

HARD-TO-REACH
STANDARD OFFER PROGRAM CONTRACT

This Hard-to-Reach Standard Offer Program Contract (the "Agreement") is made and entered into by and between Entergy Gulf States, Inc., a Texas corporation (hereinafter "Entergy") and _____ (hereinafter "Project Sponsor").

WHEREAS, Entergy has developed a Standard Offer Program for its HTR SOP hard-to-reach customer class (the "HTR SOP"); and

WHEREAS, the HTR SOP seeks to procure energy and/or peak demand savings through the installation and operation of energy efficiency measures at the facilities of such customers; and

WHEREAS, the Project Sponsor has developed a plan for participation in the HTR SOP through a set of installed energy efficiency measures and other improvements necessary to produce consistent and predictable energy savings and/or peak demand savings over at least a ten-year period.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I - DEFINITIONS

- 1.1 "Contract Documents" shall mean (1) the Project Sponsor's approved Project Application, including Measurement & Verification Plan if required, attached hereto and incorporated herein as Exhibit A, (2) the HTR SOP Manual, attached hereto and incorporated herein as Exhibit B, and (3) this Agreement together with any and all other exhibits, addenda, or amendments referenced herein or made a part hereof in accordance with this Agreement.
- 1.2 "Customer" shall mean a lower-income transmission and distribution system customer of Entergy that owns or leases facilities at a Project Site in Texas and that has entered into a Customer Agreement with the Project Sponsor for the installation of Measures as a part of the Project.
- 1.3 "Customer Agreement" shall mean the "Customer and Project Sponsor Agreement" between the Customer and the Project Sponsor that specifies the rights and obligations of each party with respect to the installation of the Measures and other related and/or unrelated matters at the Project Site.
- 1.4 "Deemed Demand Savings" shall mean a pre-determined estimate of Demand Savings attributable to a Measure in a particular type of application that Entergy may use instead of Measured Demand Savings.
- 1.5 "Deemed Energy Savings" shall mean a pre-determined estimate of Energy Savings attributable to a Measure in a particular type of application that Entergy may use instead of Measured Energy Savings.
- 1.6 "Demand Savings" shall mean the maximum one-hour average electric demand reduction, expressed in kilowatts (kW), that results only from those Measures included in the Project Sponsor's approved Project Application. Demand Savings occur when the Measures are operating at peak conditions during the summer period. The "summer period" is defined

as weekdays between the hours of 1 PM and 7 PM from May 1 until September 30, excluding holidays. Any Demand Savings that may result from Measures installed or activities completed by the Project Sponsor that are not included in the approved Project Application will be excluded from this definition and are not eligible for payment under the HTR SOP. Demand Savings will be calculated based upon savings over and above standard efficiency equipment and *not* in relationship to existing equipment, except in cases where no standards exist. Equipment standard efficiency are ASHRAE 90.1-1989, ASHRAE 90.1M-1995, and the PUCT-approved Standard Lighting Wattage Table.

- 1.7 "Energy Savings" shall mean the amount of annual (one-year) electric energy reduction, expressed in kilowatt-hours (kWh), that results only from those Measures included in the Project Sponsor's approved Project Application. Any energy savings that may result from Measures installed or activities completed by the Project Sponsor that are not included in the approved Project Application will be excluded from this definition and are not eligible for payment under the HTR SOP. Energy Savings will be calculated based upon savings over and above standard efficiency equipment and *not* in relationship to existing equipment, except in cases where no standards exist. Equipment standard efficiencies are ASHRAE 90.1-1989, ASHRAE 90.1M-1995, and the PUCT-approved Standard Lighting Wattage Table.
- 1.8 "Estimated Demand Savings" shall mean the Demand Savings expected to be derived from the Measures to be installed or actually installed at the Project Site.
- 1.9 "Estimated Energy Savings" shall mean the Energy Savings expected to be derived in a single year from the Measures to be installed or actually installed at the Project Site.
- 1.10 "Hard-to-Reach Customers" shall mean residential customers with an annual household income at or below 200% of the current year's federal poverty guidelines as issued by the U.S. Department of Health and Human Services, or its successor agency.
- 1.11 "Measure" shall mean new equipment, material, or systems installed pursuant to the Project that when installed and used at a Project Site(s) result in a quantifiable reduction in purchased electric energy consumption, measured in kWh, or peak demand, measured in kW, or both, that meet the requirements of the Contract Documents, and that, in the determination of Energy or the PUCT, do not fall into one of the categories listed in P.U.C. SUBST. R. 25.181(i)(6)(A)-(D).
- 1.12 "Measured Demand Savings" shall mean the Demand Savings derived during the Performance Period from the Measures installed at the Project Site(s) as determined in accordance with the Measurement and Verification Plan set forth in Exhibit A.
- 1.13 "Measured Energy Savings" shall mean the Energy Savings derived during the Performance Period from the Measures installed at the Project Site(s) as determined in accordance with the Measurement and Verification Plan set forth in Exhibit A.
- 1.14 "Not-For-Profit Organizations" are organizations that have been granted tax-exempt status under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. Eligible organizations must have in their charter, articles of incorporation, or by-laws, the primary goal of promoting the general welfare of low-income people of the community. Not all Not-For-Profit Organizations will qualify for eligibility under the HTR SOP.
- 1.15 "Performance Period" shall mean the one-year period following the approval of a Project Sponsor's Project Implementation Report during which measurement and verification are

to take place.

