

**Public version**

**Active building EPC Template Contract based on Portuguese Pilot (office building)**

The AmBIENCe Consortium

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June |2022

This project has received funding from the European Union’s Horizon 2020 research and innovation programme under grant agreement No 874054.

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INTRO

A complete template contract for the ESCO’s future development of an Active building EPC, describing the required clauses and expanding on specific sections which are important to differentiate an Active building EPC from a classic Energy Performance Contract.

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AEPC Contract template

**Contract**

(the "Contract") is made and entered into as of this day of <Date>, at <City>, Portugal, by and between <Name of ESCO> ("ESCO"), having its principal offices at <Address, City>, and <Owner’s Legal Name> ("Customer") having its principal offices at <Address, City>, for the purpose of installing certain energy saving equipment, described in Schedule A, and providing other services designed to save energy for the Customer's property and buildings, located at <Address, City> (the "Premises").

**Recitals**

WHEREAS, Customer owns and operates the Premises, and is in need of energy saving equipment and service designed to save energy and associated energy costs at said Premises; and

WHEREAS, ESCO has developed or become knowledgeable about certain procedures for controlling energy consumption through the use of technical energy audits, engineering analyses, implicit DR , devices installed on the premises of its customers;

WHEREAS, ESCO has made an assessment of the energy consumption characteristics of the Premises and existing Equipment described in Schedule B, which Customer has approved;

WHEREAS, Customer wishes to engage ESCO to procure and install certain monitoring and energy efficiency equipment of the type or class described in Schedule A, attached hereto and made part hereof, and to provide other services for the purpose of achieving energy cost reductions within Premises, as more fully set forth herein;

WHEREAS, Customer is responsible for financing all costs under this Agreement and respective attachments, unless mentioned otherwise, and desires to compensate ESCO for its services based upon the value of energy and operations savings that are obtained; and

WHEREAS, Customer is authorized under the Constitution and the laws of Portugal to enter into this Contract for the purposes set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and intending to be legally bound hereby, Customer and ESCO hereto covenant and agree as follows:

1. **DEFINITIONS**

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| In this section, a description of the main concepts included in the contract should be provided. |

1. **ENERGY MANAGEMENT PLAN**

**2.1. Plan Details**

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| This section records the approval and acceptance by the Customer of the Technical Energy Audit which must be completed prior to the execution of this contract.  A Certificate of Acceptance of the audit should be signed by both parties and attached to the contract. If the list of measures is not completely finalized prior to the signing of this contract, then the language to that effect should be included. |

ESCO has prepared the complete Technical Energy Audit of the Premises set forth in Appendix C.

(Technical Energy Audit) and dated <Date> which has been approved and accepted by Customer as set forth in Exhibit III (i) (Certificate of Acceptance—Technical Energy Audit). The audit includes all energy conservation and implicit DR measures agreed upon by the parties.

**2.2. Schedules, Exhibits and Appendices**

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| The contract schedules detail the substantive technical parameters of the projects negotiated by the parties and accepted and approved by the Customer. These schedules are also referenced throughout the various sections of the Contract. Their titles may be included here for ease of reference or located at the end of the contract. If any schedules need to be completed after the execution of the contract, language to the effect they are forthcoming should be included. |

ESCO has prepared and Customer has approved and accepted the Schedules as set forth below, copies of which are attached hereto (or will be as provided for in the Contract), set forth in their entirety as Attachment I and made a part of this Contract by reference. Any inconsistency in this Contract and its Schedules and related documents shall be resolved by giving precedence in the following order:

**2.2.1. Schedules**

Schedule A Equipment to be Installed by ESCO;

Schedule B Description of Premises; Pre-Existing Equipment Inventory;

Schedule C Cost Savings Guarantee;

Schedule D Compensation to ESCO;

Schedule E Baseline Energy Consumption;

Schedule F Savings Measurement & Verification Plan;

Schedule G Construction and Installation Schedule;

Schedule H Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment;

Schedule I Standards of Comfort;

Schedule J ESCO’s Maintenance Responsibilities;

Schedule K Customer’s Maintenance Responsibilities;

Schedule L Facility Maintenance Checklist;

Schedule M ESCO’s Training Responsibilities;

Schedule N General Conditions;

Schedule O Annual Instalment Payment Schedule.

**2.2.2. Exhibits**

Exhibit I Performance Bond;

Exhibit II Labour and Material Payment;

Exhibit III (i) Certificate of Acceptance: Technical Energy Audit;

Exhibit III (ii) Certificate of Acceptance: Installed Equipment;

Exhibit IV Equipment Warranties.

**2.2.3. Appendices**

Appendix A RFP for ESCO Solicitation;

Appendix B ESCO Proposal;

Appendix C Technical Energy Audit;

Appendix D Lease Agreements and Documents.

**2.3. Other Documents**

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| This section makes the original Request for Proposals (RFP) and the RFP General Conditions and Special Conditions a part of the contract. It also acknowledges the completion of the ESCO's technical energy audit and its approval and acceptance by the Customer. It is recommended that the original technical audit in its entirety be attached and/or referenced as an Exhibit to this Contract. It is important to note the last sentence of this provision makes it clear that if there is any future discrepancy between the audit and any technical schedule(s), the terms of this contract shall apply. |

This Contract incorporates herein and makes a part hereof the General Conditions set forth in Schedule N and Special Provisions as set forth in Section 37, as well as the entire RFP and ESCO Proposal for this Project labelled Appendix A (RFP for ESCO Solicitation) and Appendix B (ESCO Proposal) respectively.

Acceptance by the Customer of the Technical Energy Audit is reflected in Exhibit III (i) (Certificate of Acceptance: Technical Energy Audit). Notwithstanding, the provisions of this Contract and the attached Schedules shall govern in the event of any inconsistencies between the Technical Energy Audit and the provisions of this Contract.

