

# Technology Incentives (TI) Program Project Agreement



## CUSTOMER INFORMATION

Company Name \_\_\_\_\_

Company Mailing Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Contact Name \_\_\_\_\_ Title \_\_\_\_\_

Contact Telephone Number \_\_\_\_\_ Contact Fax Number \_\_\_\_\_ Email \_\_\_\_\_

Tax Identification Type (Select Only One): \_\_\_\_\_ Federal Tax ID: \_\_\_\_\_ SSN: \_\_\_\_\_

Tax Status (Select Only One): Corporation Individual Non-Corp Exempt Exempt Reason: \_\_\_\_\_

## PROJECT SITE INFORMATION (Site of Project)

Project Name \_\_\_\_\_

Site Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Contact Name at Project Site \_\_\_\_\_ Contact Phone Number \_\_\_\_\_ Contact Email Address \_\_\_\_\_

Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_

Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_ Electric Account Number \_\_\_\_\_

Total Sq. Ft of Facility \_\_\_\_\_ Years since built or last major renovation \_\_\_\_\_

## CONTRACTED MEASURES, LOAD DROP, AND INCENTIVE

Measure No.	Demand Response Measure (Technology)	Estimated Curtailable Load (kW)	Estimated Total Cost
1			\$
2			\$
3			\$
4			\$
5			\$
6			\$
7			\$
8			\$
9			\$
10			\$

Total Estimated Dispatchable Load Reduction: \_\_\_\_\_ Estimated Total Project Cost: \$ \_\_\_\_\_

Maximum TI Incentive (based on load reduction): \$ \_\_\_\_\_ Reduction in incentive due to Cost Cap: \$ \_\_\_\_\_

TI Incentive Rate: x \$200/kW Maximum TI Incentive under this Agreement: \$ \_\_\_\_\_

## TERMS AND CONDITIONS:

This Technology Incentives ("Agreement") is entered into by San Diego Gas & Electric Company ("SDG&E") and \_\_\_\_\_ (the "Customer"). SDG&E and Customer may be individually referred to as a "Party" and collectively as the "Parties."

