any or all of them may be subjected by reason of the work performed under this Contract by Contractor or its subcontractors, except when liability arises due to the sole negligence or misconduct of the Owner.
- B. The Contractor's obligation to defend, indemnify and hold harmless shall not be excused because of the Contractor's inability to evaluate liability. The Contractor shall respond within thirty (30) calendar days to the tender of any claim for defense and indemnity by the Owner, unless this time has been extended in writing by the Owner. If the Contractor fails to accept or reject a tender of defense and indemnity in writing delivered to Owner within thirty (30) calendar days, in addition to any other remedy authorized by law, the Owner may withhold such funds the Owner reasonably considers necessary for its defense and indemnity until disposition has been made of the claim or until the Contractor accepts or rejects the tender of defense in writing delivered to the Owner, whichever occurs first. This subdivision shall not be construed to excuse the prompt and continued performance of the duties required of Contractor herein.
- C. The obligation to indemnify, protect, defend, and hold harmless set forth in this Section applies to all claims and liability regardless of whether any insurance policies are applicable. The policy limits of said insurance policies do not act as a limitation upon the amount of indemnification to be provided by Contractor.



- D. Owner shall have the right to approve or disapprove the legal counsel retained by Contractor pursuant to this Section to represent Owner's interests. Owner shall be reimbursed for all costs and attorney's fees incurred by Owner in enforcing the obligations set forth in this Section.

**SECTION 8. CONTRACT INTERPRETATION, VENUE AND ATTORNEY FEES**

- A. All questions regarding the validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Contract shall be governed by California law, and any action brought by either party to enforce any of the terms of this Contract shall be filed in a court of competent jurisdiction in the County of Riverside, State of California. If any claim, at law or otherwise, is made by either party to this Contract, each party shall be responsible for its own costs and attorneys' fees.
- B. This document, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding each may have had prior to the execution of this Contract. This Contract shall not be altered, amended or modified except by a writing signed by Owner and Contractor.
- C. No covenant or condition to be performed by a Party under this Contract can be waived except by the written consent of the other Party. Forbearance or indulgence by a Party in any regard whatsoever shall not constitute a waiver of the covenant or condition in question. Until performance by a Party of said covenant or condition is complete, the other Party shall be entitled to invoke any remedy available to it under this Contract or by law or in equity despite said forbearance or indulgence.
- D. If any portion of this Contract or the application thereof to any person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Contract shall not be affected thereby and shall be enforced to the greatest extent permitted by law.
- E. The headings in this Contract are inserted for convenience only and shall not constitute a part hereof. A waiver of any party of any provision or a breach of this Contract must be provided in writing, and shall not be construed as a waiver of any other provision or any succeeding breach of the same or any other provisions herein.
- F. Each Party hereto declares and represents that in entering into this Contract, it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each Party further declares and represents that this Contract is made without reliance upon any statement or representation not contained herein of any other Party or any



representative, agent or attorney of the other Party. The Parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties.

- G. In the event of a conflict between the term and conditions of the body of this Contract and those of any exhibit or attachment hereto, the terms and conditions set forth in the body of this Contract proper shall prevail.

#### **SECTION 9. SURVIVAL**

The provisions set forth in Sections 5.C., 6, 7, 8.A., 8.B., 8.D., and 8.G. of this Contract shall survive termination of the Contract.

#### **SECTION 10. COMPLIANCE WITH LAWS**

Contractor shall comply with all Applicable Laws.

#### **SECTION 11. REPRESENTATIVES**

- A. Owner's representative for this Contract is Girish Balachandran, telephone number (951) 826-5197, and e-mail address is [Girish@riversideca.gov](mailto:Girish@riversideca.gov). All of Contractor's questions pertaining to this Contract shall be referred to the above-named person(s), or to the representative's designee.
- B. Contractor's representative for this Contract is Mike Hopkins, telephone number (805) 452-4548, fax number (818) 476-5523 and e-mail address is [mhopkins@ice-energy.com](mailto:mhopkins@ice-energy.com). All of Owner's questions pertaining to this Contract shall be referred to the above-named person (s), or to the representative's designee.
- C. The representatives set forth herein shall have authority to give all notices required herein.

#### **SECTION 12. NOTICES**

- A. All notices, requests, demands and other communications hereunder shall be deemed given only if in writing signed by an authorized representative of the sender (may be other than the representatives referred to in Section 11 and delivered by facsimile, with a hard copy mailed first class, postage prepaid; or when sent by a courier or an express service guaranteeing overnight delivery to the receiving party, addressed to the respective parties as follows:

<b>To Owner:</b> Girish Balachandran Riverside Public Utilities 3750 University Avenue Riverside, CA 92501 (951) 826-5197 <a href="mailto:Girish@riversideca.gov">Girish@riversideca.gov</a>	<b>To Contractor:</b> Mike Hopkins Ice Energy Holdings Inc. 3 E. De La Guerra Street Santa Barbara CA 93101 (805) 452-4548 <a href="mailto:mhopkins@ice-energy.com">mhopkins@ice-energy.com</a>
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- B. Either party may change its address for the purposes of this paragraph by giving written notice of such change to the other party in the manner provided in this Section.
- C. Notice shall be deemed effective upon: 1) personal service; 2) two calendar days after mailing or transmission by facsimile, whichever is earlier.

### **SECTION 13. AUTHORITY TO CONTRACT**

- A. Each of the undersigned signatories hereby represents and warrants that they are authorized to execute this Contract on behalf of the respective parties to this Contract; that they have full right, power and lawful authority to undertake all obligations as provided in this Contract; and that the execution, performance and delivery of this Contract by said signatories has been fully authorized by all requisite actions on the part of the respective parties to this Contract.

**[Signatures on next page]**

## **Exhibit A**

### **Scope of Work**

Contractor will supply to Owner on a turnkey basis Ice Bear Units that will provide up to 5 MW of peak load reduction ("PLR") from thermal energy storage ("TES") and demand response ("DR") and at the same time will replace 300 tons of aged AC units for each MW of PLR to improve energy efficiency, all located in the service territory of Owner. Not less than 65% of the MWs of PLR supplied will be TES.

Each Ice Bear Unit provides PLR by TES which is used for permanent peak load shifting, and may provide additional PLR by DR. Attached as Attachment A-1 is the current product specification for the Ice Bear Unit.

#### **Thermal Energy Storage.**

The Ice Bear Unit shifts the energy and demand of a package air conditioning unit ("Package Unit") from on-peak to off-peak times for up to 3 hours daily. The Ice Bear Unit shuts off the electrical energy supply to the Package Unit's compressor when scheduled to do so and automatically dispatches an equivalent amount of stored cooling energy from the Ice Bear Unit. Typically one Ice Bear Unit provides this peak load shifting for two 5 ton Package Units, though different configurations are possible.

#### **Demand Response**

Each Ice Bear Unit, in addition to providing TES to one or more Package Units, can be connected to one or more other Package Units located at the site, so that the other Package Unit(s) can be cycled off in an emergency by means of a Direct Load Control ("DLC") switch, supplying temporary peak load reduction in such events. In the case of DR, the Ice Bear Unit is not providing TES to the Package Unit(s) being cycled off.

#### **Number of Ice Bear Units**

The PLR attributable to an Ice Bear Unit is the sum of the TES and DR capacity it provides as established when the Ice Bear Unit is commissioned. The TES capacity provided by an Ice Bear Unit equals the peak demand of the Package Unit(s) receiving the TES, unless Contractor replaces the Package Unit(s) at the time the Ice Bear Unit is installed, in which case the TES capacity provided by the Ice Bear equals the peak demand of the Package Unit(s) that was replaced. The DR capacity provided by an Ice Bear Unit equals the peak demand of the Package Unit(s) that can be cycled off by the DR.