**3. ENERGY USAGE DATA**

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| This section ensures that the ESCO has access to the historical energy consumption, facility operations and occupancy data necessary to formulate the facility(s) baseline utility consumption. At a minimum, there should be 24 months of data made available, however, 36 months is recommended. Existing facility conditions, operations and equipment needs to be carefully recorded to establish an accurate baseline. This will serve as a record of your buildings as they were configured prior to project installation and will be critical to the establishment and adjustment of baseline, and measurement of savings. As well, any prior technical studies and/or energy audits should also be made available for the ESCO's review and verification. |

The customer has furnished or shall furnish (or cause its energy suppliers to furnish) to ESCO, upon its request, all of its records and complete data concerning energy usage and energy-related maintenance for the Premises described in Schedule B (Description of Premises; Pre-Existing Equipment Inventory), including the following data for the most current <number> month period; utility records; occupancy information; descriptions of any changes in the building structure or its heating, cooling, lighting or other systems or energy requirements; descriptions of all energy consuming or saving equipment used in the Premises; bills and records relating to maintenance of energy-related equipment, and a description of energy management procedures presently utilized.

If requested, Customer shall also provide any prior energy audits of the Premises, and copies of Customer's financial statements and records related to energy usage and operations for said <number> month period at said Premises, and shall make agents and employees familiar with such records available for consultations and discussions with ESCO.

**4. COMMENCEMENT DATE AND TERMS: INTERIM PERIOD**

**4.1. Commencement Date**

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| This section defines the Commencement Date which is the actual beginning date for the savings guarantee period. It is standard for this date to be the first month AFTER the ESCO has completed construction and delivered a notice that all equipment is installed and operating, and the Customer has accepted the installation by signing a Certificate of Acceptance which should be attached to the contract. It also clearly states that no payment for ESCO service and maintenance will be made prior to the Commencement Date. |

The Commencement Date shall be the first day of the month after the month in which all schedules are in final form and accepted by Customer and ESCO shall have delivered a Notice to Customer that it has installed and commenced operating all of the Equipment specified in Schedule A (Equipment to be Installed by ESCO) and in accordance with the provisions of Section 6 (Construction Schedule and Equipment Installation; Approval) and Schedule H (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment); and Customer has inspected and accepted said installation and operation as evidenced by the Certificate of Acceptance as set forth in Exhibit III (ii) (Certificate of Acceptance—Installed Equipment).

Compensation payments due to ESCO for service under this Contract as set forth in Schedule D (Compensation to ESCO) shall begin no earlier than <Date> from the Commencement Date as defined herein.

**4.2. Term of Contract: Interim Period**

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| The customer needs to determine the desired and maximum length of the performance period allowed by local statutes or laws. The term of the contract shall be the shorter time horizon compatible with the amortization and remuneration, in normal conditions of operating profit and efficient management, of the capital invested. Prior to the Commencement Date (Section 3.1) the final contract and attendant schedules are negotiated and executed by signature. At that point in time the ESCO typically begins the final design and construction of the project. The "Interim Period" refers to the construction period, during which an amount of energy savings will be realized. The treatment of those energy savings can be negotiated to be credited to the ESCO's guarantee or credited to the Customer. |

Subject to the following sentence, the term of this Contract shall be <number> years measured beginning with the Commencement Date. Nonetheless, the Contract shall be effective and binding upon the parties immediately upon its execution, and the period from contract execution until the Commencement Date shall be known as the "Interim Period". The guaranteed energy savings achieved during the interim period will be fully credited to Customer.

**5. PAYMENTS TO ESCO**

**5.1. Energy Savings Performance Contract**

ESCO has formulated and, subject to the adjustments provided for in Section 16 (Material Changes), has guaranteed the annual level of energy and operations savings to be achieved as a result of the installation and operation of the Equipment and provision of services provided for in this Contract as specified in Schedule J (ESCO's Maintenance Responsibilities) and in accordance with the Savings Calculation Formula as set for in Schedule F (Savings Calculation Formulae; Methodology to Adjust Baseline). The Energy Savings Guarantee is set forth in annual increments for the term of the Contract as specified in Schedule C (Energy Savings Guarantee) and has been structured by the ESCO so as to be sufficient to cover any and all annual payments required to be made by the Customer as set forth in Schedule D (Compensation to ESCO) and Schedule O (Annual Installment Payment Schedule).

**5.2. Annual Review, Reimbursement and Reconciliation**

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| At the conclusion of each year of the contract and within a specified number of days (usually 45-60) there will be a review and reconciliation of the actual achieved savings (subject to any adjustments made for weather, occupancy, operations etc.) vs. the ESCO's guaranteed savings projections. In the event there is a savings shortfall, the ESCO is contractually liable to reimburse the Customer for the difference between what was actually achieved and the amount guaranteed.  If in any future year, the achieved savings exceed the guarantee, the excess savings shall be used to reimburse the ESCO for any shortfall payments made in previous years. |

If at the end of any year during the guarantee period as specified in Schedule C (Energy Savings Guarantee) the ESCO has failed to achieve the annual Energy Savings Guarantee specified in Schedule C (Energy Savings Guarantee), upon written request by the Customer, which shall be given no earlier than the end of such year and no later than <number> days thereafter, the ESCO will pay the Customer the difference between the annual amount guaranteed and the amount of actual energy and operations savings achieved at the Premises in accordance with the provisions of Schedule C (Energy Savings Guarantee). The ESCO shall remit such payments to the Customer within <number> days of written notice by the Customer of such monies due.

When the total energy savings in any one year during the guarantee period exceed the Energy Savings Guarantee as set forth in Schedule C (Energy Savings Guarantee), such excess savings shall reimburse ESCO for any payment ESCO made to the Customer to meet ESCO's guarantee for previous years in which the energy savings fell short of ESCO's Energy Savings Guarantee under the terms as set forth in Schedule C (Energy Savings Guarantee). This is in addition to the payment due to compensate the ESCO for services as set forth in Schedule D (Compensation to ESCO).

**5.3. ESCO Compensation and Fees**

ESCO has structured the Energy Savings Performance Contract referred to in Section 4.1, above, so as to be sufficient to include any and all annual payments required to be made by the Customer in connection with financing/purchasing the Equipment to be installed by ESCO under this Contract as set forth in Schedule O (Annual Installment Payment Schedule). Actual energy and operations savings achieved by ESCO through the performance of services by ESCO shall be sufficient to cover any and all annual fees to be paid by Customer to ESCO for the provision of services as set forth and in accordance with the provisions of Schedule D (Compensation to ESCO) and Schedule J (ESCO's Maintenance Responsibilities).

