
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-Q

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the quarterly period ended March 31, 2010

Or

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission file number: 000-30939

ACTIVE POWER, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

2128 W. Braker Lane, BK12, Austin, Texas
(Address of principal executive offices)

74-2961657
(I.R.S. Employer
Identification No.)

78758
(Zip Code)

(512) 836-6464
(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed since last report)

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or such shorter period that the registrant was required to submit and post such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one)

Large Accelerated Filer Accelerated Filer
Non-Accelerated Filer (Do not check if a smaller reporting company) Smaller Reporting Company

Indicate by check mark whether the registrant is a Shell Company (as defined in Rule 12b-2 of the Exchange Act). Yes No

APPLICABLE ONLY TO CORPORATE ISSUERS:

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

The number of shares of common stock, par value of \$0.001 per share, outstanding at April 26, 2010 was 79,710,373.

[Table of Contents](#)

ACTIVE POWER, INC.
FORM 10-Q
INDEX

PART I – FINANCIAL INFORMATION	3
Item 1. Condensed Consolidated Financial Statements.	3
Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations.	11
Item 3. Quantitative and Qualitative Disclosures about Market Risk.	18
Item 4. Controls and Procedures.	18
PART II – OTHER INFORMATION	19
Item 1. Legal Proceedings.	19
Item 1A. Risk Factors.	19
Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.	19
Item 3. Defaults Upon Senior Securities.	19
Item 4. Reserved.	19
Item 5. Other Information.	20
Item 6. Exhibits.	20

[Table of Contents](#)**PART I – FINANCIAL INFORMATION**

Item 1. Consolidated Financial Statements.

Active Power, Inc.
Condensed Consolidated Balance Sheets
(in thousands)

	<u>March 31,</u> <u>2010</u> (unaudited)	<u>December 31,</u> <u>2009</u>
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 17,560	\$ 7,489
Accounts receivable, net of allowance for doubtful accounts of \$314 and \$353 at March 31, 2010 and December 31, 2009, respectively	6,608	11,529
Inventories	6,597	6,629
Prepaid expenses and other	427	418
Total current assets	<u>31,192</u>	<u>26,065</u>
Property and equipment, net	2,471	2,903
Deposits and other	366	376
Total assets	<u>\$ 34,029</u>	<u>\$ 29,344</u>
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	\$ 2,441	\$ 5,155
Accrued expenses	5,208	4,957
Deferred revenue	2,212	1,713
Revolving line of credit	2,559	2,559
Total current liabilities	<u>12,420</u>	<u>14,384</u>
Long-term liabilities	691	468
Stockholders' equity:		
Common stock	80	66
Treasury stock	(103)	(73)
Additional paid-in capital	273,746	264,554
Accumulated deficit	(252,465)	(249,876)
Other accumulated comprehensive loss	(340)	(179)
Total stockholders' equity	<u>20,918</u>	<u>14,492</u>
Total liabilities and stockholders' equity	<u>\$ 34,029</u>	<u>\$ 29,344</u>

See accompanying notes.

Active Power, Inc.
Condensed Consolidated Statements of Operations and Comprehensive Loss

(in thousands, except per share amounts)
(Unaudited)

	Three Months Ended March 31,	
	2010	2009
Revenues:		
Product revenue	\$ 9,386	\$ 9,709
Service and other revenue	1,731	1,434
Total revenue	<u>11,117</u>	<u>11,143</u>
Cost of goods sold:		
Cost of product revenue	6,865	6,901
Cost of service and other revenue	1,401	980
Total cost of goods sold	<u>8,266</u>	<u>7,881</u>
Gross profit	2,851	3,262
Operating expenses:		
Research and development	835	1,101
Selling and marketing	3,258	3,330
General and administrative	1,317	1,139
Total operating expenses	<u>5,410</u>	<u>5,570</u>
Operating loss	(2,559)	(2,308)
Interest expense, net	(26)	(10)
Other expense, net	(4)	(49)
Net loss	<u>\$ (2,589)</u>	<u>\$ (2,367)</u>
Net loss per share, basic & diluted	<u>\$ (0.04)</u>	<u>\$ (0.04)</u>
Shares used in computing net loss per share, basic & diluted	71,525	60,124
Comprehensive loss:		
Net loss	\$ (2,589)	\$ (2,367)
Translation loss on subsidiaries in foreign currencies	(161)	(18)
Change in unrealized gain on investments in marketable securities	—	2
Comprehensive loss	<u>\$ (2,750)</u>	<u>\$ (2,383)</u>

See accompanying notes.