For both TES and DR, the peak demand of a Package Unit is determined by the following table that shows peak demand on an extreme peak day, measured at the site and adjusted back to the generating source, for different vintages of Package Units in the Owner's service territory:



	Peak Demand of Package Unit (kW)															
	Equipment Nominal Tonnage (in Tons)															
Vintage	1.0	1.5	2.0	3.0	3.5	4.0	5.0	6.0	7.0	7.5	8.5	9.0	10.0	12.5	15.0	20.0
Before 1984	2.0	3.2	4.4	6.7	7.9	9.1	11.4	13.8	16.1	17.3	19.7	20.8	23.2	29.1	35.0	46.7
1984 - 1991	1.8	2.9	3.9	6.1	7.1	8.2	10.3	12.5	14.6	15.7	17.8	18.9	21.0	26.4	31.7	42.4
1992 - 2005	1.6	2.6	3.6	5.6	6.6	7.6	9.6	11.5	13.5	14.5	16.5	17.5	19.5	24.4	29.3	39.2
2006-2009	1.3	2.1	3.0	4.6	5.4	6.3	7.9	9.6	11.2	12.0	13.7	14.5	16.2	20.3	24.4	32.6
2010-2014	0.9	1.5	2.2	3.4	4.0	4.7	5.9	7.2	8.4	9.0	10.3	10.9	12.2	15.3	18.4	24.7
6/2014 After	0.9	1.5	2.2	3.4	4.0	4.7	5.9	7.2	8.4	9.0	10.3	10.9	12.2	15.3	18.4	24.7

As an example, seven Ice Bear Units are installed on a rooftop with twenty 5 ton Package Units, fourteen made in 1998, the other six in 2007. The seven Ice Bear Units provide TES to the fourteen 1998 Package Units (or their replacements), which equals 134.4 kW (14 units x 9.6 kW) of PLR, and provide DR to the six 2007 Package Units, which provides 47.4 kW (6 units x 7.9 kW) of PLR, for a total of 181.8 kW of peak load reduction from these seven Ice Bear units. If each installation were identical to this, in order to commission 1 MW of PLR, Contractor would need to supply 39 Ice Bear Units. A minimum of 65% of PLR will be from TES.

#### Manufacture, Supply, Install, Commission, and Sale

During the term of the Contract, Contractor will manufacture, supply, deliver, install, commission and sell to the Owner a sufficient number of Ice Bear Units necessary to achieve 1MW of PLR. Contractor shall have sole responsibility for (i) procuring and paying for all equipment, including the Ice Bear Units, materials, supplies, labor and manufacturing-related services necessary to complete the Work and (ii) entering into arrangements with Customers for the installation, delivery, and commissioning of the Ice Bear Units pursuant to this Contract.

#### Standard of Performance

Contractor shall perform the Work in accordance with the terms of this Contract and Prudent Industry Practices.

#### Permitting

Seller will obtain all Permits necessary for the performance of the Work, including all local building and construction Permits.

#### Turnkey Supply

Contractor will locate qualifying sites within Owner's service territory, obtain licenses from the building owners granting Contractor permission to install and maintain, and Owner to own and operate, Ice Bear Units and, if applicable, do DR, install the units in accordance with standard HVAC practices and transfer title to the units to the Owner as each is commissioned, and in conjunction with the installation of the Ice Bear Units, Contractor shall replace 300 tons of aged AC units for each MW of PLR commissioned, and at least 50% of the AC replacement shall not be associated with TES as a way to provide additional Energy Efficiency benefits to Owner.

The form of license to be used is attached as Attachment A-2, provided the Parameters for "Direct Load Control (DLC)" in the form to be used by Contractor during any year following 2015 may be modified by Owner. Such notice of modification shall be provided to Contractor not less than 90 days prior to the start of the year for which the modified form is to be used by Contractor.

An Ice Bear Unit will be considered commissioned ("Commissioned Unit") as well as its TES and, if applicable DR capacity, when the Ice Bear Unit meets the requirements set out in the form of report attached as Attachment A-3 ("Commissioning Report"). For each Commissioned Unit, Contractor shall provide to Owner a completed Commissioning Report.

The turnkey supply shall be done in accordance with the following schedule:

2015: 1 MW of PLR commissioned  
2016: 1 MW of PLR commissioned (optional) \*  
2017: 1 MW of PLR commissioned (optional) \*  
2018: 1 MW of PLR commissioned (optional) \*  
2019: 1 MW of PLR commissioned (optional) \*

\* Owner may, at its sole discretion, cancel the PLR to be commissioned in 2016, 2017, 2018 or 2019 ("Optional Years"), along with the associated AC replacement, by providing Contractor written notice at least ninety days prior to the start of the first calendar year in which the cancellation is to take effect, provided that for Optional Years 2017, 2018 and 2019, the PLR and associated AC replacement for that and any subsequent calendar year(s) will be thereby cancelled. Upon receiving the cancellation notice, Contractor may at its discretion offer Owner a reduced price for the Optional Year(s), and Owner may at its discretion accept the reduced price and rescind its cancellation, and therefore remain in the contract for any Optional Year(s) during which the reduced price is to be applied. Any agreement on price reduction between the Parties shall be reached at least sixty (60) days prior to the start of the subsequent calendar year.

Each month from and after the Effective Date, Contractor shall provide Owner the then current schedule of how many Ice Bear Units, and how many tons of AC replacement, are to be installed in each remaining month of the calendar year, which is non-binding but will be Contractor's best estimate.

#### Subcontractors

Owner acknowledges and agrees that Contractor intends to have all or portions of the Work performed by Subcontractors. No contractual relationship will exist between Owner and any Subcontractor with respect to the Work. Notwithstanding the foregoing, Contractor shall be solely responsible for (i) completion of the Work and any other of Contractor's obligations hereunder, (ii) the acts, omissions, or defaults of the Subcontractors and their agents, representatives, and employees, and (iii) the engagement, management, and payment of the Subcontractors. Nothing contained herein will obligate Owner to pay any Subcontractor, and Contractor shall be solely responsible for paying each Subcontractor to whom any amount is due from Contractor in connection with the Work. Contractor shall comply with, and cause its Subcontractor's to comply with the Qualified Contractor Rules attached as Attachment A-4.

#### Access and Inspection

Upon reasonable notice to Contractor, Owner and its representatives shall have the right during the performance of the Work to inspect the Work, subject in all cases to all applicable rules, policies and regulations, including each Customer's and Contractor's and its Subcontractors' reasonable safety precautions, provided that such inspection and presence does not unreasonably interfere or delay the completion of the Work and Contractor's performance of its other obligations under this Contract. Contractor shall use reasonable efforts to procure for Owner similar inspection rights with respect to the Customers and Contractor's vendors and suppliers to the extent that Contractor has such rights of inspection.



### Assurance of Performance

Contractor shall within ten (10) Business Days of the Effective Day of this Contract, provide to, and maintain until the end of the term of this Contract, Owner assurance of Contractor's continuing ability to perform its obligations under this Contract (the "Performance Assurance"). The Performance Assurance shall be in the form of a Letter of Credit, a performance bond or surety bond, or such other form of assurance, in each case as may be reasonably satisfactory in form and substance to Owner under the circumstances provided that cash shall be deemed a satisfactory Performance Assurance. The amount of the Performance Assurance shall be \$60,000.00, which shall be cancelled, or in the case of cash, repaid to Contractor on Termination Date. If Contractor fails to pay any amount due to Owner within the time provided for payment hereunder, Owner shall be entitled to and shall draw upon the Performance Assurance from time to time in an amount equal to the amount unpaid; provided, that any such amount shall have been invoiced to Contractor and be past due. Without limiting its other remedies hereunder, Owner shall also be entitled to draw upon the Performance Assurance for damages arising if this Contract is terminated under Section 4.

### Warranty

Each Ice Bear Unit is covered by the warranty attached as Attachment A-5.

### Remote Control and Reporting

Contractor will have remote access to each Ice Bear Unit following its commissioning via a private wireless network and Contractor's CoolData infrastructure. Contractor will install temperature and current monitoring sensors, a data logger, configure a Web based control dashboard, and archive all logged data on an OSIsoft PI or successor historian. The Contractor shall follow the protocols and adhere to the performance standards as described in Attachment A-6 attached hereto – Remote Monitoring Services. Failure to adhere to the performance standards as described in Attachment A-6 shall result in the payment by Contractor to Owner provided for in that Attachment. The Owner will have access to the asset performance history and shall be provided the operational control of Ice Bear Units.

