



CA

2010 – 2012 CUSTOMIZED SOLUTIONS AGREEMENT FOR STATE OF CALIFORNIA PARTNERSHIP

**Application Information**

Project Name \_\_\_\_\_ Service Account # \_\_\_\_\_  
UPN \_\_\_\_\_  
Date Received: \_\_\_\_\_ Calculated Approach \_\_\_\_\_

**SCE Customer Information**

AGENCY NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_ CITY/STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_  
CONTACT NAME \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_  
TITLE \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_  
Tax Status: \_\_\_\_\_ Corp. \_\_\_\_\_ Non-Corp. \_\_\_\_\_ Exempt, Reason: \_\_\_\_\_  
CUSTOMER FEDERAL TAX ID (if applicable) \_\_\_\_\_

**Authorized Agent Information**

COMPANY NAME \_\_\_\_\_ CORPORATE PARENT NAME (if applicable): \_\_\_\_\_  
ADDRESS \_\_\_\_\_ CITY/STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_  
CONTACT NAME \_\_\_\_\_ EMAIL ADDRESS \_\_\_\_\_  
TITLE \_\_\_\_\_ TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_  
Tax Status: \_\_\_\_\_ Corp. \_\_\_\_\_ Non-Corp. \_\_\_\_\_ Exempt, Reason: \_\_\_\_\_  
COMPANY/CORP. FEDERAL TAX ID \_\_\_\_\_

**Site Information**

SITE NAME \_\_\_\_\_ SITE I.D.# (if applicable) \_\_\_\_\_  
SITE ADDRESS \_\_\_\_\_ CITY/STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_  
SITE CONTACT NAME \_\_\_\_\_ CONTACT PHONE # \_\_\_\_\_ SCE ELECTRIC ACCOUNT(S) # \_\_\_\_\_

**Final Approved Savings and Incentive Estimate**

SOLUTIONS DESCRIPTION	Code	kWh	KW	\$ Incentive Amount
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
		0.0	0.0	\$0.00
<b>Total Approved Savings/Incentive Estimates</b>		0.0	0.0	\$0.00
Incentive Adjustment due to Project Cost				\$0.00
Incentive Adjustment due to Project Site Cap				\$0.00
<b>Total Estimated Incentive</b>				\$0.00

**2010 – 2012 CUSTOMIZED SOLUTIONS CONTRACT  
TERMS AND CONDITIONS  
FOR THE STATE OF CALIFORNIA PARTNERSHIP**

This Customized Solutions Contract ("Agreement") is entered into by Southern California Edison Company ("SCE") and the Customer or Authorized Agent of Customer identified below (each deemed the "Applicant" for purposes of this Agreement). Applicant agrees to review these terms and conditions applicable to the Customized Solutions Program ("Program"). Any implementation of a project hereunder will be deemed to be acceptance by the Applicant of such terms and conditions. If these terms and conditions are not acceptable to Applicant (whether Customer or Authorized Agent,) then Applicant must notify SCE and refrain from any implementation of the project, otherwise will do so at their own risk. SCE and Applicant maybe individually referred to as a "Party" and collectively as the "Parties."

**1.0 PROJECT DESCRIPTION** This Agreement is limited to those Program project(s) and/or solutions (also known as measures) described in the 2010-2012 Energy Management Solutions – Incentive Application for Business Customers (together with all forms attached thereto, the "Application") and further described in the 2010 Customized Statewide Procedures Manual for Business ("Program Manual") and at [www.sce.com/customized\\_solutions](http://www.sce.com/customized_solutions). As stated in the Application, SCE shall pay Program incentives ("Incentives") in accordance with the terms and conditions of this Agreement.

**2.0 DOCUMENTS INCORPORATED BY REFERENCE** The following documents are hereby Incorporated by reference and made part of this Agreement: Applicant's completed, signed and submitted Application and SCE's acceptance letter(s) based on the energy saving solutions proposed in the Application.

