

TITAN POWER

DATA CENTER • DESIGN • BUILD • MAINTAIN

C-11175
09/30/2016

8/30/2016

Michael Beck
Glendale, City of
5959 W Brown St
Glendale, AZ 85302

Subject: Maintenance Agreement Proposal
Titan Power Proposal #: 13595

Dear Michael Beck,

Titan Power is pleased to have the opportunity to submit this Maintenance Agreement Proposal for your review and consideration. Enclosed please find Titan Power's proposal, along with supporting information and documentation for your reference. We have taken great care to be as thorough as possible in our submittal of this proposal.

As an industry leading service provider for critical power and air environments, Titan Power pledges to provide a superior level of service and reliability through several key differentiating factors:

- **Experience** - Founded in 1986 with over 150 years of combined experience in critical power and air environments and equipment
- **Qualified Field Service Staff** - Field trained and certified Engineers & Technicians committed to surpassing your expectations
- **Team Approach** - Specialized team for each customer to increase responsiveness & familiarity with the equipment & personnel
- **Customer Asset Management System** - Customer can view their services, contracts, equipment, field service reports and proposals
- **Parts Inventory** - 4000 square foot warehouse facility with over \$1M in extensive spare parts
- **Support** - 24 x 7 x 365 Support and Emergency Service
- **Culture of Responsiveness** - Organization built on providing prompt and efficient response to both customer requests and emergencies
- **Audited Safety Program** - Ensures strict safety procedures are followed by all

Thank you for your interest in Titan Power as your service provider. We look forward to working with you and Glendale, City of on your critical power and air requirements. Should you have any questions or require any additional information please feel free to contact me.

Sincerely,

Dan Bullard

Dan Bullard
Associate Account Representative
O: 480-968-3191, x106 | M: | F: 480-968-3111
dbullard@titanpower.com | www.titanpower.com

7031 West Oakland Street | Chandler, Arizona 85226
toll free: 800.509.6170 | office: 480.968.3191 | fax: 480.968.3111
www.titanpower.com | info@titanpower.com
Contractor Lic.: AZ 228490 | AZ 216136 | CA 884661 | NV 77127

MAINTENANCE AGREEMENT PROPOSAL

Proposal Number: 13595

TITAN POWER

DATA CENTER • DESIGN • BUILD • MAINTAIN

Corporate Office

7031 W. Oakland St. | Chandler, Arizona 85226
 (800) 509-6170 | Office: (480) 968-3191 | Fax: (480) 968-3111
 | info@titanpower.com

CUSTOMER ADDRESS	EQUIPMENT LOCATION
Attn: Michael Beck Glendale, City of 5959 W Brown St Glendale, AZ 85302	Glendale, City of 5959 W Brown St Glendale, AZ 85302

L/I	QTY	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	1.00	Maintenance Agreement: PMI Only Equipment Type: UPS 3 Phase Make: APC Model: MGE Galaxy S/N: PS1131130407 Size: 10kVA	\$1,800.00	\$1,800.00
*Total cost quoted is an annual cost, unless otherwise indicated. *This Quote is valid for 30 days from the date of Quotation *By signing customer block below and/or by submitting payment, customer agrees to all the terms and conditions as specified in Titan Power's Terms and Conditions. *Sales Tax, if applicable, is not included in the proposal unless specifically indicated in the above pricing.			SUBTOTAL	\$1,800.00
			SALES TAX	\$0.00
			TOTAL ANNUAL COST	\$1,800.00

PROPOSAL PARAMETERS

Type of Coverage: Preventative Maintenance Inspection (PMI) Only Agreement: UPS & Batteries
 Coverage Period: 10/1/2016 through 9/30/2017

Payment Terms: Net 30, Annual In Advance. All services are to be paid in advance and in full.
 Purchase Order authorization can be sent to orders@titanpower.com or by Fax to (480) 968-3111.
 Payments Accepted: check, all major credit or P cards, ACH.

Coverage Includes:
Preventative Maintenance Inspections (PMI): Semi-annual maintenance consisting of 2 PMIs / Year scheduled Monday through Friday during regular working hours (0800 – 1700 hours), unless otherwise stated in the Proposal.
Battery Maintenance: Semi-annual maintenance consisting of 2 PMIs / Year on up to 2 Strings of Batteries. These PMIs are to be performed in conjunction with the UPS PMIs.
Emergency Service Coverage: All Emergency Dispatches will be billed according to Titan Power's Time and Material Service Rates.
Response Time: 4 Hours or Less.
Parts & Repairs: Not Included in Maintenance Agreement and will be billed according to Titan Power's Time and Material Service Rates.
 *Equipment that has not been serviced by TPI is subject to a pre-inspection by TPI to determine if it is in acceptable working condition in accordance with manufacturers specifications. This inspection may be conducted during the first PMI of the contract. Any repairs or modifications, deemed necessary by TPI as a pre-existing condition, will be quoted to the customer for approval and, if approved, repaired at customer's expense per the quotation.