### Maintenance

Contractor will provide preventative maintenance comprised of a physical inspection of each Commissioned Unit once per year, at which time preventative maintenance will be performed (water level check and refill if necessary, install water purification tablet, check refrigeration pressures, pumps and fans operation, CoolData controller operation, wireless operation, clean Ice Bear condenser coils, and verify system operation) ("Basic Maintenance"). Contractor will also provide complete "break-fix" service for all Commissioned Units, until the 5<sup>th</sup> anniversary of the Effective Date ("Enhanced Maintenance"), and will continue to do so as long as Owner renews the Enhanced Maintenance. If Owner does not renew the Enhanced Maintenance, from and after the end of the period of Enhanced Maintenance, "break-fix" service not covered by the warranty on the Ice Bear Units will be offered to Owner and/or its Customers at Contractor's then prevailing service rates. The Basic Maintenance and Enhanced Maintenance are more fully described in the attached Attachment A-7. The maintenance report shall be in substantial conformance to the format in Attachment A-7 – Example of Certified Operational Verification Report.

Contractor will provide the above Remote Control and Reporting and the Maintenance until the 5<sup>th</sup> anniversary of the Effective Date provided that Owner has the right to renew the Remote Control and Reporting and the Maintenance for up to three consecutive 5 year periods by giving Contractor at least 90 days' notice prior to the anniversary on which the Contract otherwise would expire. If and when Owner renews, Owner may renew the Basic Maintenance only, or the Basic

**Maintenance with the Enhanced Maintenance, provided that if Owner renews only the Basic Maintenance, in any subsequent renewal, Owner may only renew the Basic Maintenance.**

# Product Sheet


**ICE ENERGY®**

INTELLIGENT STORAGE AT WORK.™



## Product Specifications

Ice Energy's Ice Bear distributed energy storage system enables a powerful change in how – and, more importantly, when – energy is consumed for air conditioning, without sacrificing consumer comfort.

Using thermally efficient, off-peak power to produce and store energy for use by air conditioners the next day, the Ice Bear uses a fraction of the peak energy required by conventional systems. It requires no modification to existing ductwork or structure, and integrates seamlessly with standard rooftop and split-system air conditioners.

The Ice Bear unit creates and stores cooling energy at night by freezing water in an insulated storage tank. It cools during the day by circulating chilled refrigerant from that tank to the conventional air conditioning system, eliminating the need to run the energy-intensive compressor during peak daytime hours.

During off-peak hours, the conventional HVAC system operates as usual. Together, this unique hybrid system surpasses the overall efficiency and performance of conventional equipment alone.



## Key Benefits

### For Utilities

- Cost-effective Alternative to New Peaking Generation
- Permanently Shifts Peak Demand
- Uses Cleaner, More Efficient Off-Peak Power
- Improves System Efficiency & Grid Reliability
- Relieves Congestion on Peak
- Enables Reliable Integration of Renewables
- Reduces Greenhouse Gas Emissions
- Easy, Rapid Deployment at a Multi-Megawatt Scale

### For Commercial Energy Consumers

- Reduces the Building's Carbon Footprint by 10% or More
- Reduces Building Energy Consumption on Peak
- Delivers Superior Cooling Comfort for Customers and Employees
- Improves Building Energy Performance
- No Cost Under Utility-Sponsored Programs
- Utility Pays for Equipment, Installation and Maintenance

## Key Features

### High Reliability

- 25-year design life
- Cooling mode uses two long-life pumps
- Extends compressor life by eliminating stop-start operation during hottest hours of the day

### Widely Compatible

- For commercial rooftop and split systems from 4 to 20 Tons, and ductless units from 3 to 5 Tons
- Each Ice Bear unit can be applied to a 3-5 Ton system, or a single 5-ton stage of a 7.5-20-Ton system
- 30 Ton-hours of cooling at a load of up to 5 Tons
- Easy Installation
- Can be installed on the roof or ground by an Ice Energy certified local HVAC contractor
- CoolData® Controller programmed for utility savings
- Low Maintenance
- Simple 1 hour annual maintenance procedure



## Technical Specifications

### Cooling Capability

- Maximum Cooling Load ..... 5 Tons
- Total Storage Module Capacity ..... 30 Ton-hours

### Daytime Peak Power Reduction

- On-Peak Demand Reduction ..... Up to 7kW
- On-Peak Electric Demand ..... 300 watts
- On-Peak Energy Efficiency ..... 200 EER
- Energy Shifted to Off-Peak ..... 35 kWh

### Nighttime Ice Make

- Copeland Scroll Compressor ..... 4.3 Ton
- Ice Make Time (full make) @ 55° F ..... 10 hours
- Ice Make Time (full make) @ 75° F ..... 11.5 hours

### Line Set Restrictions

- Length (Ice Bear to airside coil) ..... 150 feet
- Height (Ice Bear to coil above/max) ..... 35 feet
- Height (Ice Bear to coil below/max) ..... 20 feet




### Ice Storage Section

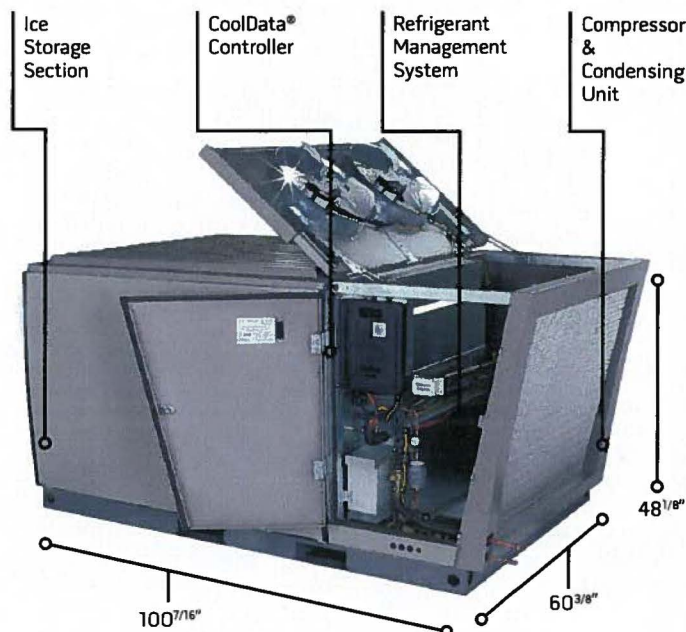
- Tank Capacity (tap water) ..... 480 gallons
- Thermal Storage Capacity (latent) ..... 360,000 BTU

### Refrigerant Management System (RMS) & Compressor

- Refrigerant ..... R-410A

### CoolData® SmartGrid Controller

- Built-In Web Server & Data Logging
- NI LabVIEW On-Board Application Lay.. 
- Historian 
- 1-Wire Dallas Sensor Network 



### Physical Properties

- Size ..... 100 7/16" W x 60 3/8" D x 48 1/8" H
- Weight (dry) ..... 1,400 lb. (approx.)
- Weight (filled) ..... 5,400 lb. (approx.)
- Load Distribution (filled) ..... 152 lbs. per sq.ft

### Electrical Requirements (by model #)

- #IB30A-521: 208/230 VAC, 1  $\Phi$ , .....50A min. service
- #IB30A-523: 208/230 VAC, 3  $\Phi$ , .....30A min. service
- #IB30A-543: 460 VAC, 3  $\Phi$ , .....20A min. service

## Warranty

Ice Energy products are warranted to be free from defects in workmanship and materials under normal use and service per the terms below. See full warranty for details.

- Tank & Ice Heat Exchanger .....5 years
- Compressor .....5 years
- Condensing Unit Heat Exchanger .....5 years
- Other Components .....1 year

## Support

For assistance with technical or sales support questions contact your Ice Energy representative, call us at 877-542-3232 or visit us online at [www.ice-energy.com](http://www.ice-energy.com).



Manufactured under the following U.S. Patents: 5,647,225 - 7,124,594 - 7,162,878 - 5,255,526 - D501,490 - 7,363,772 - D540,452 - D538,412. Additional patents pending. All trademarks, logos and copyrights are the sole property of their respective owners.