**5.4. Billing Information Procedure**

Payments due to ESCO under this Section 4 shall be calculated each <billing period, months, days, etc.> in the following manner:

i. By the <number> day after receipt, Customer shall provide ESCO with copies of all energy bills for the Premises which it shall have received for the preceding month;

ii. Upon receipt of the required information, ESCO shall calculate the savings in accordance with the agreed-upon calculation formulae in Schedule F (Savings Calculation Formulae; Methodology to Adjust Baseline).

iii. Based upon paragraphs i. and ii. ,above, ESCO shall prepare and send to Customer a <billing period> invoice which shall set forth for each <billing period> the amounts of energy and <EUR> savings calculated in accordance with Schedule F (Savings Calculation Formulae; Methodology to Adjust Baseline). The invoice will set forth the total <billing period> payment due from Customer.

**5.5. Payment**

Customer shall pay ESCO within <number> days of receipt of ESCO's invoice.

**5.6. Effective Date of Payment Obligation**

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| This section defines the portions of the ESCO fees that shall be paid before and after all equipment is installed and operating in accordance with the agreed upon Construction Schedule and Customer has approved the completed installation and signed the requisite Certificate of Acceptance: Installed Equipment. |

Notwithstanding the above provisions in Section 4, the Customer can withhold a <number> % of the ESCO payment until all equipment installation is completed by ESCO in accordance with the provisions of Section 6 (Construction and Equipment Installation; Approval) and Schedule H (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment), and accepted by Customer as evidenced by the signed Certificate of Acceptance as set forth in Exhibit III (ii) (Certificate of Acceptance: Installed Equipment), and unless and until said equipment is fully and properly functioning.

**6. CONSTRUCTION SCHEDULE AND EQUIPMENT INSTALLATION**

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| This section requires the ESCO to develop a project commissioning plan to conduct performance testing of the equipment and verify the specified operating parameters to make certain the system is working properly. In most instances this activity occurs prior to the Customer's final acceptance of the project as fully installed, however, if any testing is negotiated to occur after project acceptance, language to that effect should be included here. It also requires the ESCO to notify the Customer of when the testing will take place and gives the Customer (or its designee) the right to be present during all tests. |

**6.1. Construction Schedule**

Construction and equipment installation shall proceed in accordance with the construction schedule approved by Customer and attached hereto as Schedule G (Construction and Installation Schedule).

**6.2. Start-up and Commissioning**

ESCO shall conduct a thorough and systematic performance test of each element and total system of the installed Equipment in accordance with the procedures specified in Schedule H (Systems Start-Up and Commissioning; Operating Parameters of Installed Equipment) and prior to acceptance of the project by Customer.

ESCO shall provide notice to the Customer of the scheduled test(s) and the Customer and/or its designees shall have the right to be present at any or all such tests conducted by ESCO and/or manufacturers of the Equipment.

The tests shall be conducted in accordance with the national standards. In their absence, as an alternative, the European standards (EN), ISO or DIN standards shall apply or, in specific cases, the U.S. AHRAE and SMACNA standards and the European EUROVENT standards.

ESCO shall be responsible for correcting and/or adjusting all deficiencies in systems and Equipment operations that may be observed during system commissioning procedures.

**7. EQUIPMENT WARRANTIES**

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| This warranty provision requires all installed equipment to be new and protected by appropriate written manufacturer warranties for a minimum of one year, covering parts and performance. It also requires warranties to provide for the installation of only new parts (not used or reconditioned) be used if repair is required during the warranty period. While equipment warranties will be transferred to the Customer after completed project installation, this provision makes the ESCO responsible for pursuing any necessary remedies during the warranty period. If the ESCO fails to exercise the warranty and damages occur, the ESCO is responsible for all costs of repair and any lost savings. |

ESCO covenants and agrees that all equipment installed as part of this Contract is new, in good and proper working condition and protected by appropriate written warranties covering all parts and equipment performance.

ESCO further agrees to deliver to the Customer for inspection and approval, all such written warranties and which shall be attached and set forth as Exhibit IV (Equipment Warranties); to pursue rights and remedies against the manufacturer and ESCO of the equipment under the warranties in the event of equipment malfunction or improper or defective function, and defects in parts, workmanship and performance, to notify the Customer whenever defects in equipment parts or performance occur which give rise to such rights and remedies and those rights and remedies are exercised by ESCO.

The cost of any risk of damage or damage to the equipment and its performance, including damage to property and equipment of the Customer or the Premises, due to ESCO's failure to exercise its warranty rights shall be borne solely by ESCO.

All warranties shall be transferable and extended to the Customer. The warranties shall specify that only new, and not reconditioned parts, may be used and installed when the repair is necessitated by malfunction. All warranties required hereunder shall be in force for a minimum of one year from the commencement date as defined in Section 3.1 hereof.

Notwithstanding the above, nothing in this Section shall be construed to alleviate/relieve the ESCO from complying with its obligations to perform under all terms and conditions of this Contract and as set forth in all attached Schedules.

**8. TRAINING BY ESCO**

The ESCO shall conduct the training program described in Schedule M (ESCO's Training Responsibilities) hereto. The training specified in Schedule M (ESCO’s Training Responsibilities) must be completed prior to acceptance of the Equipment installation. The ESCO shall provide ongoing training whenever needed with respect to updated or altered Equipment, including upgraded software. Such training shall be provided at no charge to the Customer.

**9. PERMITS AND APPROVALS; COORDINATION**

**9.1. Permits and Approvals**

Customer shall use its best efforts to assist ESCO in obtaining all necessary permits and approvals for the installation of the Equipment. In no event shall Customer, however, be responsible for payment of any permit fees. The equipment and the operation of the equipment by ESCO shall at all times conform to all National and Municipal code requirements. ESCO shall furnish copies of each permit or license which is required to perform the work to the Customer before the ESCO commences the portion of the work requiring such permit or license.

**9.2. Co-ordination during Installation**

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| This provision directs the Customer and ESCO to coordinate the equipment installation activities so as not to interfere with the Customer's business activities. If an installation will require interference, the ESCO must first obtain the Customer's written approval to proceed. |

The Customer and ESCO shall coordinate the activities of ESCO's equipment installers with those of the customer, its employees, and agents. ESCO shall not commit or permit any act which will interfere with the performance of business activities conducted by the Customer or its employees without prior written approval of the Customer.