- 1.16 "Project" shall mean a set of proposed or installed Measures in a single Project Sponsor's approved Project Application. All Projects must include Estimated Demand Savings of at least 10 kW during the summer peak period, as defined in Section 1.6.
- 1.17 "Project Site" shall mean the location of a Customer's facilities where approved Measures will be installed and from which Demand Savings and/or Energy Savings will be obtained. Project Sites may not include new building construction or additions to existing buildings.
- 1.18 "Prudent Electrical Practices" shall mean those practices, methods, standards and equipment commonly used in prudent electrical engineering and operations to operate electrical equipment lawfully and with safety, dependability and efficiency and in accordance with the National Electrical Safety Code, the National Electrical Code and any other applicable federal, state and local codes provided, however, that in the event of a conflict, the applicable federal, state or local code shall govern.
- 1.19 "PUCT" shall mean the Public Utility Commission of Texas, or its duly authorized successor.

ARTICLE II - TERM AND TERMINATION

- 2.1 The term of this Agreement shall commence on the date of execution by Entergy (the "Effective Date") and unless otherwise terminated as set forth herein, shall continue in force and effect until payment by Entergy of the Performance Payment due pursuant to Article 7.6 hereinbelow, or until December 31st of the current funding year, whichever is later. However, the rights and obligations set forth in Article X herein shall survive the expiration or termination of this Agreement for any reason whatsoever.

ARTICLE III - ACKNOWLEDGEMENT OF PROGRAM REQUIREMENTS

- 3.1 By executing this Agreement, the Project Sponsor represents it has received and reviewed all Entergy HTR SOP rules and information and all applicable laws and regulations prior to submission of its Project Application. The Project Sponsor also warrants and acknowledges that it meets or exceeds all of the following qualifications required by Entergy for participation in the HTR SOP:
 - 3.1.1 Possesses and can demonstrate experience in implementing similar projects;
 - 3.1.2 Can produce evidence of a good credit rating;
 - 3.1.3 Can produce a list of references;
 - 3.1.4 Can produce evidence of possession of all applicable licenses required under state law and local building codes;
 - 3.1.5 Can produce evidence of possession of all building permits necessary for installing the Measures as required by governing jurisdictions;

- 3.1.6 Can produce the proof of insurance required by Article IX and Exhibit C of this Agreement;
 - 3.1.7 Has produced a work plan for the Project including a marketing plan and description of the proposed use of contractors;
 - 3.1.8 Is not an Entergy affiliate; and
 - 3.1.9 Has revealed all affiliate relationships that meet the PUCT's interpretation of the term "affiliate" in P.U.C. Subst. R. 25.181(c)(1) for the purposes of P.U.C. Subst. R. 25.181(i)(3) and has signed a declaration of affiliate status, if required.
- 3.2 Project Sponsor acknowledges that Project meets all regulatory requirements, including:
- 3.2.1 The Project results in a reduction in purchased energy consumption, or peak demand, or both, and a reduction in energy costs for the end-use customer;
 - 3.2.2 The Project will result in consistent and predictable energy and/or peak demand savings over a ten-year period;
 - 3.2.3 The Project includes appropriate and adequate measurement, verification and reporting procedures;
 - 3.2.4 The Project does not achieve demand reduction by eliminating an existing function or shutting down a facility or operation, or result in building vacancies or the relocation of existing operations to locations outside of the facility or area served by Entergy in Texas;
 - 3.2.5 Measures installed pursuant to the Project would not be installed in the absence of the HTR SOP;
 - 3.2.6 The Project does not result in negative environmental or health effects, including effects that result from improper disposal of equipment and materials; and
 - 3.2.7 The Project does not involve the installation of self-generation or co-generation equipment, but may involve renewable technologies.

ARTICLE IV - CUSTOMER AGREEMENT

- 4.1 The Project Sponsor will be solely responsible for entering into a Customer Agreement with the Customer as appropriate for implementation of the Project. The Customer Agreement must be executed by the Customer prior to Project Sponsor beginning installation of Measures at the Project Site.
- 4.2 Project Sponsor agrees to disclose to Customer any potential adverse environmental or health effects associated with the Measures to be installed at the Project Site.
- 4.3 The Customer Agreement must include all consumer protection provisions and disclosures

contained in Article XII of this Agreement as well as the following provisions:

- 4.3.1 A Customer Agreement to provide Entergy and the independent measurement and verification expert selected by the PUCT, upon three (3) days' prior oral notice full and complete access to the Project Site(s) for any purpose related to the HTR SOP. The right of access will be subject to Customer's reasonable access requirements and, unless otherwise agreed, must occur within normal business hours.
- 4.3.2 A Customer acknowledgement that any review, inspection, or acceptance by Entergy of the Project Site(s) or of the design, construction, installation, operation or maintenance of the Measures is solely for the information of Entergy and that, in performing any such inspection or review or in accepting the Measures, Entergy makes no representations or warranty whatsoever as to the economic or technical feasibility, capability, safety or reliability of the Measures, their installation by the Project Sponsor or their compatibility with the Customer's facilities.
- 4.3.3 A Customer acknowledgement that the Project Sponsor is an independent contractor with respect to Entergy and the HTR SOP and that the Project Sponsor is not authorized to make representations or incur obligations on behalf of Entergy.
- 4.3.4 A Customer acknowledgement that Entergy is not a party to the Customer Agreement and that the Project Sponsor is solely responsible for performance thereunder.
- 4.3.5 A Customer acknowledgement that Entergy makes no warranty or representation regarding the qualifications of the Project Sponsor and that the Customer is solely responsible for the selection of the Project Sponsor.
- 4.3.6 A Customer acknowledgement that the Customer may file a complaint with the PUCT concerning the Project Sponsor, but that Entergy will play no role in resolving any disputes that arise between the Customer and the Project Sponsor.
- 4.3.7 A CUSTOMER AGREEMENT TO RELEASE ENTERGY FROM ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, COSTS, AND LEGAL LIABILITY INCLUDING, BUT NOT LIMITED TO (1) INJURY OR DEATH OF PERSONS, (2) DAMAGE TO NATURAL RESOURCES, (3) VIOLATION OF ANY LOCAL, STATE, OR FEDERAL LAW OR REGULATION INCLUDING, BUT NOT LIMITED TO, ENVIRONMENTAL AND HEALTH AND SAFETY LAWS OR REGULATIONS, (4) STRICT LIABILITY IMPOSED BY ANY LAW OR REGULATION, (5) EQUIPMENT MALFUNCTIONS, OR (6) ENERGY SAVINGS AND/OR DEMAND SAVINGS SHORTFALLS ARISING OUT OF, RELATED TO, OR IN ANY WAY CONNECTED WITH THE PROJECT, REGARDLESS OF ANY STRICT LIABILITY OR NEGLIGENCE OF ENTERGY, WHETHER ACTIVE OR PASSIVE.

ARTICLE V - PROJECT IMPLEMENTATION

- 5.1 The Project Sponsor agrees that if any portion of the equipment or conditions at the Project Site(s) in place before the installation of the Measures, and such equipment or conditions are an integral part of the Measures, has been altered prior to the execution of the Agreement, or if any of the proposed Measures have been installed prior to the execution of the Agreement, the Project, or the affected portions thereof, will be disallowed.
- 5.2 The Project Sponsor agrees, on and after the Effective Date, to use all reasonable efforts to implement the Project without undue delay and otherwise in accordance with the terms of the Contract Documents. To the extent of any conflict between this Agreement and other Contract Documents, the terms of this Agreement shall prevail.
- 5.3 Measures shall be designed, constructed and installed in a good and workmanlike manner only with materials and equipment of appropriate quality, and, in any event, in accordance with Prudent Electrical Practices.
- 5.4 Irrespective of the Effective Date, installation of the Measures must be completed no later than November 30th of the current funding year. If the Project Sponsor does not complete the installation of the Measures by such time, absent a Force Majeure event, the Project Sponsor's actions or inactions shall constitute a breach of contract unless the Project Sponsor requests, and Entergy, in its sole discretion, grants to the Project Sponsor an extension of time to complete installation of the Measures.
- 5.5 Project Sponsor must document the Measures actually installed at each Project Site in a Project Implementation Report. Project Sponsor must complete and submit Project Implementation Reports to Entergy on a periodic basis.
- 5.6 Project Sponsor must complete sufficient Measure installations to comply with the following milestone schedule:
 - 5.6.1 Measure installations resulting in at least forty percent (40%) of the Project Sponsor's total estimated incentive payment must be completed by June 30 of the program year. Entergy reserves the right to withdraw some or all of the Project Sponsor's reserved incentive funds for failure to achieve this milestone.
 - 5.6.2 If a Project security deposit is collected, it will be returned to the Project Sponsor after completion of installations accounting for at least seventy-five percent (75%) of the Project Sponsor's estimated incentives. Entergy will liquidate the Project security deposit if installations accounting for at least seventy-five percent (75%) of the Project Sponsor's estimated incentives are not completed within the installation period. In the event of liquidation, Project Sponsor will not receive any reimbursement or rebate of the Project security deposit.
- 5.7 Within 30 days of receipt of the Project Implementation Report, Entergy shall complete an inspection of the Measures installed at the Project Site(s) in accordance with the International Performance Measurement and Verification Protocol. This inspection shall be used to determine whether the Measures were installed and are capable of performing their intended function.
- 5.8 Any view, inspection, or acceptance by Entergy of the Project Site(s) or of the design,

construction, installation, operation and maintenance of the Measures is solely for the information of Entergy. In performing any such inspection or review or in accepting the Measures, Entergy makes no representation or warranty whatsoever as to the economic or technical feasibility, capability, safety or reliability of the Measures, their installation by Project Sponsor or their compatibility with the Customer's facilities.