**3.0 ELIGIBILITY** Customized Solutions Program ("Program") funding is limited and is available on a first-come, first-served basis. Funds will be reserved only upon both SCE's written approval of the Application and SCE's execution of this Agreement. Projects must meet the following requirements to be eligible for payment of Program Incentives": (1) Project Site must be a nonresidential facility located within SCE's service territory; (2) SCE Customer must pay the Public Purpose Program ("PPP")

surcharge, on the SCE electric meter, where the energy efficient equipment is installed; (3) Projects will be evaluated using the Calculated Savings Approach and/or the Measured Savings Approach ("M&V"); (4) Energy savings and demand reduction resulting from the project must be above and beyond baseline energy performance, which include state-mandated codes, federal-mandated codes, industry-accepted performance standards or other SCE-approved baselines, applicable at the time this Agreement is signed; (5) Projects must meet all other Program requirements, terms and conditions; (6) Applicant certifies that the energy savings components of this Project have not and will not receive any funds from any other energy conservation program funded by the PPP surcharge, the CEC or the California Public Utilities Commission ("CPUC").

**4.0 SUBMITTAL REQUIREMENTS FOR PAYMENT** Applicant shall submit to SCE the documents described below prior to being eligible for payment of Incentives. Required documents Include, but are not limited to: (1) This Agreement, fully executed and with the attached documents referenced in Item 2.0 above; (2) Complete engineering calculations to demonstrate energy savings (and documentation, if applicable including archival diskette, CD); (3) Schematic drawings and/or manufacturer specification sheets, if applicable; (4) Invoices and/or documentation to support solution costs at SCE's request; (5) Additional Project-specific documents as requested by SCE; (6) Project Installation Report; and (7) Operating Report, if M&V is required.

**5.0 INSPECTIONS** As a condition of payment, Applicant is responsible for ensuring that SCE has reasonable access for all inspections, including but not limited to those described below: (1) Pre-installation equipment inspection to examine the existing/baseline equipment and to check the accuracy of Applicant's equipment survey; (2) Post-installation equipment inspection to check installed equipment and to verify accuracy of Applicant's equipment survey; and (3) Post-operation inspection to check energy savings of the solutions after installed equipment has been operating; (4) Inspection for any other reason that SCE, in its sole discretion, deems necessary (this inspection can take place after the Operating Report has been submitted or earlier, at SCE's discretion. Therefore, Applicant agrees to provide access to the Project Site for these purposes to SCE. Applicant further agrees to provide access to the Project Site for these purposes to SCE's agents, assigns, contractors, or subcontractors ("SCE Contractors") and the CPUC and /or its agents or assigns. In the event an SCE contractor is coming onto the Project site, SCE agrees to provide the SCE Contractor with the Applicant's Right of Entry (ROE) form, attached hereto as Exhibit A, to be executed in order to enter Applicant's property. Any modifications to the ROE shall be between Applicant and SCE's Contractor. SCE shall not be bound by the ROE's terms and conditions. Applicant understands that a rebate will not be paid if Applicant refuses to participate in any required verification. The verification of installation must be scheduled within 30 days of Applicant contact by SCE. Applicant understands that SCE may contact the qualifying product vendor and/or installer, if needed, to verify purchase and/or installation and may provide Applicant's name and/or address to complete this verification.

**6.0 REVIEW AND DISCLAIMER** SCE'S AND/OR ITS CONSULTANTS' REVIEW OF THE DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE OF THE PROJECT OR ENERGY EFFICIENCY SOLUTIONS SHALL NOT CONSTITUTE ANY REPRESENTATION AS TO THE ECONOMIC OR TECHNICAL FEASIBILITY, OPERATIONAL CAPABILITY, OR RELIABILITY OF THE PROJECT OR SOLUTIONS. THE APPLICANT SHALL, IN NO WAY, REPRESENT TO ANY THIRD PARTY THAT SCE'S REVIEW OF THE SOLUTIONS OR PROJECT, INCLUDING, BUT NOT LIMITED TO UTILITY'S AND/OR ITS CONSULTANTS' REVIEW OR ANALYSIS OF THE DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE OF THE SOLUTIONS OR PROJECT, IS A REPRESENTATION BY SCE AS TO THE ECONOMIC OR TECHNICAL FEASIBILITY, OPERATIONAL CAPABILITY, AND RELIABILITY OF SUCH SOLUTIONS OR PROJECT. APPLICANT IS SOLELY RESPONSIBLE FOR THE ECONOMIC AND TECHNICAL FEASIBILITY, CONSTRUCTION, OPERATIONAL CAPABILITY AND RELIABILITY OF APPLICANT'S PROJECT AND SOLUTIONS.

**7.0 PAYMENTS** Payment of Incentives will be made only after all Program requirements are met by Applicant to SCE's satisfaction.