**10. PERFORMANCE BY ESCO**

ESCO shall perform all tasks/phases under the Contract, including procurement, construction and installation of the Equipment in such a manner so as not to harm the structural integrity of the buildings or their operating systems and so as to conform to the standards set forth in Schedule I (Standards of Comfort) and the construction schedule specified in Schedule G (Construction and Installation Schedule). ESCO shall repair and restore to its original condition any area of damage caused by ESCO's performance under this Contract.

The Customer reserves the right to review the work performed by ESCO and to direct ESCO to take certain corrective action if, in the opinion of the Customer, the structural integrity of the Premises or its operating system is or will be harmed. All costs associated with such corrective action to damage caused by ESCO's performance of the work shall be borne by ESCO. ESCO shall remain responsible for the professional and technical accuracy of all services performed, whether by the ESCO or its subcontractors or others on its behalf, throughout the term of this Contract.

**11. OWNERSHIP**

**11.1. Ownership of Certain Proprietary Property Rights**

Customer shall not, by virtue of this Contract, acquire any interest in any formulas, patterns, devices, secret inventions or processes, copyrights, patents, other intellectual or proprietary rights, or similar items of property which are or may be used in connection with the Equipment. The ESCO shall grant to the Customer a perpetual, irrevocable royalty-free license for any and all software or other intellectual property rights necessary for the Customer to continue to operate, maintain, and repair the Equipment in a manner that will yield maximal energy consumption reductions.

**11.2. Ownership of Existing Equipment**

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| This provision states that the Customer has ownership of all existing equipment and the ESCO shall notify the Customer in writing of what equipment and materials are to be replaced. If the Customer chooses to keep the equipment to be replaced, the ESCO will be notified and the Customer responsible for identifying the location of where the property is to be stored or relocated. The ESCO is responsible for all equipment and materials to be disposed of. The exception to this is the treatment of any hazardous or environmentally sensitive materials. |

Ownership of the equipment and materials presently existing at the Premises at the time of execution of this Contract shall remain the property of the Customer even if it is replaced or its operation made unnecessary by work performed by ESCO pursuant to this Contract. If applicable, ESCO shall advise the Customer in writing of all equipment and materials to be replaced at the Premises and the Customer shall within <number> days designate in writing to the ESCO which equipment and materials that should not be disposed of off-site by the ESCO.

It is understood and agreed to by both Parties that the Customer shall be responsible for and designate the location and storage for any equipment and materials that should not be disposed of off-site. The ESCO shall be responsible for the disposal of all equipment and materials designated by the Customer as disposable off-site in accordance with all applicable laws and regulations regarding such disposal.

**12. LOCATION AND ACCESS**

Customer shall provide sufficient space on the Premises for the installation and operation of the Equipment and shall take reasonable steps to protect such Equipment from harm, theft and misuse. Customer shall provide access to the Premises for ESCO to perform any function related to this Contract during regular business hours, or such other reasonable hours as may be requested by ESCO and acceptable to the Customer. The ESCO's access to Premises to make emergency repairs or corrections as it may determine are needed shall not be unreasonably restricted by the Customer.

**13. EQUIPMENT SERVICE**

**13.1. Actions by ESCO**

ESCO shall provide all service, repairs, and adjustments to the Equipment installed under terms of this Contract pursuant to Schedule J (ESCO's Maintenance Responsibilities).

Customer shall incur no cost for Equipment service, repairs, and adjustments, except as set forth in Schedule D (Compensation to ESCO), provided, however, that when the need for maintenance or repairs principally arises due to the negligence or willful misconduct of the Customer or any employee or other agent of Customer, and ESCO can so demonstrate such causal connection, ESCO may charge Customer for the actual cost of the maintenance or repair insofar as such cost is not covered by any warranty or insurance proceeds.

**13.2.Malfunctions and Emergencies**

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| This section requires the Customer to notify the ESCO within a specified number of hours of actually knowing about any situation that impacts the performance of the equipment. As described here, the impacts cover both preexisting energy-related equipment and the newly installed equipment. The impacts defined here include equipment malfunction or modification, interruption of power supply or any emergency situation which may affect the energy savings guarantee. If such an impact is known by the Customer to have occurred and the Customer delays in notifying the ESCO and doesn't correct the situation, it will be treated as a Material Change and the baseline will be adjusted accordingly.  If the Customer makes an effort to assess the situation and incorrectly determines it doesn't have an impact, then the ESCO will not fault the Customer, although an adjustment to the baseline may still be warranted. |

Customer shall use its best efforts to notify the ESCO or its designee(s) within 24 hours after the Customer's actual knowledge and occurrence of:

i. Any malfunction in the operation of the Equipment or any preexisting energy-related equipment that might materially impact upon the guaranteed energy savings;

ii. Any interruption or alteration to the energy supply to the Premises;

iii. Any alteration or modification in any energy-related equipment or its operation.

Where Customer exercises due diligence in attempting to assess the existence of a malfunction, interruption, or alteration it shall be deemed not at fault in failing to correctly identify such conditions as having a material impact upon the guaranteed energy savings. The customer shall notify ESCO within twenty-four (24) hours upon its having actual knowledge of any emergency condition affecting the Equipment. ESCO shall respond within <number> hours and shall promptly proceed with corrective measures. Any telephonic notice of such conditions by Customer shall be followed within three business days by written notice to ESCO from Customer. If the Customer unreasonably delays in so notifying ESCO of a malfunction or emergency, and the malfunction or emergency is not otherwise corrected or remedied, such conditions will be treated as a Material Change and the applicable provisions of Section 16 (Material Changes) shall be applied.

**13.3. Actions by Customer**

Customer shall not move, remove, modify, alter, or change in any way the Equipment or any part thereof without the prior written approval of ESCO except as set forth in Schedule K (Customer's Maintenance Responsibilities). Notwithstanding the foregoing, Customer may take reasonable steps to protect the Equipment if, due to an emergency, it is not possible or reasonable to notify ESCO before taking any such actions. In the event of such an emergency, Customer shall take reasonable steps to protect the Equipment from damage or injury and shall follow instructions for emergency action provided in advance by ESCO.