1. **PROJECT DESCRIPTION:** This Agreement is limited to the 2018-2022 Technology Incentives Project(s) ("Project(s)") described on the 2018-2022 Technology Incentives Program ("Program") Application executed by Customer and all forms attached thereto ("Application") and incorporated by reference into this Agreement. As stated in the Application, SDG&E shall only pay customer incentives in accordance with the terms and conditions of this Agreement.
2. **DOCUMENTS INCORPORATED BY REFERENCE:** The following documents are hereby incorporated by reference and made part of this Agreement:
  - 1) The Application, and
  - 2) SDG&E acceptance letter(s) or email(s) of the demand reduction measures proposed in the Application
3. **ELIGIBILITY:** Program funding is limited and is available on a first-come, first-served basis until program funds are no longer available, or December 31, 2022, whichever comes first. Funds will be reserved on Customer's behalf only upon SDG&E's approval of the Customer's Application. Each Project must meet the following requirements to be eligible for payment of Program incentives ("Incentive(s)"):
  - 1) Project Site must be a nonresidential facility located within SDG&E's service territory;
  - 2) Customer must pay the Public Purpose Program ("PPP") surcharge, or the Public Goods Charge ("PGC") surcharge, within SDG&E's service territory, on the gas or electric meter on which the Demand Response measure listed in the Final Approved Savings Amount table above is installed throughout the Terms of this Agreement;
  - 3) Customer must not receive any funds from any other program (technology incentive, energy efficiency, or otherwise) funded by the PPP surcharge, PGC surcharge or the DSM surcharge, the California Energy Commission ("CEC") or the California Public Utilities Commission ("CPUC") for the Project or any measure applied for herein. Customer represents and warrants that Customer has not received and will not apply for any funds from any other program funded by the PPP surcharge, PGC surcharge or the DSM surcharge, the CEC or the CPUC for the Project or any measure applied for herein;
  - 4) The customer-owned facility must be receiving bundled or direct access electric service from SDG&E, must have an Interval Data Recorder (IDR) electrical meter, receiving 15-minute interval data, and must be billed on a SDG&E commercial, industrial or agricultural, Time of Use rate schedule;
  - 5) The demand response measure(s) must:
    - a) Be a commercially available technology; and
    - b) Enable fully automated, dispatchable, load reduction at the customer-owned facility. (The TI Program will not provide incentives for manual or semi-automated equipment or for load reduction enabled by customer behavior changes).
  - 6) Projects must meet all other Program requirements, terms and conditions.
4. **SUBMITTAL REQUIREMENTS FOR PAYMENT:** Customer shall submit to SDG&E the documents described below to allow SDG&E to determine whether Customer is eligible for payment of any Incentives. Required documents include the following:
  - 1) This completed and executed Agreement;
  - 2) Complete engineering calculations to demonstrate potential load reduction (kW) and documentation, if applicable (including archival files, if applicable);
  - 3) Schematic drawings and/or manufacturer specification sheets, if applicable;
  - 4) Invoices and/or documentation to support measure costs. Such documents must comply with SDG&E's TI Invoicing Guidelines;
  - 5) Project Installation Report; and
  - 6) Any other documents related to the Project, Project Site, measures, load reduction (kW) or otherwise requested by SDG&E, in its sole discretion.
5. **INSPECTIONS:** Customer is solely responsible for ensuring that SDG&E has reasonable access for all inspections and load shed tests required under the Program, including, but not limited to, the following: (1) pre-installation equipment inspection to examine the existing/ baseline equipment and to check the accuracy of Customer's equipment survey; (2) post-installation equipment inspection to check installed equipment and to verify accuracy of Customer's equipment survey; (3) load shed test; and (4) inspection for any other reason that SDG&E, in its sole discretion, deems necessary.
6. **REVIEW AND DISCLAIMER:** SDG&E'S AND/OR ITS CONSULTANTS' REVIEW OF THE DESIGN, CONSTRUCTION, OPERATION OR MAINTENANCE OF THE PROJECT OR DEMAND RESPONSE MEASURES ("DRMs") SHALL NOT CONSTITUTE ANY REPRESENTATION AS TO THE ECONOMIC OR TECHNICAL FEASIBILITY, OPERATIONAL CAPABILITY, OR RELIABILITY OF THE PROJECT OR DRMs, NOR SHALL CUSTOMER, IN ANY WAY, MAKE SUCH A REPRESENTATION REGARDING SDG&E'S REVIEW TO A THIRD PARTY. CUSTOMER IS SOLELY RESPONSIBLE FOR THE ECONOMIC AND TECHNICAL FEASIBILITY, CONSTRUCTION, OPERATIONAL CAPABILITY AND RELIABILITY OF CUSTOMER'S PROJECT AND EEMs. SDG&E MAKES NO WARRANTY, CONCERNING THE PROGRAM, THE INCENTIVES, THE PROJECT OR THE DRMs, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE, USE OR APPLICATION.
7. **PAYMENTS:** Payments of Incentives will be made only after all Program requirements are met by Customer to SDG&E's sole satisfaction. All authorized payments of Incentives must be payable to the Customer.
  - 7.1 SDG&E retains sole discretion to determine the appropriate baseline values and methodology/calculations used to verify the actual dispatchable load reduction enabled by the installed qualifying technology. Incentives shall only be paid on Projects that result in verifiable load shed due to the approved technology. SDG&E reserves the right to modify or cancel the Incentive amount if the actual measure installed differs from the measure described in Customer's approved Application(s).
  - 7.2 The total Incentive payment shall not exceed the total incentive amount listed in the Final Approved Savings Amount table in this Agreement. The total Incentive payment will be limited by a Customer Project Site Cap of 15% of the average annual 2018-2022 Technology Incentives Budget for the relevant calendar year, and/or the Project Cost Cap of 75% of the total measure costs of the project, whichever is less.