7.1 SCE retains sole discretion to determine the appropriate baseline values and energy savings calculations used to determine Incentive payments. Incentives shall only be paid on Projects that exceed baseline performance standards applicable when this Agreement is signed. SCE reserves the right to modify or cancel the Incentive amount if the actual solution installed differs from the installation as set forth in the approved Application.

7.2 The total Incentive payment under the Calculated Savings Approach or Measured Savings Approach shall not exceed the total Incentive in the Final Approved Savings Estimate (as presented on Page 2 of this Agreement). However, projects may (at the discretion of SCE) be eligible for Incentive payments in excess of the Final Approved Savings Estimate if the project results in: (a) increased actual energy savings resulting from the installation of a greater quantity of the approved solutions (as outlined in SCE's Acceptance letter); (b) increased actual energy savings resulting from greater efficiencies than estimated (as outlined in the SCE Acceptance letter); and/or (c) greater actual project costs than originally estimated (applicable if the project cost percentage caps described below in this Section 7.2 had been applied in the original estimate).

Projects using the Measured Savings Approach are eligible for up to an additional 10% of the approved Incentive amount to subsidize the M&V activities required of the Applicant. See Program Manual for details.

Incentive rates shall apply for the following types of retrofit projects: Lighting, \$0.15/kWh; Air Conditioning & Refrigeration I, \$0.24/kWh; Air Conditioning & Refrigeration II, \$.18/kWh; and Other (motors, etc.), \$0.18/kWh.

The Incentive payment shall be limited to the following percentage of total Project costs (labor and materials): Lighting, 50%, Air Conditioning & Refrigeration I, 80%; Air Conditioning & Refrigeration II, 80%; and Other (motors, etc.), 80%.

Calculations shall be in accordance with the Program Manual.

7.3 SCE will make the applicable Incentive payment to the designated payee, in one or more installments, only after all the appropriate documents have been submitted and approved by SCE, and the appropriate inspection(s) of the Project have been satisfactorily completed, in accordance with the rules set forth in the Program Manual.

7.4 All Projects and/or solutions must be completely installed and fully operational by December 31, 2012. SCE reserves the right to cease making Incentive payment(s), require the return of the total or prorated Incentive payments and/or terminate this Agreement if the Project(s) is not completely installed and fully operational by the applicable date as indicated above.

7.5 Energy savings for which Incentives are paid cannot exceed the actual electrical usage for each SCE Customer's service account for which Incentives are being requested. Non-SCE supply, such as cogeneration or deliveries from another commodity supplier, does not qualify as usage from SCE (with the exception of Direct Access customers or customers paying departing load fees for which SCE collects PPP surcharges).

## **8.0 INCENTIVE RECOVERY**

8.1 Applicant agrees to maintain and operate the installed equipment so that SCE receives the energy savings for the rated life of the product(s) or for a period of five (5) years from installation, whichever is less. If Applicant does not provide the energy savings or if the Applicant ceases to be a customer of SCE at the facility during the 5 years, Applicant shall refund a prorated amount of Incentive dollars based on the time installed. However, if the equipment fails to operate for the rated life or for a period of five (5) years from installation, the Applicant shall replace the failed equipment with equipment that has an energy efficiency rating equal to or better than the equipment being replaced. Provided further, the amount of energy savings may fluctuate due to the natural degradation in the efficiency of the equipment as it ages.

8.2 Applicant shall repay any Incentive amounts due to SCE within fifty (50) calendar days of notification by SCE that repayment is required in accordance with Section 8.1 above. SCE shall be entitled to offset against payments owed to Applicant any amount due to SCE that remains unpaid sixty (60) calendar days after SCE's written demand for payment.

**9.0 TERM AND TERMINATION** The term of this Agreement shall commence on the last date that a Party executes this Agreement and shall terminate no later than five (5) years from SCE's written Project Installation Report approval date, unless terminated earlier pursuant to this Agreement ("Term").

**10.0 ASSIGNMENT** Applicant consents to SCE's assignment of all of SCE's rights, duties and obligations under this Agreement to the CPUC and/or its designee, provided SCE remains responsible for payments pre-approved prior to the assignment. Such assignment shall relieve SCE of all rights, duties and obligations arising under this Agreement. Other than SCE's assignment to the CPUC or its designee, neither Party shall assign its rights or delegate its duties without the prior written consent of the other Party, except in connection with the sale or merger of a substantial portion of its properties. Any such assignment or delegation without written consent shall be null and void. Consent to assignment shall not be unreasonably withheld. If an assignment is requested, Applicant is obligated to provide additional information if requested by SCE.