**14. UPGRADING OR ALTERING THE EQUIPMENT**

ESCO shall at all times have the right, subject to Customer's prior written approval, which approval shall not be unreasonably withheld, to change the Equipment, revise any procedures for the operation of the equipment or implement other energy-saving actions on the Premises, provided that:

i. The ESCO complies with the standards of comfort and services set forth in Schedule I (Standards of Comfort) herein;

ii. Such modifications or additions to, or replacement of the Equipment, and any operational changes, or new procedures are necessary to enable the ESCO to achieve the energy savings at the Premises and;

iii. Any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures shall be the responsibility of the ESCO.

All modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be described in a supplemental Schedule(s) to be provided to the Customer for approval, which shall not be unreasonable withheld, provided that any replacement of the Equipment shall be new and have equal or better potential to reduce energy consumption at the Premises than the Equipment being replaced. The ESCO shall update any and all software to be used in connection with the Equipment in accordance with the provisions of Section 11.1 (Ownership of Certain Proprietary Rights). All replacements of and alterations or additions to the Equipment shall become part of the Equipment described in Schedule A (Equipment to be Installed by ESCO) and shall be covered by the provisions and terms of Section 6 (Construction Schedule and Equipment Installation; Approval).

**15. STANDARDS OF COMFORT**

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| This section references the standards of comfort contained in Schedule I which the ESCO is contractually liable to maintain throughout the term of the contract. These standards are negotiated between the ESCO and Customer to reflect realistic ranges of heating, cooling and hot water temperatures, lighting levels, chilled water requirements, and other specified comfort and operating parameters to be maintained. |

ESCO ensure the operation and maintenance of the Equipment in a manner which will provide the standards of comfort, as described in Schedule I (Standards of Comfort).

**16. MATERIAL CHANGES**

**16.1. Definition of Material Change**

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| It is usual for the percent of deviation to be negotiated as a value ranging between 2% and 5% based on aggregate consumption costs. The lower value (2%) may be appropriate for large facilities (over €200 /month utility bills) and the higher value (5%) may be appropriate for small facilities (less than €500/month utility bills) |

A Material Change shall include any change in or to the Premises, whether structural, operational or otherwise in nature which reasonably could be expected, in the judgment of the Customer, to increase or decrease annual energy consumption in accordance with the provisions and procedures set forth in Schedule E (Baseline Energy Consumption) and Schedule F (Savings Measurement and Calculation Formulae; Methodology to Adjust Baseline) by at least <number> % after adjustments for climatic variations. Actions by the Customer which may result in a Material Change include but are not limited to the following:

i. The manner of use of the Premises by the Customer;

ii. Hours of operation for the Premises or for any equipment or energy-using systems operating at the Premises;

iii. Permanent changes in the comfort and service parameters set forth in Schedule I (Standards of Comfort);

iv. Occupancy of the Premises;

v. Structure of the Premises;

vi. Types and quantities of equipment used at the Premises:

vii. Modification, renovation or construction at the Premises;

viii. The Customer's failure to provide maintenance of and repairs to the Equipment in accordance with Schedule K (Customer's Maintenance Responsibilities); or

ix. Any other conditions other than climate affecting energy use at the Premises.

**16.2. Reported Material Changes: Notice by Customer**

The Customer shall use its best efforts to deliver to the ESCO a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises at least <number> days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to the ESCO of Material Changes which result because of a bona fide emergency or other situation which precludes advance notification shall be deemed sufficient if given by the Customer within <number> hours after having actual knowledge that the event constituting the Material Change occurred or was discovered by the Customer to have occurred.

**16.3. Unreported Material Changes**

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| This section states that if all building conditions and operations stay the same, then energy consumption will not vary more than the negotiated percentage (see above discussion) during any month when compared to the baseline use for that month and after adjustments for weather are made. In the event such a variation occurs, the ESCO will try to determine the cause of the deviation and report its findings to the Customer. The ESCO and Customer will then determine what adjustments will be made to the baseline as described in Schedule F. |

In the absence of any Material Changes in the Premises or in their operations, the baseline energy consumption as set forth in Schedule E (Baseline Energy Consumption) should not change more than <number> % during any month from the projected energy usage for that month, after adjustments for changes in climatic conditions. Therefore, if energy consumption for any month as set forth in Schedule E (Baseline Energy Consumption) deviates by more than <number> % from the energy consumption for the same month of the preceding contract year after adjustments for changes to climactic conditions, then such deviation shall be timely reviewed by the ESCO to ascertain the cause of deviation.

The ESCO shall report its findings to the Customer in a timely manner and the ESCO and Customer shall determine what, if any, adjustments to the baseline will be made in accordance with the provisions set forth in Schedule F (Savings Measurement and Calculation Formulae; Methodology to Adjust Baseline) and Schedule E (Baseline Energy Consumption).

**17. PROPERTY/CASUALTY/INSURANCE; INDEMNIFICATION**

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| This section needs to reflect the individual Customer's standard requirements with regard to insurance and indemnification. |

At all times during the term of this Contract, ESCO shall maintain in full force and effect, at its expense:

i. Workmen's Compensation Insurance sufficient to cover all of the employees of ESCO working to fulfil this Contract;

ii. Casualty and Liability Insurance on the Equipment and Liability Insurance for its employees and the possession, operation, and service of the Equipment.

The limits of such insurance shall be not less than <EUR> for injury to or death of one person in a single occurrence and <EUR> for injury to or death of more than one person in a single occurrence and <EUR> for a single occurrence of property damage. Such policies shall name the Customer as an additional insured. Prior to the commencement of work under this Contract, ESCO will be required to provide Customer with current certificates of insurance specified above. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled or changed until at least thirty (30) days' prior written notice has been given to Customer. ESCO shall be responsible for:

i. Any damage to the Equipment or other property on the Premises;

ii. Any personal injury where such damage or injury occurs as a result of ESCO's performance under this Contract.

ESCO shall save and hold harmless Customer and its officers, agents and employees or any of them from any and all claims, demands, actions or liability of any nature-based upon or arising out of any services performed by ESCO, its agents or employees under this Contract.