- 5.9 If Entergy reasonably determines that the Measures at the Project Site(s) have been installed and are capable of providing Demand Savings and/or Energy Savings in material compliance with the Contract Documents, the Project Implementation Report will be approved as submitted. The Estimated Demand Savings and Estimated Energy Savings attributable to the Measures documented in the approved Project Implementation Report will be used for purposes of calculating the Incentive Payment in Article VII.
- 5.10 If Entergy determines that the Measures installed at the Project Site(s) have not been installed or are not capable of providing Demand Savings and Energy Savings in material compliance with the Contract Documents, then a reduction or, if applicable, elimination of Estimated Demand Savings and Estimated Energy Savings will be required for purposes of calculating the Incentive Payment in Article VII. The Estimated Demand Savings and Estimated Energy Savings attributable to the Measures documented in the Project Implementation Report will be reduced or, if applicable, eliminated by the percentage of Measures that failed to pass inspection.

ARTICLE VI - MEASUREMENT AND VERIFICATION

- 6.1 The Project Sponsor shall measure and verify the Demand Savings and/or the Energy Savings that result from the Measures installed as a part of the Project as set forth in the Measurement and Verification Plan in the Project Application.
- 6.2 Within thirty (30) days of the conclusion of the Performance Period, the Project Sponsor shall submit for review and approval a Savings Report to Entergy documenting the Measured Energy Savings and Measured Demand Savings for the Performance Period. If the Savings Report is deficient, Entergy will provide, in writing, notice of the deficiency, and the Project Sponsor shall revise and resubmit the Savings Report until it is approved by Entergy. Any necessary revisions shall be performed in the time-period specified by Entergy in the notice of deficiency.
- 6.3 The Measured Demand Savings and/or Measured Energy Savings attributable to the Measures documented in the approved Savings Report will be used for purposes of calculating the Performance Payment in Article VII, below.

ARTICLE VII - INCENTIVE PAYMENTS

- 7.1 Entergy agrees to make incentive payments to the Project Sponsor based upon the Estimated Energy Savings and/or Estimated Demand Savings and the Measured Energy Savings and/or Measured Demand Savings, as the case may be, derived from the Project. The total incentive payment due to the Project Sponsor will be calculated by multiplying the Estimated Demand Savings and/or Estimated Energy Savings and the Measured Energy Savings and/or Measured Demand Savings, as the case may be, by the applicable incentive rate associated with the Measures installed at the Project Site.

HTR SOP Incentive Rate for 2009	
Demand Savings Incentive Rate	\$430 per kW
Energy Savings Incentive Rate	\$0.163 per annual kWh

- 7.2 The total incentive payment for a HTR SOP Project is subject to a load factor cap and shall not exceed \$1,140 per kW of Demand Savings.
- 7.3 No more than sixty-five percent (65%) of the Demand Savings and Energy Savings for the Project may be derived from lighting measures. If a project consists of lighting measures only, compensation shall not exceed sixty-five percent (65%) of the total incentive payments due to the Project Sponsor.
- 7.4 If the Project consists of Measures for which there exist, and the Project Sponsor has elected to use, deemed or stipulated demand and energy savings, then Entergy will make one incentive payment based on Deemed Demand Savings and/or Deemed Energy Savings for the Measures approved in the Project Implementation Report. Otherwise, the total incentive payment shall be payable in two installments as set forth hereinbelow.
- 7.5 Upon completion of installation of the Measures and review and approval of the Project Implementation Report, Entergy will make an incentive payment (the "Implementation Payment") within fifteen (15) days. The Implementation Payment will be forty percent (40%) of the total incentive payment due based upon the following equation:

$$\text{Implementation Payment} = 0.4 \times ((\text{Estimated Demand Savings} \times \text{Demand Savings Incentive Rate}) + (\text{Estimated Energy Savings} \times \text{Energy Savings Incentive Rate})).$$

- 7.6 At the conclusion of the Performance Period and upon Entergy review and approval of the Savings Report, Entergy will make the second incentive payment (the "Performance Payment") within thirty (30) days. The Performance Payment will be the remaining amount of the total incentive payment due based upon the Measured Demand Savings and Measured Energy Savings. The amount of the Incentive Payment shall be calculated using the following formula:

$$\text{Performance Payment} = ((\text{Measured Demand Savings} \times \text{Demand Savings Incentive Rate}) + (\text{Measured Energy Savings} \times \text{Energy Savings Incentive Rate})) - \text{Implementation Payment}$$

In the event that the above formula results in a negative Performance Payment, then the Project Sponsor will refund that amount to Entergy within thirty (30) days of receipt of an invoice from Entergy. If Project Sponsor fails to remit payment within said time period, Entergy reserves all rights to take all legal action necessary against Project Sponsor and shall be allowed to collect all reasonable attorney's fees, costs and interest at the maximum rate allowed by law.