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- 7.3 The total Incentive payment is based on the calculated demand reduction derived from the actual use of electricity provided by SDG&E. Electricity provided by any party other than SDG&E, including, but not limited to, cogeneration or deliveries from another commodity supplier, do not qualify (with the exception of Direct Access customers or customers paying departing load fees for which SDG&E collects the PPP surcharge, the PGC surcharge and/or the DSM surcharge).
- 7.4 SDG&E will make the applicable Incentive payment to Customer, in one (1) or more installments, only after all required and/or requested documents have been submitted to and approved by SDG&E and the appropriate inspection(s) of the Project or Project Site have been completed to SDG&E's satisfaction.
- 7.5 All Projects and/or measures must be installed within six (6) months of a signed agreement and fully operational within one (1) year from approval date to be eligible for Incentive payments. SDG&E reserves the right to cease making Incentive payments, require the return of Incentive payments and/or terminate this Agreement if the Project(s) is not installed and fully operational one (1) year from the approval date, unless an extension is granted by SDG&E, at its sole discretion.
8. **PAYMENT DISQUALIFICATION:** Any Incentives received by Customer shall be repaid to SDG&E, in whole or in part, as follows:
- 8.1 If Customer fails to pay the PPP surcharge, the PGC surcharge or the DSM surcharge at any time during the Term of this Agreement, Customer shall refund to SDG&E any prorated amount of the Incentive dollars that SDG&E determines must be repaid, in its sole discretion, based on the energy savings that occurred during the payment of the PPP surcharge, the PGC surcharge or the DSM surcharge.
- 8.2 If Customer does not provide SDG&E with 100% of the related benefits specified in the Application for a period of three (3) years from the Project Installation Report approval date, or the energy benefit to SDG&E ceases for any reason during the three (3) year period from the Project Installation Report approval date, including, but not limited to, Customer and/or the Project Site ceasing to receive electricity service from SDG&E, the measure, equipment and/or Project ceasing to function, Customer opts out of an eligible Demand Response Program, or Customer ceasing the use of the equipment, measure or Project Site, Customer shall refund to SDG&E any prorated amount of the Incentive dollars that SDG&E determines must be repaid, in its sole discretion, based on the actual period of time for which Customer provided the energy benefit.
- 8.3 Customer shall repay any amounts due to SDG&E within thirty (30) calendar days of notification by SDG&E that repayment is required in accordance with Sections 8.1 and 8.2 above. SDG&E shall be entitled to offset against payments owed to Customer any amount due to SDG&E that remains unpaid forty (40) calendar days after SDG&E's written demand for payment.
9. **TERM AND TERMINATION:** The term of this Agreement shall commence on the last date that a Party executes this Agreement and shall terminate no later than five (5) years from the Project Installation Report approval date, unless terminated earlier pursuant to this Agreement ("Term").
10. **ASSIGNMENT:** Customer consents to SDG&E's assignment of all of SDG&E's rights, duties and obligations under this Agreement to the CPUC and/or its designee. Such assignment, if it occurs, shall relieve SDG&E of all rights, duties and obligations arising under this Agreement. Other than SDG&E's assignment to the CPUC or its designee, neither Party shall assign its rights or delegate its duties without the prior written consent of the other Party, except in connection with the sale or merger of a substantial portion of its properties. Any such assignment or delegation without written consent shall be null and void. Consent to assignment shall not be unreasonably withheld. If an assignment is requested, Customer is obligated to provide additional information if requested by SDG&E.
11. **PERMITS AND LICENSES:** Customer at its own expense, shall obtain and maintain and cause its contractors and/or subcontractors to obtain and maintain licenses and permits required by federal, state, local, or other relevant governing or regulatory bodies to perform its work. Any failure by Customer or its contractors and/or subcontractors to maintain necessary licenses and permits constitutes a material breach of Customer's obligations under this Agreement.
12. **ADVERTISING, MARKETING AND USE OF SDG&E'S NAME:** Customer shall not use SDG&E's corporate name, trademark, trade name, logo, identity or any affiliation for any reason, including to solicit customers to participate in the Project, without SDG&E's prior written consent. Customer shall make no representations to its customers on behalf of SDG&E.
13. **INDEMNIFICATION:** Customer shall indemnify, defend and hold harmless, and release SDG&E, its affiliates, subsidiaries, parent companies, officers, directors, agents and employees, from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise), which arise from or are in any way connected with any: (i) injury to or death of persons, including, but not limited to, employees of SDG&E or Customer; (ii) injury to property or other interests of SDG&E, Customer, or any third party; (iii) violation of local, state, or federal common law, statute, or regulation, including, but not limited to, environmental laws or regulations; or (iv) strict liability imposed by any law or regulation; so long as such injury, violation, or strict liability (as set forth in (i) - (iv) above) arises from or is in any way connected with Customer's participation in the Program or its performance of, or failure to perform, this Agreement, however caused, regardless of any strict liability or negligence of SDG&E whether active or passive, excepting only such loss, damage, cost, expense, liability, strict liability, or violation of law or regulation that is caused by the sole negligence or willful misconduct of SDG&E, its officers, managers or employees.
- 13.1 Customer acknowledges that any claims, demands, losses, damages, costs, expenses, and legal liability that arise out of, result from, or are in any way connected with the release or spill of any legally designated hazardous material or waste as a result of the work performed under this Agreement are expressly within the scope of this indemnity, and that the costs, expenses, and legal liability for environmental investigations, monitoring, containment, abatement, removal, repair, cleanup, restoration, remedial work, penalties, and fines arising from strict liability, or violation of any local, state, or federal law or regulation, attorney's fees, disbursements, and other response costs incurred as a result of such releases or spills are expressly within the scope of this indemnity.
- 13.2 Customer shall, on SDG&E's request, defend any action, claim or suit asserting a claim that may be covered by this indemnity. Customer shall pay all costs and expenses that may be incurred by SDG&E in enforcing this indemnity, including reasonable attorney's fees. This indemnity shall survive the termination of this Agreement for any reason.
- 13.3 If this Agreement is assigned pursuant to Section 10.0, Customer agrees that this indemnification shall continue to apply to SDG&E and shall apply to the assignee.
14. **LIMITATION OF LIABILITY:** SDG&E shall not be liable for any special, incidental, indirect, or consequential damages, including without limitation, loss of profits or commitments to subcontractors, and any special, incidental, indirect or consequential damages incurred by Customer, whether reasonably foreseeable or otherwise.
15. **WRITTEN NOTICE:** Any written notice, demand or request required or authorized in connection with this Agreement shall be deemed properly given if delivered in person or sent by facsimile, email, nationally recognized overnight courier, or firstclass mail, postage prepaid, to the address specified below, or to another address specified in writing by SDG&E.