**18. CONDITIONS BEYOND CONTROL OF THE PARTIES**

If a party ("performing party") shall be unable to reasonably perform any of its obligations under this Contract due to acts of God, insurrections or riots, or similar events, this Contract shall at the other party's option:

i. Remain in effect but said performing party's obligations shall be suspended until the said events shall have ended; or,

ii. Be terminated upon ten (10) days’ notice to the performing party, in which event neither party shall have any further liability to the other.

**19. EVENTS OF DEFAULT**

**19.1. Events of Default by Customer**

Each of the following events or conditions shall constitute an "Event of Default" by Customer:

i. Any failure by Customer to pay ESCO any sum due for a service of more than <number> days period after written notification by ESCO that Customer is delinquent in making payment and provided that ESCO is not in default in its performance under the terms of this

Contract; or

ii. Any other material failure by Customer to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein, provided that such failure continues for <number> days after notice to Customer demanding that such failures to perform be cured or if such cure cannot be effected in <number> days, Customer shall be deemed to have cured default upon the commencement of a cure within <number> days and diligent subsequent completion thereof;

iii. Any representation or warranty furnished by Customer in this Contract which was false or misleading in any material respect when made.

**19.2. Events of Default by ESCO**

Each of the following events or conditions shall constitute an "Event of Default" by ESCO:

i. The standards of comfort and service set forth in Schedule I (Standards of Comfort) are not provided due to failure of ESCO to properly design, install or adjust the Equipment except that such failure, if corrected or cured within <number> days after written notice by Customer to ESCO demanding that such failure be cured, shall be deemed cured for purposed of this Contract;

ii. Any representation or warranty furnished by ESCO in this Contract is false or misleading in any material respect when made;

iii. Failure to furnish and install the Equipment and make it ready for use within the time specified by this Contract as set forth in Schedules A (Equipment to be Installed by ESCO) and G (Construction and Installation Schedule);

iv. Provided that the operation of the facility is not adversely affected and provided that the standards of comfort in Schedule I (Standards of Comfort) are maintained, any failure by ESCO to perform or comply with the terms and conditions of this Contract, including breach of any covenant contained herein except that such failure, if corrected or cured within <number> days after written notice by the Customer to ESCO demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract;

v. Any lien or encumbrance upon the equipment by any subcontractor, labourer or supplier of ESCO;

vi. The filing of a bankruptcy petition whether by ESCO or its creditors against ESCO which proceeding shall not have been dismissed within <number> days of its filing, or an involuntary assignment for the benefit of all creditors or the liquidation of ESCO;

vii. Any change in ownership or control of the ESCO without the prior approval of the Customer, which shall not be unreasonably withheld;

viii. Failure by the ESCO to pay any amount due the Customer or perform any obligation under the terms of this Contract or the Energy Savings Guarantee as set forth in Schedule C (Energy Savings Guarantee).

**20. REMEDIES UPON DEFAULT**

**20.1. Remedies upon default by Customer**

If an Event of Default by Customer occurs, ESCO may, without a waiver of other remedies which exist in law or equity, elect one of the following remedies:

i. Exercise all remedies available at law or in equity, or

ii. Other appropriate proceedings including bringing an action or actions from time to time for recovery of amounts due and unpaid by Customer, and/or for damages which shall include all costs and expenses reasonably incurred in exercise of its remedy.

**20.2. Remedies upon default by ESCO**

In the Event of Default by ESCO, Customer shall have the choice of either one of the following remedies in law or equity:

i. Exercise and any all remedies at law or equity, or

ii. Institute other proceedings, including, without limitation, bringing an action or actions from time to time for specific performance, and/or for the recovery of amounts due and unpaid and/or for damages, which shall include all costs and expenses reasonably incurred, including attorney's fees.

**21. ASSIGNMENT**

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| This assignment provision first acknowledges that the Customer selected the ESCO for its unique expertise and qualifications to perform the services specified in the contract. The ESCO may not assign this contract to another ESCO without the written approval of the Customer and any ESCO assigned this contract must fully comply with all terms and conditions. In addition, the ESCO and any assignee remain contractually liable to the Customer for fulfilling all of the ESCO's obligations as specified in the contract. In turn, this provision allows the Customer to transfer or assign this contract to a new building owner or occupant. The Customer and its assignee, however, still remains responsible to the ESCO for the Customer's obligations as specified in the contract. |

**21.1. Assignment by ESCO**

The ESCO acknowledges that the Customer is induced to enter into this Contract by, among other things, the professional qualifications of the ESCO. The ESCO agrees that neither this Contract nor any right or obligations hereunder may be assigned in whole or in part to another firm, without the prior written approval of the Customer.

**21.2. Assignment by Customer**

Customer may transfer or assign this Contract and its rights and obligations herein to a successor or purchaser of the Buildings or an interest therein. The Customer shall remain jointly and severally liable with its assignees or transferees to the ESCO for all of its obligations under this Contract.

**22. ARBITRATION**

Any dispute, controversy, or claim arising out of or in connection with, or relating to this Contract, or any breach or alleged breach hereof, shall, upon the request of any party involved (and without regard to whether or not any provision of this Contract expressly provides for arbitration), be submitted to and settled in conformance with the rules of the Tribunal Arbitral do Centro de Arbitragem Comercial da Câmara de Comércio e Indústria Portuguesa/Associação Comercial de Lisboa e da Associação Comercial do Porto/Câmara de Comércio e Indústria do Porto. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of its own experts, evidence, and counsel.

**23. REPRESENTATION AND WARRANTIES**

Each party warrants and represents to the other that:

i. It has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, to execute and deliver this Contract and perform its obligations hereunder;

ii. Its execution, delivery, and performance of this Contract have been duly authorized by, or are in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories so authorized, and it constitutes its legal, valid, and binding obligation;

iii. Its execution, delivery, and performance of this Contract will not breach or violate, or constitute a default under any Contract, lease or instrument to which it is a party or by which it or its properties may be bound or affected; and

iv. It has not received any notice, nor to the best of its knowledge is there pending or threatened any notice, of any violation of any applicable laws, ordinances, regulations, rules, decrees, awards, permits or orders which would materially and adversely affect its ability to perform hereunder.