CUSTOMER		TITAN POWER	
Signature:		Signature:	<u>Dan Bullard</u>
Print Name:	<u>Tom Dueny</u>	Print Name:	<u>Dan Bullard</u>
Title:	<u>Asst. City Manager</u>	Title:	<u>Associate Account Representative</u>
Date:	<u>9-30-16</u>	Date:	<u>8/30/2016</u>
Phone:	<u>623-930-2116</u>	Phone:	<u>480-968-3191 Ext.106</u>
Email:		Email:	<u>dbullard@titanpower.com</u>

Approved as to form


 City Attorney

ATTEST:

 City Clerk

Titan Power, Inc. | Terms & Conditions | Service Contract

1. **DEFINITIONS:** As used in this Service Agreement ("Agreement"): (A) "TPI" shall mean Titan Power, Inc.; (B) "Customer" shall mean the party requesting Titan Power's services; (C) "The Parties" or "a Party" shall mean either Customer, TPI or both. These terms and conditions, in conjunction with any specific terms set out on the attached proposal or order, or in any other document issued by TPI and specified in the attached Proposal, or order, shall constitute the entire contract between TPI and the Customer. No variation of these Terms and Conditions shall be effective or binding upon TPI unless in writing and signed by an authorized employee of TPI.
2. **AGREEMENT TERMS:** (A) Agreement term shall commence on the date indicated in the Proposal, unless service has commenced prior to date of the Proposal or prior to a contract signing, and remain in effect at initial price to end of period covered; (B) Either party may cancel this Agreement at anytime by giving a written thirty (30) day notice of cancellation; upon which TPI will prorate an equitable rebate to Customer for any unused portion of that year's equipment charge.
3. **SCHEDULED MAINTENANCE:** The preventive maintenance inspection requirements will be scheduled during the Agreement period. Preventive maintenance inspections will be scheduled Monday through Friday during regular working hours (0800 – 1700 hours), unless otherwise stated in the Proposal. Any request to perform service after hours will be billed according to TPI's time and materials rates.
4. **EMERGENCY SERVICE:** (A) TPI will provide an emergency telephone number for notification by its customers of the need for emergency maintenance. TPI will determine the extent of the emergency and will take the necessary corrective action. Emergency maintenance is defined as the maintenance required to restore the equipment listed in the Proposal to manufacturer's agreed specifications following an unexpected interruption in service of said equipment; (B) TPI will provide remedial maintenance for problems not immediately affecting system reliability on a 0800 to 1700 hours Monday through Friday basis. **NOTE:** Response time is defined as the time from receipt of an emergency call by TPI to the arrival of a service engineer on site at the equipment location. Response time shall not exceed Four (4) hours unless otherwise specified in the Proposal.
5. **ELIGIBILITY/INSPECTION:** Equipment that has not been serviced by Titan Power Inc. (TPI) within the previous six (6) months is subject to a pre-inspection by TPI to determine if it is in acceptable working condition in accordance with manufacturer's specifications. This inspection may be conducted during the first PMI of the contract. Any repairs or modifications, deemed necessary by TPI as a pre-existing condition, will be quoted to the customer for approval and, if approved, repaired at customer's expense per the quotation.
6. **EXCLUSIONS/SERVICE TYPES:** (A) See Proposal for specific equipment and components not covered; (B) The available maintenance services types, which apply to each piece of equipment individually unless specified otherwise, are as follows:
 - a. **UPS 7x24 Full Service:** Includes all parts, labor and expenses for 7 day/24 hour emergency service. Preventative Maintenance Inspections (PMI) during normal business hours (M-F, 8am – 5pm). Unlimited emergency service calls. Full capacitor replacements, transformers, batteries and labor to replace batteries, resolving proprietary software related alarms are not covered under a UPS maintenance agreement and are billed according to TPI's then time and materials rates.
 - b. **UPS, Generator & CRAC Preventative Maintenance (PMI) Only Service:** Preventative Maintenance Inspections (PMI) during normal business hours (M-F, 8am – 5pm). 7 day/24 hour emergency service, all parts, labor and expenses not included and billed according to TPI's then time and materials rates.
7. **EQUIPMENT LOCATION:** Customer will provide a clean, safe, well lit working space and facilities for use by TPI and will allow ready access to the site and equipment subject to Customer's reasonable internal security and safety rules.