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<b>SDG&amp;E</b>			
Program Manager			
Utility			
Address			
City		State	Zip
Fax Number		Phone Number	
<b>CUSTOMER</b>			
Name			
Company			
Address			
City		State	Zip
Fax Number		Phone Number	

*Notices shall be deemed received (a) if personally or hand-delivered, upon the date of delivery to the address of the person to receive such notice if delivered before 5:00 p.m., or otherwise on the Business Day following personal delivery; (b) if mailed, three (3) Business Days after the date the notice is postmarked; (c) if by facsimile or email, upon electronic confirmation of transmission, followed by telephone notification of transmission by the noticing Party; or (d) if by overnight courier, on the Business Day following delivery to the overnight courier within the time limits set by that courier for next-day delivery.*

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

**17. MISCELLANEOUS:** This Agreement shall at all times be subject to such changes or modifications by the CPUC as it may from time to time direct in the exercise of its jurisdiction. This Agreement shall be governed and construed in accordance with the laws of the State of California, without regard to its conflict of laws and provisions. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. This Agreement constitutes the entire agreement and understanding between the Parties as to the subject matter of this Agreement and supersedes all prior agreements, representations, writings and discussions between the Parties, whether oral or written, with respect to the subject matter hereof. No amendment, modification or change to this Agreement shall be binding or effective unless expressly set forth in writing and signed by SDG&E's representative authorized to execute the Agreement.

**18. PAYMENT METHODOLOGY:** The Technology Incentive projects will be paid as follows:

**INCENTIVE PAYMENT:** The incentive is \$200 per kW of verified dispatchable load reduction, not to exceed 75% of the actual, reasonable cost of the installed measure(s) (including the purchase price and any costs associated with installation by a third-party). Any in-house costs associated with installation will not be considered part of the cost of the installed measure(s). Incentive payments can only be distributed to the Customer.

The payment method of the Technology Incentives program operates under a split payment method:

**18.1 Installation Payment:** 60% of the total incentive will be paid after installation, verified load shed test, and upon enrollment in a qualified DR program or rate.

**18.2 Performance Payment:** Up to the remaining 40% of the total incentive will be paid at the end of the first Demand Response season or calendar year as applicable to the program or rate. This performance-based rate is based on the actual amount of participation in the DR program as determined during the DR Season. The full 40% incentive balance will be paid if the Customer's participation is equal to or greater than the load reduction estimated by the load shed test. If the actual performance is less than the estimated load reduction, the Performance Payment will be reduced proportionally with the measured load reduction during the DR Season. If the actual performance falls below 60% of the load shed test amount, SDG&E will invoice the customer for the difference between the paid Installation Payment and the actual performance amount.

**18.3 DR Program Enrollment:** Customer must establish enrollment in a DR program or rate by submitting a copy of the enrollment confirmation provided by SDG&E. Prior to issuing the TI incentive, Customer must receive authorization from SDG&E which will occur upon acceptance and verification of DR program enrollment.

**RELEASE OF INFORMATION:** If the CPUC requests review of this project, SDG&E will provide the CPUC with all of the information requested without further notification to you. If you refuse to allow the CPUC, its staff or its contractors and/or consultants to have access to the project data, this project will be excluded from this Program and ineligible to receive incentives. In the event this project is selected for review, SDG&E will mark the Customer's data as confidential before submitting its files to the CPUC in accordance with California Public Utilities Code Section 583 and CPUC General Order 66-C.



# Technology Incentives (TI) Program Project Agreement

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

UTILITY		CUSTOMER
By:		By:
Title:		Title:
Name Printed:	:	Name Printed:
Date:		Date:
Signature:		Signature:

Agreement is to be reviewed and signed by an authorized representative of the Customer. The Agreement should then be returned to SDG&E. Upon receipt, SDG&E will send an email authorizing work on the project (No work is to be performed prior to receipt of the Work Authorization Email.). SDG&E will then execute the Agreement and send a copy to the Customer.