**24. ADDITIONAL REPRESENTATIONS OF THE PARTIES**

Customer hereby warrants, represents and promises that:

i. It has provided or shall provide timely to ESCO, all records relating to energy usage and energy-related maintenance of Premises requested by ESCO and the information set forth therein is, and all information in other records to be subsequently provided pursuant to this Contract will be true and accurate in all material respects; and

ii. It has not entered into any leases, contracts or Contracts with other persons or entities regarding the leasing of energy efficiency equipment or the provision of energy management services for the Premises or with regard to servicing any of the energy-related equipment located in the Premises.

Customer shall provide ESCO with copies of any successor or additional leases of energy efficiency equipment and contracts for management or servicing of pre-existing equipment at Premises which may be executed from time-to-time hereafter within <number> days after execution thereof.

ESCO hereby warrants, represents and promises that:

i. Before commencing performance of this Contract:

a. it shall have become licensed or otherwise permitted to do business;

b. it shall have provided proof and documentation of required insurance pursuant to Section 17 (Insurance Requirements);

ii. It shall make available, upon reasonable request, all documents relating to its performance under this Contract, including all contracts and subcontracts entered into;

iii. It shall use qualified subcontractors and delegates to perform the work so subcontracted or delegated pursuant to the terms hereof;

iv. It is financially solvent, able to pay its debts as they mature and possessed of sufficient working

capital to complete the Work and perform its obligations under this Contract.

**25. WAIVER OF LIENS**

ESCO will obtain and furnish to Customer a Waiver of Liens from each vendor, material manufacturer and labourer in the supply, installation and servicing of each piece of Equipment.

**26. COMPLIANCE WITH LAW AND STANDARD PRACTICES**

ESCO shall perform its obligations hereunder in compliance with any and all applicable National, Provincial and Municipal laws, by-laws, and regulations, in accordance with sound engineering and safety practices, and in compliance with any and all reasonable rules of Customer relative to the Premises. ESCO shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder.

**27. INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties hereto agree that ESCO, and any agents and employees of ESCO, in the performance of this Contract, shall act in an independent capacity and not as officers, employees, or agents of the Customer.

**28. NO WAIVER**

The failure of ESCO or Customer to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in accordance with this Contract in the event of a continuing or subsequent default on the part of ESCO or Customer.

**29. SEVERABILITY**

In the event that any clause or provision of this Contract or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Contract unless the result would be manifestly inequitable or unconscionable.

**30. COMPLETE CONTRACT**

This Contract, when executed, together with all Schedules attached hereto or to be attached hereto, as provided for by this Contract shall constitute the entire Contract between both parties and this Contract may not be amended, modified, or terminated except by a written Contract signed by the parties hereto.

**31. FURTHER DOCUMENTS**

The parties shall execute and deliver all documents and perform all further acts that may be reasonably necessary to effectuate the provisions of this Contract.

**32. APPLICABLE LAW**

This Contract and the construction and enforceability thereof shall be interpreted under the laws of Portugal.

**33. NOTICE**

Any notice required or permitted hereunder shall be deemed sufficient if given in writing and delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, or delivered to a nationally recognized express mail service, charges prepaid, receipt obtained, to the address shown below or to such other persons or addresses as are specified by similar notice.

TO ESCO: <ESCO Name, Attention:, Complete address.>

< Include COPY TO: information for ESCO, if applicable.>

TO CUSTOMER: <Customer Name, Attention:, Complete address.>

< Include COPY TO: information for CUSTOMER, if applicable. >

**34. CUSTOMER’S COMPLIANCE WITH FACILITIES MAINTENANCE**

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| This provision protects both the ESCO and the Customer by establishing a method for the ESCO to supervise the Customer's compliance with the scheduled routine and preventative maintenance activities to be performed by the Customer (either by in-house personnel or existing maintenance contract). This checklist should be developed for both the newly installed and pre-existing energy related equipment. |

CHECKLIST

The parties acknowledge and agree that ESCO has entered into this Contract in reliance upon the prospect of earning compensation based on guaranteed energy savings in energy used at Premises, as set forth on Schedules C (Energy Saving Guarantee) and D (Compensation to ESCO), attached hereto and made a part hereof.

The parties further acknowledge and agree that the said guaranteed energy savings would not likely be obtained unless certain procedures and methods of operation designed for energy conservation shall be implemented, and followed by Customer on a regular and continuous basis.

Customer agrees that it shall adhere to, follow and implement the energy conservation procedures and methods of operation to be set forth on Schedule K (Customer's Maintenance Responsibilities), to be attached hereto and made a part hereof after Customer's approval.

Customer agrees that ESCO shall have the right once a month, with prior notice, to inspect Premises to determine if Customer is complying, and shall have complied with its obligations as set forth above. For the purpose of determining Customer's said compliance, the checklist to be set forth at Schedule L (Facility Maintenance Checklist) as completed and recorded by ESCO during its monthly inspections, shall be used to measure and record Customer's said compliance. Customer shall make the Premises available to ESCO for and during each monthly inspection, and shall have the right to witness each inspection and the recording of same on the checklist.

**35. HEADINGS**

Headings and subtitles used throughout this Contract are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

**36. SPECIAL PROVISIONS**

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| Insert any relevant Special Provisions in this section. |

The signatures of the parties follow the attached Special Provisions, which Special Provisions are included as part of this Contract.

IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto subscribe their names to this Contract by their duly authorized officers on the date first above written.