## **LICENSE AGREEMENT**

### **Identification of Parties**

1. THIS LICENSE AGREEMENT is entered into by and between \_\_\_\_\_, a  
\_\_\_\_\_ hereinafter referred to as the "Licensor", the City of Riverside, California, a California charter city and municipal corporation organized and existing under the laws of State of California, hereinafter referred to as "Riverside", and Ice Energy Holdings Inc., a Delaware corporation authorized to do business in California (hereinafter referred to as "Ice Energy"). Riverside and Ice Energy shall be referred to herein collectively as the "Licensees."

### **Recitals**

2. Riverside is implementing a program to improve the efficiency and reduce the adverse impacts on the electricity grid of air conditioning, based on a thermal energy storage product called the Ice Bear, hereinafter referred to as the "Ice Bear Program". Under the Ice Bear Program, Riverside customers permit Ice Energy to investigate the feasibility of installing Ice Bear units (the "Ice Bear Equipment") upon the customer's property, and if feasible, installing and maintaining such equipment as deemed appropriate by Licensees.
3. Licensees have offered Licensor and Licensor accepted the opportunity to participate in the Ice Bear Program, hereinafter referred to as "the Program", subject to the contingency that Ice Energy will evaluate and confirm that Licensor's Property is a suitable location for the Program. Such determination shall be made at the sole discretion of Licensees. The Program consists of installing Ice Bear Equipment on Licensor's Property. The Program may also offer Licensor the opportunity to have aged air conditioning units replaced, with or without the condition of having some of the air conditioning equipment be subject to cycling off under limited circumstances, in which case this Agreement will include an Exhibit "C", executed by the parties, attached to this Agreement and hereby incorporated by this reference, which will govern those matters.
4. Riverside will retain ownership of the Ice Bear Equipment, but the Licensor may utilize such Ice Bear Equipment during the term of this License to shift the Licensor's electrical demand and reduce electrical bills.
5. Licensor has agreed to grant Licensees a License on the terms and conditions set for herein.

### **Incorporation of Recitals**

6. The above recitals are hereby incorporated into and form a part of this Agreement.

### **Description of Property**



7. Licensor is the owner of certain real property situated in the City of Riverside, County of Riverside, State of California commonly known as \_\_\_\_\_ (hereinafter referred to as the "Property") and more particularly described in Exhibit "A", which is attached to this Agreement and hereby incorporated by this reference.

#### **Grant of License**

8. Licensor hereby grants to Licensees and their respective contractors, subcontractors and agents, a license (hereinafter referred to as the "License") to perform the following acts on the Property: the construction, installing, operating, maintaining, replacing, upgrading and/or removing the Ice Bear Equipment and necessary appurtenances attached thereto, or as from time to time may be reconstructed, enlarged or otherwise changed, over, on and/or across Licensor's Property. This License includes, as necessary and reasonable, access to install the Ice Bear Equipment and connect it to existing or new Heating, Ventilation and Air Conditioning Equipment ("HVAC Equipment"), access and the right to operate, service and/or replace said Ice Bear Equipment, as may be required from time to time, including access to the exterior of the building or through the building. The HVAC Equipment, and the Ice Bear Equipment to be installed at the Property, is more particularly described in Exhibit "B".

#### **Ingress and Egress**

9. The Licensees shall have the right of ingress and egress over and along said right of way for its representatives, vehicles and equipment, including cranes as necessary and reasonable for the construction, installation, operation, maintenance, repair, upgrading and/or removing related Ice Bear Equipment; as well as the right to keep the right of way free from brush, wood growth or obstructions which might be deemed a hazard. Licensor hereby agrees that it shall procure written confirmation by any tenant or possessor of the Property that it agrees to provide access to the property consistent with this License.

#### **Use of Property**

10. Except as otherwise permitted or required by law or regulation, Licensees shall not use the Property for any other purpose or business without obtaining Licensor's prior written consent. Further, Licensees shall only use this License to service equipment or facilities which are located on the Property and being used for the benefit of Licensor and the Property.

#### **Ownership of the Equipment**

11. Licensor shall have no ownership of the Ice Bear Equipment and shall keep such Ice Bear Equipment free and clear of any liens that may be created upon the Property. The HVAC Equipment is exclusively the property of the Licensor.

#### **Maintenance and Operating Responsibilities**

12. Maintenance of the HVAC Equipment shall be Licensor's responsibility. Maintenance of the Ice Bear Equipment shall be performed by Riverside or its contractor. Licensor may

request inspection of or repairs to the Ice Bear Equipment. Such inspection and repairs shall be at no cost to the Licensor provided that such inspection and repair work is not due to damage caused by the Licensor. Riverside's contractor shall inspect the Ice Bear Equipment as requested with Riverside's approval; Riverside may elect to proceed with any repair work at its discretion pending the results of the inspection. Any expense(s) associated with such inspections or repairs will be the responsibility of Riverside or contractor, as agreed upon by the parties.

### **Warranties**

13. The Ice Bear Equipment will be made available to Licensor at no cost and on an as-is basis. Ice Energy provides a limited warranty for the benefit of the Ice Bear Equipment owner. Except as set forth in the Ice Energy limited warranty, for the benefit of the Ice Bear Equipment owner, Licensees do not warrant the Ice Bear Equipment or their performance in any way. ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED.

### **Assignment**

14. This License shall not be assigned by any of the parties without having first obtained the prior written consent of the other parties. Notwithstanding the foregoing, any of the Licensees may, upon Licensees' mutual agreement, transfer their rights and obligations under this Agreement to one another without the Licensor's consent, provided that Licensees notify Licensor of such assignment. Additionally, if the ownership of Licensor's Property is transferred or conveyed to another party, the Licensor shall endeavor to assign all of its rights and obligations under this Agreement to the new Property Owner upon notice to the Licensees. If the new Property owner does not accept such assignment, the License shall automatically terminate.

### **Term**

15. This License shall commence on the date this Agreement is executed by all parties and shall continue until terminated by either Licensor or Riverside as hereinafter described.

### **Termination of License**

16. This License shall terminate immediately upon the occurrence of any of the following events:
  - A. Riverside notifies Licensor that it no longer desires to install Ice Bear at Licensor's Property;
  - B. After its initial installation, Riverside, at its discretion, removes the Ice Bear Equipment from Licensor's Property;

- C. Within sixty (60) months following the commissioning of the Ice Bear Equipment, Licensors no longer owns the Property, and the new owner of the Property does not accept the assignment of all of the Licensors rights and responsibilities under this Agreement, *provided* that a written notice of termination must be received by Licensees at least thirty (30) calendar days prior to the date of ownership transfer;
- D. After sixty (60) months following the commissioning of the Ice Bear Equipment, Licensors no longer wishes to participate in the Program for any reason, *provided* that a written notice of termination must be received by Licensees at least thirty (30) calendar days prior to the intended termination date.

### **Removal of Equipment**

- 17. Upon termination of the License, Riverside or its contractors shall remove all its property and Ice Bear Equipment from Licensors Property, and repair any damage caused to the Property by the installation and/or removal of the Ice Bear Equipment, normal wear and tear excepted. Riverside will be responsible for the cost of removal and relocation if the License is terminated under conditions A or B of Section 16 and responsible for relocation cost under conditions C or D of Section 16; Licensors will be responsible for the cost of removal only if the License is terminated under conditions C and D of Section 16. Estimates of Ice Bear equipment removal and relocation cost are outlined in Exhibit D. Riverside, as owner of the removed equipment, will have sole discretion on the disposition of the equipment.

### **Indemnity**

- 18. Licensees agree to hold Licensors exempt and harmless for and on account of any damage or injury to any person or personal property of any persons, including injury or death of persons and any third party property loss and damage, only (a) to the extent resulting from or caused by any negligent act or omission or willful misconduct of Licensees or any of their contractors, subcontractors or agents in the use of the Property hereunder, or (b) to the extent Licensees fail to keep the Ice Bear Equipment in good condition. Licensees agree to pay for all damages to the Property, as well as all damage to persons and to the property of such persons to the extent caused by Licensees' negligent act or omission or willful misconduct of Licensees in connection with this Agreement.