- 7.7 Under no circumstances will Entergy make a total incentive payment (i.e., the sum of the Implementation Payment and the Performance Payment) that is more than 100% of the total estimated incentive payment specified in the Project Application.

ARTICLE VIII - AUDIT AND RECORDS

- 8.1 Project Sponsor or its assignee shall keep and maintain accurate and detailed records and documentation relating to the Project and its associated Energy Savings and Demand Savings under this Agreement for a period of not less than three (3) years beyond the termination of this Agreement. During the retention period, such records shall be made available, upon reasonable notice, for inspection during normal business hours by Entergy or any governmental agency having jurisdiction over the HTR SOP or any portion of the Project.

ARTICLE IX - INSURANCE

- 9.1 The Project Sponsor represents and agrees that it will carry all statutorily required insurance for the protection of its employees and that each of its subcontractors will carry such insurance for the protection of their respective employees. Prior to commencement of installation, the Project Sponsor shall furnish to Entergy a certificate or certificates of insurance indicating the Project Sponsor compliance with this paragraph and stating that the insurance described therein shall not be canceled or terminated except on thirty (30) days written notice to Entergy. Additionally, the Project Sponsor represents and agrees that Entergy and its affiliated and associated companies shall be named as an additional insured on all policies (except worker's compensation) in the amounts of coverage therein stated and that all policies will include a waiver of subrogation naming Entergy and its affiliated and associated companies, with the appropriate certificates of insurance evidencing such that Entergy has been named as an additional insured on such policies and that such policies include a waiver of subrogation naming Entergy. The Project Sponsor shall furnish evidence that such policies have been issued in accordance with the requirements of this paragraph by furnishing copies of such for Entergy's inspection.

ARTICLE X - INDEMNITY

- 10.1 PROJECT SPONSOR AGREES TO AND WILL DEFEND, PROTECT, INDEMNIFY AND HOLD HARMLESS ENTERGY, ITS AFFILIATED AND ASSOCIATED COMPANIES AND EACH OF THEIR OFFICERS, DIRECTORS, AGENTS, SHAREHOLDERS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY REFERRED TO AS "ENTERGY GROUP") FROM AND AGAINST ALL CLAIMS, LOSSES, EXPENSES, ATTORNEYS' FEES, DAMAGES, DEMANDS, JUDGMENTS, CAUSES OF ACTION, SUITS, AND LIABILITY IN TORT, CONTRACT, OR ANY OTHER BASIS AND OF EVERY KIND AND CHARACTER WHATSOEVER (COLLECTIVELY REFERRED TO AS "CLAIMS"), FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE (INCLUDING PERSONAL INJURY, DEATH,

OR PROPERTY DAMAGE CLAIMED TO HAVE SUFFERED BY THE PROJECT SPONSOR OR ITS AGENTS, EMPLOYEES OR CONTRACTORS) (COLLECTIVELY REFERRED TO AS "PROJECT SPONSOR GROUP"), ARISING OUT OF OR INCIDENT TO OR RELATED IN ANY WAY TO, DIRECTLY OR INDIRECTLY, THIS AGREEMENT, OR THE WORK, SERVICES, OR MATERIALS TO BE PERFORMED OR SUPPLIED THEREUNDER, OR TO ANY ACTIVITIES OF ANY MEMBER OF THE PROJECT SPONSOR GROUP WHILE ON ANY PREMISES ACTUALLY OR ALLEGEDLY OWNED, CONTROLLED, OR OPERATED BY ENTERGY, INCLUDING, BUT NOT LIMITED TO, CLAIMS ARISING OUT OF OR RESULTING FROM (1) ANY CONDITION OF THE CUSTOMER PREMISES, (2) SEPARATE OPERATIONS BEING CONDUCTED ON THE CUSTOMER PREMISES, OR (3) THE IMPERFECTION OR DEFECTIVE CONDITION, WHETHER LATENT OR PATENT, OF ANY MATERIAL OR EQUIPMENT SOLD, SUPPLIED, OR FURNISHED BY ENTERGY GROUP; AND FURTHER, IT IS THE EXPRESS INTENT OF THE PARTIES THAT, FOR THE PURPOSES OF THIS PARAGRAPH, THE PROJECT SPONSOR'S OBLIGATIONS TO DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS, WILL INCLUDE, BUT NOT BE LIMITED TO, CLAIMS ARISING OUT OF OR RESULTING FROM ENTERGY GROUP'S (1) NEGLIGENCE (INCLUDING JOINT OR SOLE NEGLIGENCE), (2) STRICT LIABILITY, OR (3) OTHER FAULT OF ANY NATURE.