Active Power, Inc.
Condensed Consolidated Statements of Cash Flows

(in thousands)
(Unaudited)

	Three Months Ended March 31,	
	2010	2009
Operating activities		
Net loss	\$ (2,589)	\$ (2,367)
Adjustments to reconcile net loss to cash used in operating activities:		
Depreciation expense	505	471
Change in allowance for doubtful accounts	(39)	3
Accretion of premium/discount on investments	—	(2)
Loss on disposal of fixed assets	21	14
Stock-based compensation	169	317
Changes in operating assets and liabilities:		
Accounts receivable	4,961	1,366
Inventories	32	828
Prepaid expenses and other assets	1	(77)
Accounts payable	(2,713)	160
Accrued expenses	251	(1,137)
Deferred revenue	499	(56)
Long-term liabilities	222	(41)
Net cash provided by (used in) operating activities	1,320	(521)
Investing activities		
Sales/maturities of marketable securities	—	300
Purchases of property and equipment	(95)	(127)
Net cash (used in) provided by investing activities	(95)	173
Financing activities		
Proceeds from private placement of common stock	9,922	—
Issuance costs of private placement	(886)	—
Proceeds from employee stock purchases	1	—
Purchases of treasury stock	(30)	—
Net cash provided by financing activities	9,007	—
Translation loss on subsidiaries in foreign currencies	(161)	(9)
Change in cash and cash equivalents	10,071	(357)
Cash and cash equivalents, beginning of period	7,489	10,468
Cash and cash equivalents, end of period	<u>\$17,560</u>	<u>\$10,111</u>

See accompanying notes.

Active Power, Inc.
Notes to Condensed Consolidated Financial Statements
March 31, 2010
(Unaudited)

1. Significant Accounting Policies**Basis of presentation**

Active Power, Inc. and its subsidiaries (hereinafter referred to as “we”, “us”, “Active Power” or the “Company”) manufacture and provide critical power quality solutions that provide business continuity and protect customers in the event of an electrical power disturbance. Our products are designed to deliver continuous clean power, protecting customers from voltage fluctuations, such as surges and sags, and frequency fluctuations, and also to provide ride-through, or temporary, power to bridge the gap between a power outage and the restoration of utility power. Our target customers are those global enterprises requiring “power insurance” because they have zero tolerance for downtime in their mission critical operations. The Uninterruptible Power Supply (UPS) products we manufacture use kinetic energy to provide short-term power as a cleaner alternative to electro-chemical battery-based energy. We sell stand alone UPS products as well as complete continuous power solutions, including a containerized version that we brand as PowerHouse. We sell our products globally through direct, manufacturer’s representatives, Original Equipment Manufacturer (OEM) and IT partner channels. Our current principal markets are Europe, Middle East and Africa (EMEA), Asia and North America.

The accompanying condensed consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles and include the accounts of the Company and its consolidated subsidiaries. In the opinion of management, the accompanying unaudited condensed consolidated financial statements contain all adjustments (consisting only of normal recurring items) necessary to present fairly the consolidated financial position of the Company and its consolidated results of operations and cash flows. These interim financial statements should be read in conjunction with the financial statements and accompanying notes included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2009.

Recently issued accounting standards

On January 1, 2010, we adopted amendments to authoritative literature that modifies the revenue recognition guidance for establishing separate units of accounting in a multiple element arrangement and requires the allocation of arrangement consideration to each deliverable in the arrangement based on relative selling price of the elements. The selling price for each deliverable is based on vendor-specific objective evidence (“VSOE”) if available, third-party evidence (“TPE”) if VSOE is not available, or best estimate of selling price (“BESP”) if neither VSOE nor TPE is available. BESP must be determined in a manner that is consistent with that used to determine the price to sell the specific elements on a standalone basis. The authoritative literature permits prospective or retrospective adoption, and we elected prospective adoption. Other than the increased disclosure requirements of adoption of this policy, the adoption of these amendments did not change our units of accounting, allocation of arrangement consideration, or pattern or timing of revenue recognition. It also did not have a significant impact on our financial position, results of operations, or cash flows for the three months ended March 31, 2010, nor do we anticipate a significant impact for the year ended December 31, 2010. See Note 2 for additional discussion of the Company’s revenue recognition policy.