8. **SAFETY PERSONNEL:** (A) Customer agrees to provide a safety representative and that representative will be available at the equipment location whenever TPI is performing services. Customer will further ensure that the safety representative understands where and how to disconnect power and has sufficient physical capabilities to do so. The Customer provided safety representative will be at Customer's cost and Customer shall indemnify TPI for any damage caused by TPI in the event Customer fails to provide a safety representative. If TPI agrees, in writing, to provide for a safety person, Customer will be billed for such person's time at TPI's then current time and materials rates; (B) In the event Customer does not notify TPI of any unusual operating conditions and/or unusual equipment location, then TPI may refuse to perform services, void or make necessary changes to the Proposal if said unusual conditions threaten the safety of TPI's employees. Such changes or refusal to perform shall not in any way diminish Customer's duties as outlined in these terms and conditions and on the Proposal
9. **PAYMENT TERMS:** Payment for this Agreement shall be net thirty (30) days from invoice date. One full prepayment for total Agreement amount will be billed annually in advance and must be received prior to completing initial service unless otherwise specified in the Proposal. An Invoicing Premium of 1-3% may be applied for monthly, quarterly or semiannual payment terms. In the event of nonpayment, TPI reserves the right to discontinue its services until all undisputed past due amounts have been received.
10. **RENEWAL:** Each year TPI shall submit a written notice, prior to the anniversary date, covering any changes to the original Agreement if such changes occur. Customer is required to submit signed renewal documents approving changes in equipment and price prior to expiration date. Renewals not signed and submitted by the anniversary date are subject to cancellation whereby TPI reserves the right to refuse to provide service until Agreement is signed and returned.
11. **TAX:** TPI's price is exclusive of any applicable tax. If TPI is required to pay or collect any tax or government charges in connection with the services or materials furnished under this Agreement, whether existing or imposed in the future, an additional charge will be made therefore and paid by Customer unless TPI is provided with a proper tax exemption certificate.
12. **TPI'S REPRESENTATIONS, WARRANTIES AND RESPONSIBILITIES:** (A) TPI, during the term of this Agreement, will maintain the aforementioned equipment during its normal operation, and perform whatever service may be necessary to guard against malfunctions and breakdowns of said equipment. TPI will perform preventive maintenance, remedial inspections, troubleshooting and repairs; (B) All parts replaced by TPI shall comply with the equipment manufacturer's published standards and/or specifications; (C) Each inspection and/or maintenance of a system shall comply with the recommendations published by the manufacturer. If such tests are not possible due to plant operation, this shall be noted on the inspection report. TPI shall not be held responsible for tests not completed due to circumstances beyond its control; (D) TPI shall not be required to perform tests, install any items or make modifications that may be required or directed by insurance companies, government, state, municipal or other agency having jurisdiction unless requested by Customer as an additional service to be billed separately at TPI's then current time and materials rates; (E) TPI shall not be required to enable or disable fire protection systems or security systems in order to perform preventive maintenance, remedial inspections, troubleshooting or repairs to said equipment; (F) TPI shall not be liable for damages to the equipment if Customer authorizes service, operation and/or modification of said equipment by another party whereby it results in a shut down, removal or alteration of the equipment by the other party. In the event of such occurrence, TPI reserves the right to immediately terminate the Agreement, or if TPI agrees to continue services, then TPI will invoice separate of this Agreement for costs incurred to return the equipment to industry standards, in accordance with TPI's then current time and materials rates, and TPI shall not be liable for future damages arising from the services performed by the Customer-authorized third party; (G) TPI shall not be liable for repairs or service to the equipment if damaged by fire, lightning, tornado, sandstorm, hail, explosion, earthquake, smoke, aircraft, motor vehicle, building collapse, riot, vandalism, power failure, neglect, misuse, accident, failure of the Customer to perform such acts of service on its part required to be performed in accordance with the

manufacturer's recommendations for the equipment in question or under this Agreement, failure of other equipment not covered by this Agreement which is either attached, connected to or otherwise supports the operation of the equipment covered by this Agreement or misuse or abuse of the equipment by the Customer or a Customer-authorized third party; (H) TPI shall have no obligation to replace covered equipment that is no longer maintainable. TPI's obligations hereunder are in lieu of and exclude all warranties, express or implied, including, without limitation, warranties of merchantability or fitness for a particular purpose.

