

PREQUALIFIED CONTRACTOR RELEASE AND INDEMNITY

WHEREAS, Progress Energy Carolinas, Inc. ("PEC") has entered into a Prequalified Contractor Participation Agreement with the undersigned participating Prequalified Contractor ("Prequalified Contractor") as denoted at the bottom of this document (the "Release and Indemnity");

WHEREAS, Prequalified Contractor will negotiate and enter into contracts with PEC customers (each a "Customer") when the customer selects the Prequalified Contractor for purpose of a transaction between the Prequalified Contractor and Customer, specifically including any purchase and/or installation of Equipment identified on as set forth on the Energy Efficiency for Business Incentive Application for an incentive payment or payments submitted by customer to PEC as provided under the PEC Energy Efficiency for Business Program (the "Program");

WHEREAS, Prequalified Contractor shall cause customer to acknowledge and understand that PEC has no responsibility or liability for the Customer's purchase and/or installation of Equipment, and that Customer must look solely to the Prequalified Contractor selected for any or damages suffered by Customer for such purchase and/or installation of Equipment for any failures, acts or omissions of the Prequalified Contractor, and that PECs only role in the Program is to make incentive payments for qualifying installations of Equipment or other energy efficiency measures approved under the program;

WHEREAS, it is the intent of PEC and Prequalified Contractor that no agency, joint venture or partnership relationship between PEC and Prequalified Contractor exists and that no relationship will be created as a result of the sale, construction, installation and/or payment of any incentive or rebate on the Equipment or any associated materials;

NOW, THEREFORE, for valid consideration, the receipt of which is hereby acknowledged by PEC and Prequalified Contractor:

1. The foregoing Recitals are, by this reference, expressly incorporated into this Release and Indemnity, and shall be deemed to be a substantive and integral part hereof, as if fully set forth herein.
2. Prequalified Contractor hereby agrees to assume and hereby assumes all risk of loss associated with the Equipment, services or materials and agrees to defend, indemnify and hold harmless PEC, its parent, agents, officers, directors, employees, affiliates, shareholders and assigns (the "PEC Indemnities"), and to release the PEC Indemnities from any and all liabilities, claims, demands, actions, expenses, judgments and cause of action whatsoever related to, arising out of, or claimed to have arisen out of, any loss, damage or injury (including death or mental or emotional injury), injury to persons or property, that may be substantiated by the Prequalified Contractor, Customer, PEC or any third party in connection with the Prequalified Contractor's installation, the Customer's use or possession of the abovementioned Equipment, or as a result of any acts or omissions or negligence of the Prequalified Contractor, whether wholly or in part, and relating in any way to the Prequalified Contractor Participation Agreement, the Program or any Energy Efficiency for Business Incentive Application or any incentive or rebate claim.
3. PEC makes no representations or warranties of any kind as to the installation or operation of the Equipment by Prequalified Contractor. Prequalified Contractor and PEC further acknowledge and agree that PEC shall not be liable, in contract, tort, and strict liability or otherwise, whether or not resulting from any of the foregoing or otherwise on account of any defect, whether hidden, latent or otherwise discoverable or undiscoverable respecting the Equipment, services or any materials provided by Prequalified Contractor to Customer.
4. LIMITATION OF LIABILITY. THE SUN TOTAL LIABILITY OF PEC TO PREQUALIFIED CONTRACTOR OR TO THE CUSTOMER WITH RESPECT TO ANYTHING DONE IN CONNECTION WITH THE PREQUALIFIED CONTRACTOR PARTICIPATION AGREEMENT OR EVERGY EFFICIENCY FOR BUSINESS INCENTIVE APPLICATION OR CLAIM FORM, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR UNDER ANY OTHER LEGAL THEORY SHALL NOT EXCEED THE AMOUNT OF THE INCENTIVE PAYMENT OR PAYMENTS SET FORTH IN THE ENERGY EFFICIENCY BOR BUSINESS INCENTIVE APPLICATION OR CLAIM FORM.
5. DISCLAIMER OR DAMAGES. EXCEPT AS STATED IN SECTION 4 OF THIS RELEASE AND INDEMNITY, PEC SHALL NOT IN ANY EVENT BE LIABLE TO PREQUALIFIED CONTRACTOR OR TO CUSTOMER FOR ANY SPECIAL, DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, LOSS OF USE OF CUSTOMER'S SITE SYSTEMS OR PROPERTY, COST OF CAPITAL OR CLAIMS BY CUSTOMER OR PREQUALIFIED CONTRACTOR OR DAMAGE TO CUSTOMER OR PREQUALIFIED CONTRACTOR'S PROPERTY OR ANY THIRD PARTY'S PROPERTY.
6. INSURANCE. Prequalified Contractor further acknowledges and agrees that PEC will not provide any insurance coverage for either the Customer or the Prequalified Contractor, and that the Customer and Prequalified Contractor shall be responsible and shall agree among themselves to procure adequate insurance coverage against any and all hazards relating to the Equipment, any service or material, to protect persons and property. Any failure of Prequalified Contractor or Customer to comply with any or all of the insurance provisions of this Release and Indemnity or any failure to secure endorsements on policies as may be necessary to carry out the terms and provisions for this Release and Indemnity, shall not be construed to limit or relieve Prequalified Contractor from any of its obligations under this Release and Indemnity, including this Insurance article.

By signing, Prequalified Contractor agrees to the terms and conditions of this Release and Indemnity in order to be listed on PEC's web site as a Prequalified Contractor:

Prequalified Contractor Name: _____ Title: _____

Address: _____ City: _____ St: _____ Zip: _____

Signature: _____ Date: _____