To the extent necessary to permit Entergy to enforce any term, clause, or condition of this Agreement, the Project Sponsor agrees that with respect to any Claims brought against Entergy Group, the Project Sponsor will and does hereby waive as to Entergy Group any defense it may have by virtue of the workers' compensation laws of any state.

ARTICLE XI - PERMITS, LICENSES AND COMPLIANCE WITH LAWS

- 11.1 Project Sponsor represents and warrants that prior to beginning installation of Measures, Project Sponsor will, at its own cost and expense, obtain all permits and other authorizations from governmental authorities as then may be required to install, construct, operate and maintain the Measures in question and to perform its obligations hereunder. During the term hereof, Project Sponsor will obtain all such additional governmental permits, licenses, and other authorizations when required with respect to any of the Measures under this Agreement. If requested by Entergy, Project Sponsor shall furnish to Entergy copies of each such permit, license or other approval promptly following receipt thereof. Project Sponsor shall maintain in full force and effect all such governmental permits, licenses and other authorizations as may be necessary for the construction, operation or maintenance of the Measures in accordance herewith.
- 11.2 Project Sponsor shall be responsible for all royalties, fees, or claims for any licensed, copyrighted or similarly protected intellectual property, device, process or procedure used, installed, or provided by it. Project Sponsor shall defend and indemnify Entergy in any suit that may be brought against Entergy and shall hold Entergy harmless from any liability or infringement of any such intellectual property used by Project Sponsor in the implementation of the Project.
- 11.3 All work performed by Project Sponsor in connection with the implementation of the

Project and all Measures installed or maintained by Project Sponsor shall conform to all applicable laws, statutes, ordinances, rules, regulations, and decrees of any governmental or administrative body having jurisdiction over the HTR SOP or any portion of the Project, including without limitation, Occupational Safety and Health Administration (OSHA) regulations, the National Electric Safety Code (NESC), the National Electric Code (NEC) and Sections 752.001 – 752.008 of the Texas Health and Safety Code.

ARTICLE XII – CONSUMER PROTECTION

- 12.1 Each Project Sponsor shall provide clear disclosure to the Customer of the following:
 - 12.1.1 The Customer’s right to a cooling-off period of three business days, in which the contract (referred to herein as the “Customer Agreement”) may be cancelled, if applicable under law.
 - 12.1.2 The name, telephone number, and street address of the Project Sponsor, its contractors, and written disclosure of all warranties.
 - 12.1.3 The fact that incentives are made available to the Project Sponsor through a ratepayer funded program, manufacturers or other entities.
 - 12.1.4 Notice of provisions that will be included in the Customer Agreement as described in Section 12.3 below.
- 12.2 A form developed and approved by the PUCT may be used to satisfy the requirements of Section 12.1 above.
- 12.3 In addition to those contractual provisions required by Article IV hereinabove, the Customer Agreement shall include the following provisions in accordance with P.U.C. SUBST. R. 25.181(o)(3):
 - 12.3.1 Information of the Project Sponsor’s or its contractors work activities and completion dates, and the terms and conditions that protect Customers in the event of non-performance by the Project Sponsor.
 - 12.3.2 Written and oral disclosure of the financial arrangement between the Project Sponsor and Customer. This includes an explanation of the total Customer payments, the total expected interest charged, all possible penalties for non-payment, and whether the Customer’s installment sales agreement may be sold.
 - 12.3.3 Disclosure of contractor liability insurance to cover property damage.
 - 12.3.4 An “All Bills Paid” affidavit be given to the Customer to protect against claims of subcontractors.
 - 12.3.5 Provisions prohibiting the waiver of consumer protection statutes, performance warranties, false claims of energy savings and reductions in energy costs.
 - 12.3.6 Information on complaint procedures offered by the Project Sponsor, or by Entergy, as required by P.U.C. SUBST. R. 25.181(j)(2)(L) and toll free numbers for the Office of Customer Protection of the Public Utility Commission of Texas, and the Office of Attorney General’s Consumer Protection Hotline.
 - 12.3.7 Disclosure that the Project Sponsor is not part of, or endorsed by the PUCT or

Entergy.

ARTICLE XIII - DEFAULT AND REMEDIES

- 13.1 Each of the following events will be deemed to be an Event of Default hereunder:
- 13.1.1 Failure of Project Sponsor to perform its responsibilities in a timely manner or implement the Project in compliance with the HTR SOP Manual and other Contract Documents;
 - 13.1.2 Failure of Project Sponsor to provide Entergy and/or its contractors with sufficient access to the Project Sites for the purposes of conducting inspections.
 - 13.1.3 Failure of Project Sponsor to maintain any necessary permits, licenses or insurance required pursuant to the Contract Documents;
 - 13.1.4 Project Sponsor's assignment or subcontracting of all or part of the duties required under the Contract Documents without the prior written consent of Entergy;
 - 13.1.5 Project Sponsor's submission to Entergy of any false, misleading or inaccurate information or documentation with respect to implementation of the Project or Project Sponsor's performance hereunder, when Project Sponsor knew or reasonably should have known that such information was false, misleading or inaccurate; or
 - 13.1.6 Failure of either party in a material fashion to perform or observe any of the material terms, conditions or provisions of this Agreement which failure materially adversely affects the other party and continues after notice and a thirty (30) day period to cure, or, if such failure cannot reasonably be cured within thirty (30) days, after notice and such period to cure in excess of thirty (30) days as may be reasonably required (provided that the non-performing party commences action to cure within an initial period of thirty (30) days after notice and thereafter pursues such cure with reasonable diligence).
- 13.2 If an Event of Default occurs, the non-defaulting party shall be entitled to exercise any and all remedies provided for by law or in equity, including the right to terminate this Agreement upon written notice to the other party. Termination shall be effective upon the receipt of properly served notice. Termination of this Agreement will not relieve the defaulting party of any obligations accruing prior to the event of termination, including, but not limited to the obligations of Article X.