**11.0 PERMITS AND LICENSES** Applicant, at its own expense, shall obtain and maintain licenses and permits needed to perform its work. Any failure to maintain necessary licenses and permits constitutes a material breach of Applicant's obligations under this Agreement.

**12.0 ADVERTISING, MARKETING AND USE OF SCE'S NAME** Applicant shall not use SCE's corporate name, trademark, trade name, logo, identity or any affiliation for any reason, including the solicitation of customers to participate in the Project, without SCE's prior written consent. Applicant shall make no representations to customers on behalf of SCE.

**13.0 INDEMNIFICATION** The Parties acknowledge and agree that SCE is only providing the Applicant with money in the form of a rebate or Incentive payment. The Applicant has independently hired contractors ("State Contractors") to perform the work on behalf of the Applicant to qualify for the Incentive or rebate payment. The Applicant acknowledges and agrees that the State Contractors are not third party beneficiaries to this Agreement between Applicant and SCE. To the extent authorized by law and subject to appropriation of the Legislature, the Applicant agrees that it will look only to State Contractors for any claims related to the installed equipment or its performance and that SCE shall have no responsibility or liability, except for the payment of the rebate or incentive, and Applicant shall indemnify SCE for any claims made by the State Contractors against SCE.

**14.0 CPUC AUTHORITY TO MODIFY** This Agreement shall at all times be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction.

**15.0 WRITTEN NOTICE** Any written notice, demand or request required or authorized in connection with this Agreement shall be deemed properly given if delivered In person or sent by facsimile, email, nationally recognized overnight courier, or first class mail, postage prepaid; to the address specified below, or to another address specified in writing by SCE.

**SCE**

SCE Project Manager:  
Address:  
City, State, Zip:  
Fax#:  
Email:  
Phone:

**CUSTOMER OR AUTHORIZED REPRESENTATIVE**

Name:  
Company:  
Address:  
City, State, Zip:  
Fax#:  
Email:  
Phone:

Notices shall be deemed received (a) If personally or hand-delivered, upon the date of delivery to the address of the person to receive such notice if delivered before 5:00 p.m., or otherwise on the Business Day following personal delivery; (b) if mailed, three Business Days after the date the notice is postmarked; (c) if by facsimile or email, upon electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party; or (d) if by overnight courier, on the Business Day following delivery to the overnight courier within the time limits set by that courier for next-day delivery.

**16.0 CONFLICTS BETWEEN TERMS** Should a conflict exist between the main body of this Agreement and the documents incorporated by reference, the main body of this Agreement shall control. Should a conflict exist in the documents incorporated by reference, the documents shall control in the following order: 1) SCE acceptance letter(s) and Incentive estimate(s) based on solutions as approved in the Application(s); (2) Applicant's approved Application(s); and 3) the Program Manual. Should a conflict exist between an applicable federal, State, or local law, rule, regulation, order or code and this Agreement, the law, rule, regulation, order or code shall control. Varying degrees of stringency among the main body of this Agreement, the documents incorporated by reference, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any conflict or inconsistency concerning this Agreement.

**17.0 MISCELLANEOUS** This Agreement shall be governed and construed in accordance with the laws of the State of California, without regard to its conflict of laws provisions. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the

remaining provisions shall remain in full force and effect. This Agreement constitutes the entire agreement and understanding between the Parties as to the subject matter of this Agreement and supersedes all prior agreements, representations, writings and discussions between the Parties, whether oral or written, with respect to the subject matter hereof. No amendment, modification or change to this Agreement shall be binding or effective unless expressly set forth in writing and signed by SCE's representative authorized to execute the Agreement.

**18. CANCELLATION OF AGREEMENT:** SCE may suspend or terminate the Agreement, without cause, upon written notice to the Applicant.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date set forth below.

**SCE**

**APPLICANT (CUSTOMER OR AUTHORIZED AGENT)**

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

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

Title: **Director of Operations, Customer Energy  
Efficiency and Solar**

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

Name Printed: **Mark Wallenrod**

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

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

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