2. Supplemental Balance Sheet Information**Receivables**

Accounts receivable consist of the following (in thousands):

	March 31, 2010	December 31, 2009
Trade receivables	\$ 6,922	\$ 11,882
Allowance for doubtful accounts	(314)	(353)
	<u>\$ 6,608</u>	<u>\$ 11,529</u>

[Table of Contents](#)

Inventory

We state inventories at the lower of cost or market, using the first-in-first-out-method (in thousands):

	March 31, 2010	December 31, 2009
Raw materials	\$ 4,612	\$ 5,238
Work in process and finished goods	4,253	3,701
Allowances for obsolescence	(2,268)	(2,310)
	<u>\$ 6,597</u>	<u>\$ 6,629</u>

Property and Equipment

Property and equipment consist of the following (in thousands):

	March 31, 2010	December 31, 2009
Equipment	\$ 9,348	\$ 9,321
Demonstration units	1,414	1,436
Computers and purchased software	3,138	3,076
Furniture and fixtures	355	355
Leasehold improvements	7,305	7,305
Construction in progress	44	44
	<u>21,604</u>	<u>21,537</u>
Accumulated depreciation	(19,133)	(18,634)
	<u>\$ 2,471</u>	<u>\$ 2,903</u>

Accrued Expenses

Accrued expenses consist of the following (in thousands):

	March 31, 2010	December 31, 2009
Compensation and benefits	\$ 1,847	\$ 1,549
Warranty liability	589	620
Property, income, state, sales and franchise tax	1,403	1,427
Professional fees	732	495
Other	637	866
	<u>\$ 5,208</u>	<u>\$ 4,957</u>

Warranty Liability

Generally, the warranty period for our power quality products is 12 months from the date of commissioning or 18 months from the date of shipment from Active Power, whichever period is shorter. Occasionally we offer longer warranty periods to certain customers. The warranty period for products sold to our OEM customer, Caterpillar, is 12 months from the date of shipment to the end-user, or up to 36 months from shipment. This is dependent upon Caterpillar complying with our storage requirements for our products in order to preserve this warranty period beyond the standard 18-month limit. We provide for the estimated cost of product warranties at the time revenue is recognized and this accrual is included in accrued expenses and long term liabilities on the accompanying consolidated balance sheet.

[Table of Contents](#)

Changes in our warranty liability are presented in the following table (in thousands):

Balance at December 31, 2009	\$ 663
Warranty expense	84
Warranty charges incurred	(112)
Balance at March 31, 2010	\$ 635
Warranty liability included in accrued expenses	\$ 589
Long term warranty liability	46
Balance at March 31, 2010	\$ 635

Revenue Recognition

We recognize revenue when four criteria are met: (i) persuasive evidence that an arrangement exists; (ii) delivery has occurred or services have been rendered; (iii) the sales price is fixed or determinable; and (iv) collectability is reasonably assured. Revenue-generating transactions generally fall into one of the following categories of revenue recognition:

- We recognize product revenue at the time of shipment for substantially all products sold directly to customers and through distributors because title and risk of loss pass on delivery to the common carrier. Our customers and distributors do not have the right to return products. If title and risk of loss pass at some other point in time, we recognize such revenue for our customers when the product is delivered to the customer and title and risk of loss has passed.
- We recognize installation and service and maintenance revenue at the time the service is performed.
- We recognize revenue associated with extended maintenance agreements (“EMAs”) over the life of the contracts using the straight-line method, which approximates the expected timing in which applicable services are performed. Amounts collected in advance of revenue recognition are recorded as a current or long-term liability based on the time from the balance sheet date to the future date of revenue recognition.
- We recognize revenue on certain rental programs over the life of the rental agreement using the straight-line method. Amounts collected in advance of revenue recognition are recorded as a current or long-term liability based on the time from the balance sheet date to the future date of revenue recognition.
- Shipping costs reimbursed by the customer are included in revenue.