ARTICLE XIV - LIMITATION OF LIABILITY

- 14.1 NEITHER ENTERGY, ITS AFFILIATED AND ASSOCIATED COMPANIES NOR ANY OF THEIR OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS, AGENTS, EMPLOYEES, SUCCESSORS AND ASSIGNS (COLLECTIVELY REFERRED TO AS "ENTERGY GROUP") SHALL BE LIABLE TO PROJECT SPONSOR OR ANY CUSTOMER FOR CLAIMS FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY NATURE CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF

THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, CLAIMS IN THE NATURE OF LOST REVENUES, INCOME OR PROFITS, IRRESPECTIVE OF WHETHER SUCH CLAIMS ARE BASED UPON WARRANTY, NEGLIGENCE (INCLUDING CLAIMS OF THE ENTERGY GROUP'S SOLE OR JOINT NEGLIGENCE), STRICT LIABILITY, CONTRACT, OPERATION OF LAW OR OTHERWISE AND PROJECT SPONSOR SHALL PROTECT, INDEMNIFY AND HOLD HARMLESS THE ENTERGY GROUP FROM THE SAME.

ARTICLE XV - NOTICES

- 15.1 All notices or reports from one party to the other will be deemed to have been delivered if hand delivered or sent by United States certified mail, return receipt requested, postage prepaid to the following addresses:

Entergy:
Entergy Gulf States, Inc.
350 Pine Street 77701
P.O. Box 2951
Beaumont, TX 77704
Attn: HTR Manager T-EP-9

- 15.2 Either party may change its address by written notice to the other in accordance with this Article XV.

ARTICLE XVI – AMENDMENT

- 16.1 No amendment or modification of this Agreement shall be binding on either party unless it is in writing and signed by both parties. Amendments to this Agreement will be attached hereto and made a part hereof for all purposes.

ARTICLE XVII – FORCE MAJEURE

- 17.1 Should either Party be rendered unable, either wholly or in part, by an event of Force Majeure, to fulfill its obligations under this Agreement, the obligation of the Party so rendered, that is affected by the event of Force Majeure, will be suspended only during the continuance of that inability. The Party so affected will give written notice of the existence, extent and nature of the Force Majeure to the other Party within forty-eight (48) hours after the occurrence of the event. The Party so affected will use its best efforts to remedy its inability as soon as possible and will provide the other Party with prompt notice when it is able to resume the performance of its obligations. Failure to give notice will result in the continuance of the affected Party's obligation regardless of the extent of any existing Force Majeure.

- 17.2 The term "Force Majeure" as used in this Agreement will mean acts of God (except as excluded herein), strikes, lockouts, or other industrial disturbances, acts of public enemies, wars, blockades, insurrections, riots, epidemics, earthquakes, fires, priority allocations of pipe or other materials or orders, restraints or prohibitions by any court, board, department, commission or agency of the United States or of any State, any arrests and restraints, civil disturbances, explosions, and inability despite reasonable diligence to obtain materials essential to this Agreement. Rain, snow, ice or other adverse weather conditions will not be considered events of Force Majeure.
- 17.3 The term "Force Majeure" shall not include any of the following::
- 17.3.1 Any removal, reduction, curtailment or interruption of operation of any or all Measures whether in whole, or in part, which removal, reduction, curtailment or interruption is caused by or arises from the action or inaction of the Customer or any third party, including without limitation, any vendor or supplier to the Project Sponsor or Entergy, unless, and then only to the extent that, any such action or inaction was beyond the reasonable control of, and occurred without the fault or negligence of such third party, and such third party, by exercise of due foresight, could not reasonably have been expected to avoid;
- 17.3.2 Any outage, whether or not due to the fault or negligence of Entergy or Project Sponsor, of the Measures or Entergy's system attributable to a defect or inadequacy in the manufacture, design or installation of the Measures that prevents, curtails, interrupts or reduces the ability of the measures to provide Demand and/or Energy Savings.
- 17.3.3 Any reduction in Measured Demand Savings and/or Measured Energy Savings caused by or resulting from a Customer's termination or reduction of electrical distribution service received from Entergy and the substitution therefore of electric service from any other source.
- 17.4 If any Force Majeure causes a reduction in the Measures, the Parties may at any time agree to reduce the number of Measures for the duration of the Force Majeure event.