13. CUSTOMER'S REPRESENTATIONS, WARRANTIES AND RESPONSIBILITIES: (A)

The Customer hereby warrants that, prior to the effective date of this Agreement, the equipment which is the subject of this Agreement has been properly maintained and serviced in accordance with the manufacturer's recommendations. If TPI determines the equipment subject to this Agreement has not been properly maintained and/or has a preexisting condition whereby TPI must perform maintenance to bring the equipment up to such standards, then all costs shall be born by the Customer at TPI's then current time and materials rates; (B) Customer is liable for all parts, labor and expenses (at TPI's then current time and materials rates) incurred by TPI to evaluate, diagnose and repair equipment found defective due to faulty manufacture within the terms of each equipment manufacturer's warranty; (C) Customer shall be liable for all parts and labor not covered by this Agreement; (D) Customer shall arrange access to the buildings, arrange use of building services, keep areas adjacent to the equipment free of extraneous materials, move any fixtures, walls or partitions needed to perform the work under this Agreement and promptly notify TPI of any unusual operating conditions prior to the time when TPI is scheduled to be on site; (E) TPI shall not be liable for equipment damage resulting from a lapse in time created by Customer delays of prior scheduled services. In the event of such occurrence, TPI may require Customer to pay all costs, including but not limited to, parts and labor associated with bringing the equipment back to industry standards. Invoicing for such occurrence shall be separate of this Agreement and be at TPI's then current time and materials rates; (F) Customer shall notify TPI within a reasonable time if a Customer-authorized third party is scheduled to be on-site so that TPI may accompany said third party, subject to TPI's then current time and materials rates.

14. SUBCONTRACTING: TPI reserves the right to subcontract any portion of the services provided for under this Agreement without the prior consent of Customer.

15. FORCE MAJEURE: (A) During the term of this Agreement, the Customer assigns its rights as the owner of the equipment to TPI for the purpose of obtaining parts and support services from the manufacturer. TPI shall act as Customer's agent in this regard; (B) TPI shall not be liable for delays in obtaining parts or providing services caused by situations beyond its control, including but not limited to acts of nature, epidemics, war, riots, transportation delays, acts of terrorism, strikes, lockouts or the inability to obtain parts from its normal suppliers. In the event of a delay caused by any of the above, TPI's time to perform said services shall be reasonably extended.

16. LIMITATION OF DAMAGES: TPI's annual liability for any cause whatsoever shall not exceed in value the total of the annual service charges paid by the Customer, except in the event that such damage to the equipment has been caused by TPI's personnel while at the site of the Customer performing an examination, lubrication, routine maintenance or emergency service; and then, only to the extent of the replacement parts and the installation thereof. In no event shall TPI be liable for the loss of profits, indirect, special, consequential, or other similar damages, including but not limited to loss of use of associated equipment, investment cost of substitute facilities, rental of equivalent equipment, or claims of the Customer for damage arising out of any breach of this Agreement or obligations under this Agreement.

17. INDEMNIFICATION: TPI and Customer shall defend, indemnify and hold harmless each other, each other's officers, employees and agents from and against any and all third-party claims, liabilities, damages, demands, losses, causes of action and suits, including reasonable attorney's fees incident thereto, to the extent they result directly from or out of (A) Any injury or death of any person or damage to or destruction of any property caused by the negligent acts, errors, omissions or willful misconduct of either party; or (B) Any violation of federal or state regulations, orders, rules or the violation of any other governmental entity by either party, its agents or employees; or (C) Any breach of Warranty or any negligent performance by either party of its obligations under this Agreement.

18. DISPUTE RESOLUTION/TERMINATION: (A) In the event of unsatisfactory performance or breach of any portion of this Agreement, by either party to this Agreement, the parties agree to negotiate promptly, in good faith and according to the agreements herein as to proper adjustment for said unsatisfactory performance or breach, except for any breach for non-payment which shall be governed by Paragraph 9, above, and shall commence negotiations within seven (7) days of receipt of written demand by either party. Each party shall have the right to cancel this Agreement only upon failure of mutual agreement, within thirty (30) days of receipt of any written demand specified above; (B) If termination by Customer occurs prior to the natural expiration date and is without cause then all monies owed to TPI for the full term must be paid in full at time of termination; (C) These terms and conditions and any disputes arising thereof shall be governed by the State of Arizona, Maricopa County.

19. MODIFICATIONS/WAIVERS: Reference to Customer's request for Proposal or other documents is made part of this Agreement only to the extent such items or terms are consistent with this Agreement. No agent or employee of TPI shall have authority to waive any clause of this Agreement unless approval is obtained from TPI in writing and signed by an authorized representative of TPI.

20. ASSIGNMENT/DELEGATION: Neither Customer nor TPI may assign this Agreement or any of its rights hereunder without prior written consent of the other. Such consent shall not be unreasonably withheld. This Agreement shall be binding on the parties hereto, their heirs, successors and assigns.

21. SEVERABILITY: If any section or part of these Terms and Conditions is or becomes illegal, unenforceable or invalid, then such part or section shall be struck from these Terms and Conditions and the remainder of this Agreement shall remain in full force and effect.