### **Insurance**

- 19. Licensees further agree that whoever Riverside contracts to maintain the Ice Bear Equipment shall maintain in full force during the term of this License, at that contractor's expense, a policy of comprehensive liability insurance, including property damage, which will insure Licensees and Licensors against liability for injury to persons, damage to property, and death of any person occurring in or about the Property. The policy shall not be less than Two Million Dollars (\$2,000,000.00) combined single limit.

### **Entire Agreement**

20. This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed and supersedes any and all previous or contemporaneous agreements between them, whether oral or written. The parties hereto acknowledge, understand and agree that there are no promises, representations or statements of any kind, character or notice whatsoever concerning the subject matter hereof that have been made by either party to the other, except as set forth herein. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement shall be of no force or effect.

### **Amendment and Modification**

21. The parties hereto agree that this Agreement may not be altered, amended or modified in any way whatsoever, except by a writing executed by the parties hereto which specifically refers to this Agreement.

### **Attorneys' Fees**

22. In the event of any controversy, claim, or dispute relating to this Agreement or the breach thereof, each party shall be responsible for its own expenses, attorneys' fees and costs.

### **Binding Effect**

23. This instrument shall be binding on and shall inure to the benefit of the successors, and assigns of Licensor and Licensees.

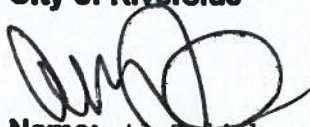
### **Survival of Provisions**

24. All representations and warranties contained in this Agreement shall survive the execution and delivery of this Agreement and the consummation of the transaction contemplated herein.

IN WITNESS WHEREOF, Owner and Contractor have executed this Contract on the days and year set forth below:

OWNER  
City of Riverside

Dated: March 16, ~~2014~~ 2015

  
Name: Al Zolinka  
Title: ~~City Manager~~ Assistant City Manager

Attest:

  
Name: Colleen J. Nicol  
Title: City Clerk

CONTRACTOR  
Ice Energy Holdings Inc.


Dated: January 12, 2015

  
Name: MIKE HOPKINS  
Title: CEO

Attachments:

Exhibit A - Scope of Work  
Exhibit B - Compensation

  
NAME: GREG MILLER  
TITLE: EVP, MARKET DEVELOPMENT

  
Name: James White  
Title: CFO



**IN WITNESS WHEREOF**, Owner and Contractor have executed this Contract on the days and year set forth below:

**Dated:** March 16, ~~2014~~ 2015

**OWNER**  
**City of Riverside**



**Name:** Al Zelinka

**Title:** ~~City Manager~~ Assistant City Manager

**Attest:**

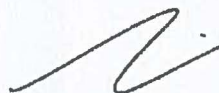


**Name:** Colleen J. Nicol

**Title:** City Clerk

**CONTRACTOR**  
**Ice Energy Holdings Inc.**

**Dated:** January 12, 2015

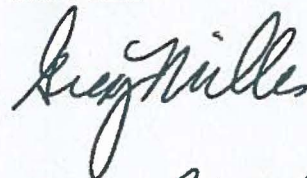


**Name:** MIKE HOPKINS

**Title:** CEO

**Attachments:**

**Exhibit A - Scope of Work**  
**Exhibit B - Compensation**



**NAME:** GREG MILLER

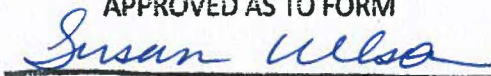
**TITLE:** EVP, MARKET DEVELOPMENT



**Name:** James White

**Title:** CFO

APPROVED AS TO FORM



DEPUTY CITY ATTORNEY

## **Exhibit A**

### **Description of Licensor's Property**

#### **Description of Licensor's Property**

## **Exhibit B**

### **HVAC Equipment and Ice Bear Equipment**

**Description of Existing HVAC Equipment**

**Description of Existing HVAC Equipment to be replaced, if applicable**

**Description of Replacement HVAC Equipment to be installed, if applicable**

**Description of HVAC Equipment to be subject to Direct Load Control pursuant to Exhibit C, if applicable**

**Description of Ice Bear Equipment to be installed and connected HVAC Equipment**

## Exhibit C

### AC Replacement and Direct Load Control

Subject to the installation of the Ice Bear Equipment proceeding:

1 If Exhibit B specifies HVAC Equipment to be replaced, at no cost to Licensor, in conjunction with the installation of the Ice Bear Equipment, that specified HVAC Equipment of Licensor will be replaced with new HVAC Equipment, as specified in Exhibit B.

2. If Exhibit B specifies HVAC Equipment to be subject to Direct Load Control, meaning controls to allow Riverside to remotely interrupt the operation of the HVAC Equipment, then throughout the Term of this License, Licensor agrees that Riverside may remotely interrupt the HVAC Equipment that is identified in Exhibit B as subject to Direct Load Control, during periods of high ambient temperature, provided that no individual interruptions shall exceed 30 minutes, there shall be no more than two interruption per day, and no more than 15 days of interruptions in any calendar year ("Parameters for DLC"). Licensor will in no way interfere with such interruptions.

3. After sixty (60) months following the commissioning of the Direct Load Control, Licensor may opt out of Direct Load Control Program for any reason, *provided* that a written notice of termination must be received by Licensees at least thirty (30) calendar days prior to the intended termination date at the cost to the Licensor identified in Exhibit D.

**LICENSOR:**

**LICENSEES:**

**City of Riverside**

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

By:

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

Name:

Date: \_\_\_\_\_  
\_\_\_\_\_

Date:

**Ice Energy Holdings Inc.**

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

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

Date: \_\_\_\_\_



## **Exhibit D**

### **Ice Bear Equipment Removal and Relocation Cost Schedule**

**Ice Bear Equipment Removal Cost: \$1,500 per Ice Bear Unit**

**Direct Load Control Opt-out Cost: \$500.00, including**

- 1. Removal cost: \$250.00, and**
- 2. Relocation cost: \$250.00**

## Attachment A-3

### Ice Energy Commissioning Report

Completed By		
Employee Name:	Date:	
Ice Energy Site ID#:	Customer Acct #:	
Ice Bear Model:	CoolData SN:	
Ice Bear SN:		
Target AC Mfr:	Model:	SN:
Target AC Mfr Date:	Size (tons):	Climate Zone:
Deemed kW Value Compressor 1:	Resource Operation - circle one: 6 Hr, 4 Hr, 3 Hr, or 2 Hr	
Target AC Mfr:	Model:	SN:
Target AC Mfr Date:	Size (tons):	Climate Zone:
Deemed kW Value Compressor 2:	Resource Operation - circle one: 6 Hr, 4 Hr, 3 Hr, or 2 Hr	
Target AC Mfr:	Model:	SN:
Target AC Mfr Date:	Size (tons):	Climate Zone:
Deemed kW Value Compressor 3:	Resource Operation - circle one: 6 Hr, 4 Hr, 3 Hr, or 2 Hr	
Chk <input checked="" type="checkbox"/>	<b>System Pre Test Checklist</b>	
	Verify system charge via site glass on the receiver	
	Verify Liquid and Suction lines are insulated	
	Verify Minimum water level	
	Verify high voltage connections	
	Verify low voltage connections (Thermostat, CIM Card)	
	Verify CoolData Firmware is latest revision	
	Verify Default Ice Bear Operation	Ice Charge Start time:
		Ice Discharge Start time:
Chk <input checked="" type="checkbox"/>	<b>System Measurement and Verification Checklist</b>	
<b>Discharge/Ice Make Operatoin</b>		
	Verify Melt Operation via IRT/RTU	
	Verify evaporator supply solinoid operation	
	Very Tank water circulation	
<b>Charge/Ice Make</b>		
	Check compressor for proper rotation	
	Verify condensor fan rotation	
	Verify refrigerant level via site glass	
<b>Remote Monitoring and Control Operation</b>		
	Verify CDC time is Set Correctly	
	Verify Ice Bear phoning home	
	Dashboard reads kW reduction Compressor #1	
	Dashboard reads kW reduction Compressor #2	
	Dashboard reads kW reduction Compressor #3	
	Dashboard can control MELT/MAKE Cycles and turn on/off DR switches	
<b>Post Start Up Checks</b>		
	All wires are tight	
	Scharader caps on	
	All doors and lid are secured	
	Gutter/Caps completed	
	Area is clean	