ARTICLE XVIII – MISCELLANEOUS

- 18.1 Project Sponsor will not assign, transfer or otherwise dispose of any of its obligations or duties without the prior written approval of Entergy. Any assignment or transfer made without the express written approval of Entergy will be null and void. Entergy retains the right to assign, transfer or otherwise dispose of any of its obligations or duties without the prior written approval of the Project Sponsor.
- 18.2 The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise. No waiver by the parties hereto of any

default or breach of any term, condition or covenant of this Agreement shall be deemed to be a waiver of any other breach of the same or any other term, condition or covenant contained herein.

- 18.3 The Contract Documents constitute the entire Agreement between the parties with respect to the subject matter hereof and there are no express or implied warranties or representations upon which any party may rely beyond those set forth therein. The execution of this Agreement supersedes all previous agreements, discussions, communications and correspondence with respect to such subject matter.
- 18.4 In the event any provision of this Agreement is held to be void, unlawful, or otherwise unenforceable, that provision will be severed from the remainder of the Agreement and replaced automatically by a provision containing terms as nearly like the void, unlawful, or unenforceable provision as possible; and the Agreement, as so modified, will continue to be in full force and effect.
- 18.5 This Agreement will be governed by, construed and enforced in accordance with the laws of the State of Texas. The parties agree that the proper venue and jurisdiction for any cause of action relating to the Agreement will be in Jefferson County, Texas.
- 18.6 Project Sponsor shall not use Entergy's corporate name, trademark, trade name, logo, identity or any affiliation for any reason, including to solicit customers for participation in its project, without Entergy's prior written consent.
- 18.7 The Project Sponsor may file a complaint against Entergy concerning this HTR SOP with the PUCT. See P.U.C. Proc. R. 22.242 for the procedure for filing a complaint.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Entergy		Project Sponsor	
Signature:	_____	Signature:	_____
Name:	_____	Name:	_____
Title:	_____	Title:	_____
Company:	_____	Company:	_____
Date:	_____	Date:	_____

EXHIBIT B
INSURANCE REQUIREMENTS

NOTE: Entergy Gulf States, Inc. ("Entergy") shall be named ADDITIONAL INSURED on all policies (except Worker's Compensation). Each policy shall include a Waiver of Subrogation naming Entergy, and shall provide for thirty (30) days prior written notice on cancellation.

TYPE/COVERAGE	LIMITS OF LIABILITY
WORKERS' COMPENSATION	Statutory
EMPLOYER'S LIABILITY)	\$100,000 Each Accident
)	\$500,000. Disease Policy Limit
)	\$100,000. Disease Employee Limit
COMMERCIAL GENERAL LIABILITY OCCURRENCE FORM with the following	Bodily Injury & Property Damage Combined:

Coverage's included (not excluded):

-Premises Operations	Each Occurrence:	\$1,000,000
-Explosion, Collapse and Underground damage	General Aggregate:	\$1,000,000
-Products/Completed Operations	Products Comp/Ops. Aggregate:	\$1,000,000
-Contractual Insurance (applicable to indemnity clause contained in contract(s))		
-Independent Contractors		
-Broad Form Property Damage		
-Personal Injury		

AUTOMOBILE LIABILITY, with coverage of Bodily Injury and Property Damage (BI and PD)
Combined: \$1,000,000 (Applicable to all owned, hired, and non-owned vehicles)

EXCESS UMBRELLA LIABILITY , BI and PD Combined: \$1,000,000
OCCURRENCE FORM: Each Occurrence and Aggregate

INFORMATION FOR THE PROJECT SPONSOR:

- Insurance provided by the Project Sponsor must be maintained in effect during the entire term of this Agreement.
- A copy of this sheet and a copy of this Agreement should be furnished to the Project Sponsor's insurance agent.
- Only Entergy Risk Management is authorized to amend or waive insurance requirements.

INFORMATION FOR INSURANCE AGENTS:

- Required insurance should be certified using the ACCORD CERTIFICATE OF INSURANCE, or a form similar thereto.
- The Project Sponsor's insurance agent is responsible to list on CERTIFICATE OF INSURANCE all endorsements, which eliminate any required coverages.
- The Project Sponsor's insurance agent is responsible to state on the CERTIFICATE OF INSURANCE that Entergy is named ADDITIONAL INSURED on all policies of insurance (except Worker's Compensation) and that all policies of insurance include Waiver of Subrogation in favor of Entergy.
- CERTIFICATE OF INSURANCE must be dated and signed by insurance agent or authorized representative.
- CERTIFICATE HOLDER must be shown as Entergy, 350 Pine Street, Beaumont, TX 77701, Attn: HTR SOP Manager T-EP-9
- The original CERTIFICATE OF INSURANCE must be forwarded to the CERTIFICATE HOLDER.