Multiple element arrangements (“MEAs”). Arrangements to sell products to customers frequently include multiple deliverables. Our most significant MEAs include the sale of one or more of our CleanSource UPS or PowerHouse products, combined with one or more of the following products: design services, project management, commissioning and installation services, spare parts or consumables, and extended maintenance agreements (EMA’s). Delivery of the various products or performance of services within the arrangement may or may not coincide. Certain services related to design and consulting may occur prior to delivery of product and commissioning and installation typically take place within 6 months of product delivery, depending upon customer requirements. EMAs, consumables, and repair, maintenance or consulting services generally are delivered over a period of one to five years. In certain arrangements revenue recognized is limited to the amount invoiced or received that is not contingent on the delivery of future products and services.

When arrangements outside of the scope of software revenue recognition guidance include multiple elements, we allocate revenue to each element based on the relative selling price and recognize revenue when the elements have standalone value and the four criteria for revenue recognition have been met for each element. We establish the selling price of each element based on Vendor Specific Objective Evidence (VSOE) if available, Third Party Evidence (TPE) if VSOE is not available, or Best Estimate of Selling Price if neither VSOE nor TPE is available. We generally determine selling price based on amounts charged separately for the delivered and undelivered elements to similar customers in standalone sales of the specific elements. When arrangements include an EMA, we recognize revenue related to the EMA at the stated contractual price on a straight-line basis over the life of the agreement.

Any taxes imposed by governmental authorities on our revenue-producing transactions with customers are shown in our consolidated statement of operations on a net-basis; that is excluded from our reported revenues.

[Table of Contents](#)

3. Net Loss Per Share

The following table sets forth the computation of basic and diluted net loss per share (in thousands, except per share data):

	Three Months Ended March 31,	
	2010	2009
Net loss	<u>\$ (2,589)</u>	<u>\$ (2,367)</u>
Basic and diluted:		
Weighted-average shares of common stock outstanding used in computing basic and diluted net loss per share	71,525	60,124
Basic and diluted net loss per share	<u>\$ (0.04)</u>	<u>\$ (0.04)</u>

The calculation of diluted loss per share excludes 7,108,158 and 6,977,917 shares of common stock issuable upon exercise of employee stock options as of March 31, 2010 and 2009, respectively, and 19,001 and 123,013 non-vested shares of common stock issuable upon exercise of restricted stock awards as of March 31, 2010 and 2009, respectively, because their inclusion in the calculation would be anti-dilutive. As of March 31, 2010 and 2009, there was no common stock subject to repurchase.

4. Fair Value of Financial Instruments

Investments in marketable securities currently consist of money-market funds, although at times we do invest in commercial paper and debt securities with readily determinable fair values. Active Power accounts for investments that are reasonably expected to be realized in cash, sold or consumed during the year as short-term investments. We classify investments in marketable securities as available-for-sale and all reclassifications made from unrealized gains/losses to realized gains/losses are determined based on the specific identification method. We had no such short-term investments at March 31, 2010 or at December 31, 2009.

In accordance with our investment policy and guidelines, our short-term investments are diversified among and limited to high quality securities with a minimum of investment grade ratings. We actively monitor our investment portfolio to ensure compliance with our investment objectives to preserve capital, meet liquidity requirements and maximize return on our investments. We do not require collateral or enter into master netting arrangements to mitigate our credit risk.

We have established a framework for measuring fair value as well as guidelines for required disclosures regarding fair value measurements.

Level 1—uses quoted prices in active markets for identical assets or liabilities we have the ability to access.

Level 2—uses observable inputs other than quoted prices in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data.

Level 3—uses one or more significant inputs that are unobservable and supported by little or no market activity, and that reflect the use of significant management judgment.

Inputs are referred to as assumptions that market participants would use in pricing the asset or liability. The uses of inputs in the valuation process are categorized into a three-level fair value hierarchy.