## **Attachment A-4 Qualified Contractor Rules**

The Contractor shall at all times strive to represent the Owner in a professional, courteous, friendly, and efficient manner. The following customer service standards shall be enforced by the Contractor:

1. Abide by the Owner's mission statement and customer standards as noted herein.
2. Furnish sufficient supervisory and working personnel capable of promptly accomplishing on schedule, to the satisfaction of the director / designee, all work required under the Contract.
3. Have competent working supervisors on the job at all times Work is being performed who are capable of communicating and discussing effectively, both in written and oral English, matters pertaining to the Contract.
4. Remove from the performance of the Work any employees deemed careless, incompetent, or who generate multiple customer service complaints.
5. Have supervisors carry identification which clearly indicates to the public the name of the contractor responsible for the project.
6. Have the Contractor's vehicles assigned to the project clearly identified.
7. As applicable, with the Owner's approval, issue a notice in business and residential areas in advance of project commencement stating work project, general time frame, company name, telephone number, job site contact person, Contractor contact person and telephone number.
8. Outages and Discontinuity of Service to Customers. As applicable to the performance of the Work, the Contractor will be responsible for notification of customers of any planned outages or disruption of utility services. Notification must be made in person or by door hanger at least five (5) working days in advance for commercial and industrial customers.
9. Endeavor to maintain good public relations at all times. Conduct Work in a proper and efficient manner to create the least possible inconvenience to the general public.

**TRAFFIC AND ACCESS (when applicable or may be further defined within a Permit for Work)**

"Temporary No Parking Signs" shall be posted at least 24 hours, but not more than 48 hours, in advance of the Work. The signs shall be placed no more than 100 feet apart on each

side of the street and at shorter intervals if conditions warrant. The Contractor shall provide the signs and will be responsible for adding the dates and hours of closure to the signs. All signs shall be removed within 24 hours after the effective date. If the date of closure is changed, the Contractor will be responsible for re-posting the signs in accordance with the above requirements.

Construction signs, barricades, and their applications shall conform with the most current issues of the State of California Business and Transportation Agency, Department of Transportation, Division of Operations "Uniform Sign Chart" and the "Manual of Traffic Controls" for Construction and Maintenance Work Zones.

## GENERAL REQUIREMENTS

**Qualified Electrical Worker:** A Qualified Electrical Person who through training and experience with electrical circuits and equipment has also demonstrated the necessary knowledge and skills to perform the Work on high voltage circuits. Qualified Electrical Workers shall be able to: (1) recognize exposed live parts; (2) determine the nominal voltage of exposed live parts; (3) know the minimum approach distances for the voltages exposed; (4) know the precautionary techniques and personal protective equipment required when working on or near exposed energized parts of electric equipment; and (5) understand the limits of his skills and qualifications and not attempt to perform procedures on voltages or equipment for which he has not received the necessary training or experience. (Note: CAOSHA and NESC includes anything greater than 60V as High Voltage.)

**Contractor's License.** The Work generally requires an "A" or "C-10" license. Specialty Work may require additional or alternate licenses. The Contractor and its Subcontractors must be properly licensed to perform the Work in accordance with the provisions of Chapter 9 of Division 3 of the Business and Professions Code and the Rules and Procedures of the California State Contractor's License Board and in good standing with the Board. Proof of such license shall be provided as required by Business and Professions Code Section 7031.5.

The discharge of any pollutants into the Owner's storm drain system or natural drainage areas is prohibited per the applicable City Municipal Code and the County Area-Wide Municipal Storm water permit issued by the State Water Resources Control Board. Drainage from construction sites and construction activities is prohibited from entering the Owner's storm drain system and natural drainage areas. Any violations of the above provisions are subject to fines by the Owner and by the State Water Resources Control Board.

## LABOR

The Contractor and all its Subcontractors shall pay not less than the then applicable prevailing wage rates as published by the California Department of Industrial Relations.



## **ATTACHMENT A-5**

### **WARRANTIES**

#### **Part 1: Limited Product Warranty**

"Ice Energy Products" covered under this Product Warranty are warranted to be free from defects in materials and workmanship, under normal use and service when installed and used in the manner for which they are intended, for one (1) year from the dates such units become Commissioned Units ("Warranty Commencement Date"), except for the Ice Energy components specified below:

- Compressor - 5 years from Warranty Commencement Date
- Condensing Unit Heat Exchanger – 5 years from Warranty Commencement Date
- Ice Storage Tank & Ice Heat Exchanger – 5 years from Warranty Commencement Date

"Ice Energy Products" include products manufactured by Seller, as well as parts or components of products that are manufactured exclusively for Seller, by another party, to Seller's specifications and drawings.

*"Non-Ice Energy Products" **not covered by this Warranty**, include products supplied by Seller manufactured by another party. Such Non-Ice Energy Products are resold by Seller in their original form and are not modified by Seller in any way. Purchaser's remedy for defective Non-Ice Energy Products will be limited to the applicable warranty of the manufacturer or supplier.*

#### **Limitations**

The sole obligation of Seller hereunder is to repair or supply a replacement for the defective part, assembly or portion thereof of any Ice Energy Product, at its option, and without charge. This warranty does not cover the cost of labor for any adjustments or service calls, nor does it include the cost of labor for replacing defective parts or components. Other than the foregoing repair or replacement, Purchaser will have *no other remedy against Seller, and Seller will not be liable for loss or damage arising from law, strict liability in tort, or negligence resulting from any defect in an Ice Energy Product, even though the defect was caused by negligence, breach of warranty or strict liability in tort of Seller. In any event, Seller will not be liable for incidental and/or consequential damages including loss of income or profits, lost sales, customer goodwill, or economic loss.*

#### **Conditions**

Such repair or replacement will be effected at a location of Seller's choice (including Seller's plants and service facilities, or authorized service agent). In replacing any Ice Energy Product pursuant to this Product Warranty, Seller may replace such Ice Energy Product with a modified or improved product or component.

Purchasers claiming Warranty should contact the authorized dealer that installed the Ice Bear Unit, a Seller authorized service agent, or Seller's location where the item was purchased.

### **Other Exclusions**

This Warranty does **NOT APPLY TO:**

- Normal maintenance as outlined in the installation and servicing instructions or owner's manual.
- Ice Energy Products which Seller has determined have been damaged by misuse, negligence, accident, vandalism, unauthorized servicing, lack of normal maintenance, or misapplication.
- Ice Energy Products on which modification, disassembly and/or repairs have been attempted without prior authorization from Seller or Seller's authorized service agent or authorized dealer.
- Any Ice Energy Product if any component part has been repaired or replaced by any part not manufactured or specified by Seller.
- Failure to start and/or damage due to voltage conditions, blown fuses, open circuit breakers, or other similar damages due to the inadequacy or interruption of electrical service.
- Ice Energy Products not installed, commissioned, serviced or repaired by Seller or a Seller's trained and authorized dealer.
- Installations of Ice Energy Products unless a commissioning report has been completed and factory registered by an authorized dealer.
- Damage as a result of floods, earthquakes, winds, tornados, fires, lightning, accidents, corrosive atmosphere (including coastal salt water conditions) or other conditions beyond the control of Seller.
- Products installed for personal and household use.
- Prototypes and test units. These units or the transactional documentation will be marked as experimental, prototype, test, beta, or other similar marking. Seller grants no warranty to such products, either expressed or implied, as the purpose of these products is research and development testing.

Service or other labor charges not included in this warranty may be covered by a service agreement through Seller at the time of purchase. Such agreement or contract will be separate and apart from this factory equipment warranty.

### **Part 2: Limited Service Warranty**

Seller warrants its services, such as installation services and site supervision ("**Services**") to be free from defects in materials and workmanship for a period of one year from the date of Service completion. This warranty will also cover labor for repair or replacement of a defective part, assembly or portion thereof of any Ice Energy Products installed as part of a Service ("**Warranty Services**") for a period of one year from date of installation, when performed by or at the direction of Seller. Following Warranty Services, the period of warranty coverage for the unexpired portion of the Product Warranty will also apply.

