

TERMS AND CONDITIONS FOR COOL SAVINGS PROGRAM

1. It is the sole responsibility of the building owner or property manager ("customer") to:

- a) Enter into agreement with contractor for the roofing work.
- b) Ensure that the agreement with the roofing contractor specifies that the work done will be in compliance with the Cool Savings Program Guidelines in order to be eligible for the rebate payment. These guidelines can be downloaded from the California Energy Commission website at <http://www.consumerenergycenter.org/coolroof>.
- c) Ensure the roof work is completed by the program deadline as follows: to qualify for the higher rebate, work must be complete by September 30, 2001, and the Final Application for rebate payment submitted to the Program Administrator by October 15, 2001; OR, for projects completed after September 30, 2001, program funds will be disbursed at the post September 30 Cool Savings Program rebate levels on a first come, first-served basis until the funds are exhausted or until November 30, 2002, whichever comes first.
- d) Submit a request for payment for reimbursement of the cool roof application, and provide an invoice from the roofing contractor that includes the name of the product and product manufacturer for the cool roof material(s) used. The number of square feet actually completed also must be included and a description of the work completed (i.e. roof, ducts, insulation, or all), so the Program Administrator can calculate the final rebate amount. Also, if insulation work was done, provide a copy of the invoice from the insulation contractor including material used and applied thickness. The amount of the rebate given is based on the square feet of qualifying insulation and/or cool surface as specified in the Cool Savings Program Guidelines.
- e) Following receipt of the request for payment, invoice from roofing contractor and after the Program Administrator verifies that all program requirements have been met, the Program Administrator shall apply to the California Energy Commission for the rebate payment and send a check to the customer as soon as payment is received from the California Energy Commission.

2. **Site Access Consent.** The customer must give permission for the Program Administrator to enter the property for roof inspection purposes. The customer will obtain any necessary approvals from the building owner or building tenants to ensure access to the roof and the space under the roof by the Program Administrator.

3. Customer agrees to the following:

- a) **Indemnification** - The customer agrees to indemnify, defend, and save harmless the California Energy Commission, State of California, its officers, agents, and employees from any and all claims and losses accruing or resulting to customer and to any and all contractors, subcontractors, materialmen, laborers, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged in the performance of this agreement.
- b) **Assignment** - This agreement is not assignable or transferable by customer either in whole or in part without the written consent of the Program Administrator.
- c) **Amendment** - This agreement is not to be amended without the written consent of the Program Administrator. This agreement represents the entire agreement of the parties.
- d) **Governing Law.** This agreement shall be governed by the laws of the State of California and venue shall be in the County of _____ [Program Administrators county].
- e) **Time.** Time is of the essence in performance of this agreement.
- f) **Severability.** If any portion of this agreement is found to be invalid, all other portions of this agreement remain in effect.
- g) **Program Evaluation, Monitoring Verification, Random Audits, Record Retention and Access to Buildings** - Customer agrees to allow the California Energy Commission, its agent or any agency of the state, upon written request, reasonable access to the building to monitor or verify savings and collect data, and the right of audit or

inspection of all records that pertain to the project for a period of three years after payment of the invoice submitted to the Program Administrator. Customer agrees to retain related project records during this time.

h) **Waiver** - No waiver of any breach of this agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this agreement shall be taken and construed as cumulative, in addition to every other remedy provided therein or by law.

i) **Termination of Grant Rebate Agreement** - This project may be terminated as follows:

With Cause: In the event of any breach by the customer of the conditions in this agreement, the Program Administrator may, without prejudice to any of its legal remedies, terminate this agreement for cause upon five (5) days written notice to customer.

Without Cause: The Program Administrator may, at its option, terminate this agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the customer by certified mail. In such event, the customer agrees to use all reasonable efforts to mitigate the customer's expenses and obligations. The Program Administrator shall pay the customer for all satisfactory services rendered and expenses incurred within 30 days after such notice of termination which could not by reasonable efforts of the customer have been avoided, but not in excess of the maximum payable under this agreement.

j) **Insurance** - Customer must maintain adequate comprehensive general liability and worker's compensation insurance.

k) **Union Organizing** - Customer certifies that it shall not use funds from this agreement to assist, promote, or deter union organizing. Customer shall account for funds allocated for specific expenditures under this agreement and shall retain records to show no state funds were used for union organizing.

l) **Compliance with law** - Customer shall comply with all applicable federal, state and local laws, rules and regulations in performance of the agreement.

4. Roof work and contractor selection.

a) It is highly recommended that customers get at least three competitive bids for roof work before selecting a roofing contractor.

b) Contractors chosen to perform this work must be properly licensed contractors in the State of California. It is highly recommended that customers contact the California Contractor's State License Board to confirm the roofing contractor's license and advice on construction contract requirements.

c) The contractor shall obtain all necessary construction permits.

d) The roof work shall meet all applicable federal, state and local laws, regulations, rules codes and standards.

e) The roofing contractor and/or roofing product manufacturer must warrant that any materials and equipment supplied to the customer shall be free from original defects in materials, workmanship, design and installation, including but not limited to cracking, flaking, peeling, bubbling, blistering, and leaking, for 5 years from the date of completion of installation, and must guarantee free labor for any materials and/or repairs needed within 2 years.

[NOTE: If Program Administrator has special requirements, they can be added in paragraph 5. Included below are two examples that the Program Administrator might want to include, with sample language.]

5. Provisions required by Program Administrator

a) Indemnification - Customer agrees to indemnify, defend and save harmless the Program Administrator.... [can use same language as in paragraph 3.a]

b) Insurance - Customer agrees to maintain \$_____ in general liability insurance; \$ _____ in worker's compensation insurance, and \$ _____ in _____ insurance.

c) [Other requirements]