Our Level 1 assets and liabilities consist of cash equivalents, which are primarily invested in money market funds. These assets are classified as Level 1 because they are valued using quoted prices and other relevant information generated by market transactions involving identical assets and liabilities.

The fair value of our cash equivalents was determined using the following inputs as of March 31, 2010 (in thousands):

	Fair Value Measurements at Reporting Date Using			
	Level 1	Level 2	Level 3	Total
Money Market funds	\$ 3,094	\$ —	\$ —	\$ 3,094
Corporate Notes	—	—	—	—
Total	<u>\$ 3,094</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 3,094</u>
Amounts included in:				
Cash and cash equivalents	\$ 3,094	\$ —	\$ —	\$ 3,094
Short-term investments	—	—	—	—
Total	<u>\$ 3,094</u>	<u>\$ —</u>	<u>\$ —</u>	<u>\$ 3,094</u>

[Table of Contents](#)

For cash and cash equivalents, marketable securities, accounts receivable, and accounts payable, the carrying amount approximates fair value because of the relative short maturity of those instruments. There are no available-for-sale investments as of March 31, 2010.

5. Guarantees

In certain geographical regions, particularly Europe and Africa, we are sometimes required to issue performance guarantees to our customers as a condition of sale. These guarantees usually provide financial protection to our customers in the event that we fail to fulfill our warranty obligations. We secure these guarantees with standby letters of credit through our bank. At both March 31, 2010, and December 31, 2009, we had \$48 of performance guarantees outstanding to customers that were secured with letters of credit.

6. Stockholders' Equity

In February 2010 we sold approximately 13.25 million shares of common stock at a purchase price of \$0.75 per share, for proceeds, net of fees and expenses, of approximately \$9 million, in a firm-commitment underwritten offering made under a shelf registration statement that we had filed with the Securities and Exchange Commission and that had been declared effective in December 2009. The proceeds from this offering were designed to strengthen our balance sheet and will be used by us to help fund our working capital requirements during 2010 and for general corporate purposes.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion should be read in conjunction with, and is qualified in its entirety by reference to, the financial statements and notes thereto included in Item 1 of this Form 10-Q and the financial statements and notes thereto and our Management's Discussion and Analysis of Financial Condition and Results of Operations for the year ended December 31, 2009 included in our 2009 Annual Report on Form 10-K. This report contains forward-looking statements, within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, that involve risks and uncertainties. Our expectations with respect to future results of operations that may be embodied in oral and written forward-looking statements, including any forward-looking statements that may be included in this report, are subject to risks and uncertainties that must be considered when evaluating the likelihood of our realization of such expectations. Our actual results could differ materially. The words "believe," "expect," "intend," "plan," "project," "will" and similar phrases as they relate to us are intended to identify such forward-looking statements. In addition, please see the "Risk Factors" in Part 1, Item 1A of our 2009 Annual Report on Form 10-K and in Part II, Item 1A of this Form 10-Q for a discussion of items that may affect our future results.

Overview

Active Power is a manufacturer and provider of efficient, reliable and green continuous power solutions incorporating uninterruptible power supply (UPS) systems that ensure business continuity for enterprises in the event of power disturbances. Our products and solutions are designed to deliver continuous clean power, protecting customers from voltage fluctuations, such as surges and sags, and frequency fluctuations and to provide ride-through, or temporary, power to bridge the gap between a power outage and the restoration of utility power. Our target customers are global enterprises requiring "power insurance" because they have zero tolerance for downtime in their mission critical operations. The UPS products we manufacture use kinetic energy to provide short-term power as a cleaner alternative to electro-chemical battery-based energy. These products are highly reliable, are energy and space efficient and significantly reduce client electricity expenses.

As of March 31, 2010, we have shipped more than 2,500 flywheels in UPS system installations, delivering more than 625 megawatts of power to customers in 44 countries around the world. We are headquartered in Austin, Texas, with international offices in the United Kingdom, Germany and Japan.