### **Limitations**

The sole obligation of Seller hereunder is to repair, replace, or reperform, at its option, and without charge, any defective Services, including the materials, parts, assemblies, or portions thereof damaged or non-performing as a result of the defective Services. Other than the foregoing repair, replacement, or reperformance, Purchaser will have *no other remedy against Seller, and Seller will not be liable for loss or damage arising from Law, strict liability in tort, or negligence resulting from any defect in Ice Energy Services, even though the defect was caused by negligence, breach of warranty or strict liability in tort of Seller. In any event, Seller will not be liable for incidental and/or consequential damages including loss of income or profits, lost sales, or economic loss. In no event will Seller's liability exceed the amount of money paid to Seller for the particular Service involved.*

### **Conditions**

Such repair, replacement, or reperformance will be effected at a location of Seller's choice (including Seller's plants and service facilities, or authorized service agent). In repairing, replacing or reperforming a Service, Seller may replace such Ice Energy Product with a modified or improved product or component. Purchasers claiming Warranty should contact Seller's location that provided the Services.

### **Other Exclusions**

This Warranty does **NOT APPLY TO:**

- Failure to start due to voltage conditions, blown fuses, open circuit breakers, or other similar damages due to the inadequacy or interruption of electrical service.
- Damage as a result of floods, earthquakes, winds, tornados, fires, lightning, accidents, vandalism, corrosive atmosphere or other conditions beyond the control of Seller.
- Normal maintenance as outlined in the installation and servicing instructions or owner's manual.
- Products which Seller has determined have been damaged by misuse, negligence, accident, unauthorized servicing, or misapplication.
- Products on which disassembly and/or repairs have been attempted without prior authorization from Seller.
- Any Ice Energy Product if any component part has been repaired or replaced by any part not manufactured or specified by Seller.
- Products not installed, commissioned, serviced or repaired by Seller.

**END**

Attachment A-6  
REMOTE MONITORING SERVICES

1. Contractor shall use commercially reasonable efforts to connect all Ice Bear Units to the internet and to remotely monitor their operation and functionality.
2. The Remote Monitoring Services include automated data collection from sensors installed on Ice Bear Units and equipment provided with the original installation pursuant to the Goods and Services Contract, access to the web portal for viewing certain data collected from each Ice Bear Unit (not to include data which are proprietary to Contractor or data which are Contractor's intellectual property or Contractor's confidential information), a distributed energy resource optimizer server, and programming and technical support to identify and define operational dispatch of Ice Bear Units.
3. All data collected shall be stored and archived on a secure data historian. Contractor will analyze such data by the use of intelligent diagnostic application software, among other techniques.
4. If Contractor's diagnostics or analyses reveal a potential problem with an Ice Bear Unit, or with associated Customer-owned HVAC equipment, Contractor will take appropriate action, which may include initiating a service call and/or contacting the Customer.
5. Performance Level Calculation

For purposes of this Attachment A-6, the "*Peak Cooling Period*" shall be the period of time commencing on May 1 of each year and ending on the October 31 of such year.

For any Peak Cooling Period, the "*Performance Level*" of an Ice Bear Unit shall be calculated as follows:

Performance Level = Demand Reduction Hours ÷ Adjusted On-Peak Hours, where

Demand Reduction Hours = Sum of all Adjusted On-Peak Hours during which an Ice Bear Unit's associated HVAC compressor was not turned on, and

Adjusted On-Peak Hours = Sum of hours from 3:00 p.m. until 6:00 p.m., Los Angeles time, during all weekdays during the Peak Cooling Period, excluding each day during which any of the following conditions exist:

- The Ice Bear Unit cannot be interconnected with the Internet and remotely monitored by Contractor under commercially reasonable terms and conditions;



- The Ice Bear Unit has been disconnected from electric service or from the Internet without the fault of Contractor, at any time during the twenty-four (24) hours ending at 6:00 p.m., Los Angeles time;
- The Ice Bear Unit has been directed by Owner at any time during the twenty-four (24) hours ending at 6:00 p.m., Los Angeles time, to operate differently from its normally programmed performance cycle for any period of time;
- The Ice Bear Unit is not currently maintained and repaired in accordance with the recommendations of Contractor without the fault of Contractor, or
- The Ice Bear Unit has not received a request for cooling any time during the preceding three (3) or more days.

#### 6. Annual Performance Level Deduction

The average of all Ice Bear Unit Performance Levels calculated with respect to a Peak Cooling Period in accordance with this Attachment A-6 and weighted with respect to each Remote Monitoring Service unit by its respective Adjusted On-Peak Hours (*"Weighted Average Performance Level"*) shall be equal to or greater than zero point nine three (0.93) within the service territory of Owner (*"Guaranteed Performance Level"*). If the Weighted Average Performance Level within Owner's service territory is equal to or greater than the Guaranteed Performance Level, there shall be no Annual Performance Level Deduction with respect to that year. If the Weighted Average Performance Level is less than the Guaranteed Performance Level, then as the exclusive remedy against Contractor for such deficiency, an Annual Performance Level Deduction will be assessed.

Available Deduction Amount = 15% x (Annual fees paid by Owner to Contractor for Remote Control and Reporting and Maintenance as provided for in Exhibit B)

Performance Level Deduction will be assessed according to the following table:

Weighted Average Performance Level%	Performance Level Deduction Percentage
93-100	0%
90-92.99	10%
87-89.99	25%
83-86.99	50%
80-82.99	75%
<80	100%

Annual Performance Level Deduction = (Available Deduction Amount) x (Performance Level Deduction Percentage)

**Annual Performance Level Deduction amount shall be calculated by Owner, who shall then submit an invoice accordingly to Contractor within 15 days following the end of the previous year; then within 30 days of receiving the invoice, Contractor shall pay the Annual Performance Level Deduction amount to Owner.**

**Attachment A-7**  
**BASIC AND ENHANCED MAINTENANCE**

**I. Basic Maintenance**

A. Contractor shall physically inspect each Commissioned Unit at least once per year; provided that there shall not be more than sixteen (16) months between inspections of any Commissioned Unit.

B. Contractor shall perform routine annual preventive maintenance services at the time of the annual inspection, as prescribed by Contractor's then current maintenance manual, and thereafter provide Owner a Certified Operational Verification Report in the form included at the end of this Attachment A-7.

C. Tools, labor, travel costs and travel time that are needed to perform the annual inspection, routine maintenance and verification are included in the fees paid by Owner for Remote Control and Reporting and the Maintenance.

D. In the event that, during the course of an annual inspection, any repair or adjustment other than routine annual preventive maintenance services is determined to be required with respect to a Commissioned Unit, Contractor shall provide such service (whether at the time of the annual inspection or later), and the charge for parts and labor related to such service shall be for the account of Owner except to the extent that a warranty may apply for parts and labor related to such service or Owner is entitled to Enhanced Maintenance..

**II. Enhanced Maintenance**

If Owner is entitled to Enhanced Maintenance, Contractor will repair any problem with any Commissioned Unit, including parts and labor, regardless of whether it is in or out of warranty and regardless of the cause of the problem, excepting only problems caused by vandalism.

**Example Certified Operational Verification Report**

<b>ANNUAL MAINTENANCE</b> <i>Complete one report for each Ice Bear® 30 system.</i>			
Ice Bear Unit Model #:		Ice Bear Unit SN:	
Customer/Site:			
Address:			
City:	State:	Zip Code:	
Contact Name:	Title:	Phone:	
Completed by:		for:	Date:
<b>CHECKLIST</b>			
<input type="checkbox"/> Visually inspect overall system (look for water leaks, damaged COILS, and inspect PIPING & INSULATION, etc.). <input type="checkbox"/> Ensure TANK LID BOLTS are properly tightened. <input type="checkbox"/> Verify COOLDATA® CONTROLLER configuration, per contract agreement. <input type="checkbox"/> Cycle all applicable modes of operation (Ice Make, Ice Cooling, and Bypass Cooling). <input type="checkbox"/> Verify operating pressures (during Ice Make) within the ICE BEAR 30 UNIT and its associated ICE-COIL™. <input type="checkbox"/> Check all electrical connections (COOLDATA CONTROLLER, ELECTRICAL CONTROL BOX, etc). <input type="checkbox"/> Visually inspect CONDENSER FAN MOTOR BLADES. <input type="checkbox"/> Verify operation of REFRIGERANT PUMP and WATER PUMP (during Ice Cooling mode). <input type="checkbox"/> Check water level in TANK. <input type="checkbox"/> Add water treatment. <input type="checkbox"/> Oil CONDENSER FAN MOTOR BEARINGS, if applicable. <input type="checkbox"/> Clean CONDENSER COIL. <input type="checkbox"/> Clean ICE-COIL. <input type="checkbox"/> Inspect and clean ICE-COIL CONDENSATE DRAIN PAN and PIPING.			