ATTEST:

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\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SCHEDULES**

**SCHEDULE A: EQUIPMENT TO BE INSTALLED BY ESCO**

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| This schedule should specify all of the newly installed equipment including manufacturer, quantity, location and warranties (you can also have a separate schedule for warranties). This schedule should also describe any modifications that may have been made to existing equipment, if applicable. |

**SCHEDULE B: DESCRIPTION OF PREMISES; PRE-EXISTING EQUIPMENT INVENTORY**

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| This schedule contains basic information about the condition of the premises at the time of contract execution. Such information would include facility square footage, building construction, use, occupancy, hours of operation etc., and any special conditions that may exist. The inventory is important to include the purpose of identifying what equipment was in place and how it was configured at the time of contract execution. This schedule is important to the accurate establishment of baseline, savings measurement and may need to be referred to in the later years of the contract. |

**SCHEDULE C: COST SAVINGS GUARANTEE**

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| This schedule should fully describe all provisions and conditions of the cost-saving guarantee provided by the ESCO. The guarantee should be defined in units of cost to be saved for the duration of the contract term. Reference to the annual reconciliation of achieved vs. guaranteed savings should be included. |

**SCHEDULE D: COMPENSATION TO ESCO**

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| This should contain the amount and frequency of any payments that may be made to the ESCO for maintenance, monitoring or other services negotiated as part of the contract. It should contain information about how the compensation is calculated (e.g., a percentage of savings above and below the guarantee, flat fee etc.), and if an annual inflation index is to be used to escalate fees over the duration of the contract term. An hourly fee structure will also likely be included to cover ESCO costs for any services provided beyond the scope agreed to at the time of contract execution. |

**SCHEDULE E: BASELINE ENERGY CONSUMPTION**

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| The baseline energy consumption is the "yardstick" by which all savings achieved by the installed project will be measured. The methodology and all supporting documentation used to calculate the baseline should be located in this schedule including unit consumption and current utility rates for each fuel type. This schedule may also include baseline documentation regarding other cost savings such as material savings (e.g. bulbs, ballasts, filters, chemicals etc.). |

**SCHEDULE F: SAVINGS MEASUREMENT AND VERIFICATION PLAN**

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| This schedule contains a description of the energy savings measurement, monitoring and calculation procedures used to verify and compute the savings performance of the installed equipment will be contained in this schedule. This calculation will include a method to compare the level of energy that would have been consumed without the project (referred to as the "Baseline") with what amount of energy was actually consumed during a specific time period (monthly, quarterly, etc.). All methods of measuring savings including engineered calculations, metering, equipment run times, pre- and post-installation measurements, etc. should be explicitly described for all equipment installed. |

**SCHEDULE G: CONSTRUCTION AND INSTALLATION SCHEDULE**

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| The timetables and milestones for project construction and installation should be contained in this schedule. If so desired, documentation of required insurance, subcontractor lists and any MBE/WBE required subcontracts may be included in this schedule or broken out into a separate schedule.  NOTE: It is important that the construction/installation phase of the project be treated in compliance with individual institutional requirements and the appropriate governing statutes. Since construction is just one component of the overall project, a separate construction contract may be desirable and in some cases necessary. The construction contract would then be referred to in the body of the contract and attached as an exhibit, appendix or another type of attachment. Another approach would be to consolidate the appropriate construction language for inclusion in the body of the final contract. This will need to be decided as appropriate on a case-by-case basis. |

**SCHEDULE H: SYSTEMS START-UP AND COMMISSIONING; OPERATING PARAMETERS OF INSTALLED EQUIPMENT**

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| This section should specify the performance testing procedures that will be used for the start-up and commission of the installed equipment and total system. The schedule should also provide for the customer to be notified of and present during all commissioning procedures. This schedule should contain a provision for the documentation of the client's attendance at the various tests and their approval that the tests followed the specified procedures and met or exceed the expected results. The operating parameters should contain any specified parameters for the operation of the installed equipment such as temperature setbacks, equipment run times, load controlling specifications and other conditions for the operation of the equipment. |

**SCHEDULE I: STANDARDS OF COMFORT**

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| The standards of comfort to be maintained for heating, cooling, lighting levels, hot water temperatures, humidity levels and/or any special conditions for occupied and unoccupied areas of the facility should be explicitly described in this schedule. |

**SCHEDULE J: ESCO'S MAINTENANCE RESPONSIBILITIES**

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| A complete description of the ESCO's specific operations and maintenance responsibilities should be included in this schedule along with the time intervals for their performance of the stated O&M activities. |

**SCHEDULE K: CUSTOMER'S MAINTENANCE RESPONSIBILITIES**

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| This schedule describes the operations and maintenance responsibilities that may be assigned to facility staff as agreed to by both parties. In some instances, it will contain no more than a description of routine O&M currently being performed on existing energy-consuming equipment in the facility. In other cases, facility staff may be used to provide some maintenance on the new equipment installed under the performance contract, with the ESCO providing any specialized services as needed. |

**SCHEDULE L: FACILITY MAINTENANCE CHECKLIST**

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| This checklist is a method by which the ESCO may record and track the Customer’s compliance with any of the maintenance procedures being performed by facility personnel. The checklist typically specifies a simple list of tasks and the corresponding schedule for the performance of the prescribed procedures. Facility staff will complete the checklist and forward it to the ESCO, usually on a monthly basis. (This checklist is a very useful tool for both the ESCO and Customer to verify that the required maintenance activities are being performed at the scheduled intervals). |

**SCHEDULE M: ESCO'S TRAINING RESPONSIBILITIES**

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| The description of the ESCO's training program or sessions for facility personnel should be contained in this schedule. The duration and frequency of the specified training should also be included. Any provisions for ongoing training, commitments to train newly hired facility personnel, and training with respect to possible future equipment or software upgrades should also be described. Any fees associated with the client's request for training beyond what the ESCO is contractually bound to provide should also be specified. |

**SCHEDULE N: GENERAL CONDITIONS**

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| Insert as applicable |

**SCHEDULE O: ANNUAL INSTALLMENT PAYMENT SCHEDULE**

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| This schedule contains the amortized financing payments to be made to the financing institution for the capitalized costs (principal and interest) of the project. This schedule will indicate the frequency (monthly, quarterly semi-annually) of payment, the specific amount due. The actual lease agreement and associated documents are located in Appendix D. |

**EXHIBITS**

EXHIBIT I: PERFORMANCE BOND

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| The ESCO’s reputation in delivering on its guarantee is an important consideration when selecting an ESCO. A performance bond may be used. |

EXHIBIT II: LABOR AND MATERIAL PAYMENT BOND

EXHIBIT III: (i) CERTIFICATE OF ACCEPTANCE: TECHNICAL ENERGY AUDIT

EXHIBIT III: (ii) CERTIFICATE OF ACCEPTANCE: INSTALLED EQUIPMENT

EXHIBIT IV: EQUIPMENT WARRANTIES

**APPENDIX A**

RFP for ESCO Solicitation

**APPENDIX B**

ESCO Proposal

**APPENDIX C**

Technical Energy Audit

**APPENDIX D**

Lease Agreements and Documents