Our patented flywheel-based UPS systems store kinetic energy by constantly spinning a compact steel wheel ("flywheel") driven from utility power in a low friction environment. When the utility power used to spin the flywheel fluctuates or is interrupted, the flywheel's inertia causes it to continue spinning. The resulting kinetic energy of the spinning flywheel generates electricity known as "bridging power" for short periods, until either utility power is restored or a backup electric generator starts and takes over generating longer-term power in the case of an extended electrical outage. We believe our flywheel products provide many competitive advantages over conventional battery-based UPS systems, including substantial space savings, higher power densities, "green" energy storage, and higher power efficiencies up to 98%. This high energy efficiency reduces operating costs and provides customers a lower total cost of ownership. We offer our flywheel products with load capabilities from 130kVA to 8,400kVA. We typically target higher power applications of 200kVA and above, largely because the majority of customers in this market segment have backup generators. Our flywheel-based UPS systems are marketed under the brand name CleanSource®.

Our containerized continuous power systems, which incorporate our UPS products with switchgear and a generator to provide complete short- and long-term protection in the event of a power disturbance, are marketed under the brand name PowerHouse™. PowerHouse can be deployed in either a 20-foot or 40-foot-long ISO container depending upon the customer's power load requirements. These systems are specifically designed to handle the demands of high-tech facilities requiring the highest power integrity available while maximizing up time, useable floor space and operational efficiency. Designed to offer a highly flexible architecture to a customer's constantly changing environment, our systems are offered in four standard modular power configurations, enabling sizing for infrastructure on demand. These systems are highly differentiated as they offer flexibility in placement, space savings, fast deployment time after receipt of order, high energy efficiency, and prompt capital deployment to meet current demands. They also deliver significant value to customers as the entire system is integrated and tested prior to delivery for a repeatable simple solution.

We believe a number of underlying macroeconomic trends place Active Power in a strong position to be one of the leading providers of critical power protection. These trends include:

- Ever-increasing demands placed on the public utility infrastructure;
- An inadequate investment in global utility infrastructure;

[Table of Contents](#)

- Rising costs of energy worldwide;
- Increasing business costs of downtime;
- A rapidly expanding need for data centers that provide reliable, efficient power; and
- An increasing demand for economically green solutions.

We have evolved significantly since our founding in 1992 as an engineering business focused on research, development and invention. The technological foundation of Active Power has yielded more than 100 worldwide patents and a highly differentiated, cost-efficient product platform. In 2005, Active Power's board of directors brought in a new management team which set into motion a commercialization strategy focused on:

- building the Active Power brand in the marketplace;
- expanding our distribution channels;
- creating innovative solutions; and
- focusing on operating and product cost reduction.

As a result of this strategy, we have been successful in improving our operating and financial performance, broadening our global footprint, diversifying our customer base, broadening our sales channels and partners and moving higher up the customer value chain with innovative developments of our core underlying product technology. This is most recently illustrated by our newest product offering, PowerHouse, a containerized, portable, complete continuous power solution.

We sell our products to a wide array of commercial and industrial customers across a variety of vertical markets, including data centers, manufacturing, technology, broadcast and communications, financial, utilities, healthcare, government and airports. We have expanded our global sales channels and direct sales force, selling in all major geographic regions of the world, but particularly in North America, Europe and Asia.

Results of Operations

(\$ in thousands)	Three months ended March 31,				Variance 2010 vs. 2009	
	2010		2009		\$	%
		% of total revenue		% of total revenue		
Product revenue	\$ 9,386	84%	\$ 9,709	87%	\$(323)	(3)%
Service and other revenue	1,731	16%	1,434	13%	297	21%
Total revenue	11,117	100%	11,143	100%	(26)	—
Cost of product revenue	6,865	62%	6,901	62%	(36)	(1)%
Cost of service and other revenue	1,401	13%	980	9%	421	43%
Total cost of revenue	8,266	74%	7,881	71%	385	5%
Gross profit	2,851	26%	3,262	29%	(411)	(13)%
Operating expenses:						
Research and development	835	8%	1,101	10%	(266)	(24)%
Selling and marketing	3,258	29%	3,330	30%	(72)	(2)%
General and administrative	1,317	12%	1,139	10%	178	16%
Total operating expenses	5,410	49%	5,570	50%	(160)	(3)%
Operating loss	(2,559)	(23)%	(2,308)	(21)%	(251)	11%
Interest income (expense)	(26)	—	(10)	—	(16)	160%
Other income (expense)	(4)	—	(49)	—	45	(92)%
Net loss	<u>\$(2,589)</u>	<u>(23)%</u>	<u>\$(2,367)</u>	<u>(21)%</u>	<u>\$(222)</u>	<u>9%</u>