## **Exhibit B**

### **Compensation**

For the year 2015, Owner shall pay to Contractor \$1,360/kW for the PLR and the AC replacement portion of the Scope of Work. For the optional years 2016-2019, Owner shall pay to Contractor \$1,520/kW, or such other price as mutually agreed upon, for the PLR and the AC replacement portion of the Scope of Work (collectively "Contract Price"). Payment for the PLR and the AC replacement portion of the Scope of Work is payable as follows:

As soon as practical after the Effective Date, and thereafter at least thirty days before the beginning of each calendar year in which one (1) MW of Ice Bear Units are to be installed, Contractor will invoice, and within 30 days of invoicing Owner will pay, 50% of the applicable price per kW for the PLR scheduled to be commissioned that year as a down payment. The remaining 50% shall be invoiced monthly by Contractor for the number of Ice Bear Units commissioned in the prior month, which invoices shall be payable within 30 days of delivery. If for any reason Contractor fails to commission the full PLR to be commissioned in a calendar year and fails to make that up in the first ninety (90) calendar days of the next calendar year ("Cure Period"), the portion of the down payment made by Owner which is attributable to the shortfall shall be refunded by Contractor to Owner by no later than fifteen (15) calendar days after the end of the Cure Period.

Owner shall pay Contractor for the Remote Control and Reporting and Maintenance described in Exhibit A an annual amount equal to 1.6% multiplied by the product of a) the sum of all PLR (in MW) commissioned in prior years and PLR (in MW) to be installed in the upcoming calendar year, and b) the applicable Contract Price, adjusted each year by the lesser of CPI and 3%, which amount Contractor shall invoice for the first calendar year as soon as practical after the Effective Date, and thereafter at the beginning of each calendar year, and is due within 30 days of delivery. The aforementioned calculation is demonstrated in Attachment B-1. If Owner renews the Basic Maintenance but not the Enhanced Maintenance, from and after the effective date of the renewal, the 1.6% shall be reduced to 1%. If for any reason Contractor fails to commission the full PLR to be commissioned in a calendar year and fails to make that up in the Cure Period, then the portion of the service fee paid by Owner for the Remote Control and Reporting and the Maintenance attributable to the shortfall shall be refunded by Contractor to Owner by no later than fifteen (15) calendar days after the end of the Cure Period.

Any applicable taxes will be payable in accordance with the following:

*Contractor Taxes.* The payments to Contractor hereunder include applicable corporate and individual taxes that are measured by net income or profit and are imposed by any Governmental Authority on Contractor, its employees or Subcontractors due to the execution or performance of this Contract and the allocated amount of any property taxes

levied against Contractor's facilities ("*Contractor Taxes*"). The Contractor Taxes shall be for the account of and shall be paid directly by Contractor.

*Owner Taxes.* All payments to Contractor hereunder exclude any sales, use, excise, value added, gross receipts, consumption, property, or similar taxes imposed by any governmental Authority with respect to the Work ("*Owners Taxes*"). All Owner Taxes shall be for the account of and shall be paid directly by Owner. Notwithstanding the foregoing, if Contractor is obligated under Applicable Laws to collect and/or pay any Owner Taxes, it shall invoice Owner for such payments and Owner shall remit such amounts to Contractor within sixty (60) days; provided, that if Owner (i) reasonably believes that it is exempt from any such Owner Taxes, and (ii) provides to Contractor adequate documentation of exemption in accordance with the applicable taxing authority regulations as promptly as practicable, but in any event within ten (10) Business Days after the receipt of such invoice, then Owner shall not be obligated to honor such invoice or remit such payment. Contractor covenants to forward promptly to Owner any notice, bill or other statement received by Contractor concerning any Owner Taxes. Owner may pay any Owner Taxes in installments if so payable under Applicable Laws, whether or not interest accrues on the unpaid balance. Owner may contest in good faith the validity, existence or applicability of any Owner Tax if (a) during such contest the execution or enforcement of such Owner Tax is suspended, and (b) such contest is not reasonably expected to result in the exposure of Contractor to any criminal liability for failure to comply therewith. In the event that any Owner Tax is imposed upon Contractor, and Owner pays the same as required herein, Owner shall be subrogated to Contractor's right, if any, to contest the validity of such Owner Tax. Contractor agrees to cooperate with Owner in the prosecution of any such contest.

### Remote Control and Reporting and Maintenance Fee Calculation

	Goods & Service for 1 MW (each year)	Annual Maintenance Price for Yr 1 MW	Assumes Yr 2 MW Option Selected	Assumes Yr 3 MW Option Selected	Assumes Yr 4 MW Option Selected	Assumes Yr 5 MW Option Selected	Total	
Year	\$ 1,360,000	\$ 21,760					\$ 21,760	>> Assume Enhanced Maintenance at 1.6%
2015	\$ 1,520,000	\$ 24,320	\$ 24,320				\$ 48,640	
2016	\$ 1,520,000	\$ 24,806	\$ 24,806	\$ 24,806			\$ 74,419	>> Assume CPI @ 2% each year forward
2017	\$ 1,520,000	\$ 25,303	\$ 25,303	\$ 25,303	\$ 25,303		\$ 101,210	
2018	\$ 1,520,000	\$ 25,809	\$ 25,809	\$ 25,809	\$ 25,809	\$ 25,809	\$ 129,043	
2019		\$ 26,325	\$ 26,325	\$ 26,325	\$ 26,325	\$ 26,325	\$ 131,624	>> Assume Enhanced Maintenance Renewed
2020		\$ 26,851	\$ 26,851	\$ 26,851	\$ 26,851	\$ 26,851	\$ 134,256	
2021		\$ 27,388	\$ 27,388	\$ 27,388	\$ 27,388	\$ 27,388	\$ 136,941	
2022		\$ 27,936	\$ 27,936	\$ 27,936	\$ 27,936	\$ 27,936	\$ 139,680	
2023		\$ 28,495	\$ 28,495	\$ 28,495	\$ 28,495	\$ 28,495	\$ 142,474	
2024		\$ 29,065	\$ 29,065	\$ 29,065	\$ 29,065	\$ 29,065	\$ 145,323	>> Assume Enhanced Maintenance Renewed
2025		\$ 29,646	\$ 29,646	\$ 29,646	\$ 29,646	\$ 29,646	\$ 148,230	
2026		\$ 30,239	\$ 30,239	\$ 30,239	\$ 30,239	\$ 30,239	\$ 151,194	
2027		\$ 30,844	\$ 30,844	\$ 30,844	\$ 30,844	\$ 30,844	\$ 154,218	
2028		\$ 31,461	\$ 31,461	\$ 31,461	\$ 31,461	\$ 31,461	\$ 157,303	
2029		\$ 32,090	\$ 32,090	\$ 32,090	\$ 32,090	\$ 32,090	\$ 160,449	>> Assume Enhanced Maintenance Renewed
2030		\$ 32,732	\$ 32,732	\$ 32,732	\$ 32,732	\$ 32,732	\$ 163,658	
2031		\$ 33,386	\$ 33,386	\$ 33,386	\$ 33,386	\$ 33,386	\$ 166,931	
2032		\$ 34,054	\$ 34,054	\$ 34,054	\$ 34,054	\$ 34,054	\$ 170,269	
2033		\$ 34,735	\$ 34,735	\$ 34,735	\$ 34,735	\$ 34,735	\$ 173,675	
2034								

[illegible]