Product revenue. Product revenue primarily consists of sales of our CleanSource power quality products, comprised of both UPS and DC product lines, and sales of Continuous Power Systems (CPS) which are comprised of our UPS systems and some combination of third party ancillary equipment, such as engine generators and switchgear. The CPS products may be sold in a containerized solution that we call PowerHouse, or as separate equipment. Product revenue also includes sales of our CoolAir DC product.

[Table of Contents](#)

Product revenue declined slightly by 3% compared to the first quarter of 2009. However, revenue fluctuated significantly among the various power sizes of our CleanSource products. We saw a \$2.1 million increase in our 250-900 kVA CleanSource product line, a decrease of \$711,000 in sales of our smaller 130-150kVA products and a decrease of \$2.9 million in our megawatt class UPS products, compared to the first quarter of 2009. This net decrease in flywheel sales was offset in part by revenue attributable to our PowerHouse business of \$1.0 million during the first quarter of 2010. This change in product mix is driven by the particular customer orders at any point in time and can vary based upon customer load and space requirements. The PowerHouse revenue was a new product and revenue source for us in 2009 and so we did not have any such revenues in the first quarter of 2009. We also had higher revenues of third party equipment that is ancillary to our UPS products that we provide for our customers and channel partners.

Product revenue declined 14% compared to the fourth quarter of 2009. This compares to a 29% decrease in product revenue in the first quarter of 2009, as compared to the fourth quarter of 2008. The UPS industry typically has a seasonal decline in revenue during the first calendar quarter of each year. Our business has traditionally experienced this downturn as well.

Product sales from our OEM channels decreased by 44%, or \$2.0 million, compared to the first quarter of 2009. Some of this decrease is attributable to the timing of larger orders from our OEM partner for its customers. We believe that the OEM channel was negatively influenced by external economic conditions during 2009 that caused its customers to delay product purchase decisions due to uncertainty or lack of liquidity. Sales of our UPS products are also a much smaller part of our OEM partner's total business and subject to more volatility in quarterly sales, particularly during difficult economic periods as the OEM focuses on its core business. We do believe that sales from this channel will recover in 2010, and the revenues this quarter actually increased by 137% from the levels we experienced in the fourth quarter of 2009. This included a substantial increase in orders for Caterpillar, an OEM partner, in Europe where traditionally we have not received many orders. Sales to Caterpillar represented 27% of our product revenue for the three-month period ended March 31, 2010, as compared to 43% of our product revenue in the comparable period of 2009. Caterpillar remains our largest single customer as well as our largest OEM customer.

During the three-month period ended March 31, 2010, we sold 95 flywheel product units, a 10% increase over the 86 units that we sold in the fourth quarter of 2009, and a 20% decrease from the 119 units we sold in the first quarter of 2009. The average sales price per flywheel for the first quarter of 2010 was approximately \$85,000 per flywheel, which compared to an average selling price of \$80,000 in the first quarter of 2009 and \$90,000 in the fourth quarter of 2009.

Our continuous power system and our PowerHouse contracts tend to be larger in value and this will contribute to more volatility on a quarterly basis. For the three months ended March 31, 2010, we did not deliver any large PowerHouse orders, but did complete installation and services for such systems sold in the previous quarter. We are also in the midst of construction of a number of PowerHouse orders which we anticipate to recognize as revenue during the second quarter of 2010, especially in Europe. PowerHouse contracts also significantly affect our cash flows as we have significantly larger receivables per customer order. While this concentration does increase liquidity risk for us, we continue to improve and refine the payment terms of these sales opportunities as part of our working capital management. As our solutions business grows, the composition of our sales will likely change and fluctuate on a quarterly basis. We have experienced an increase in third party systems and components that are being packaged and resold to our customers, that we believe will continue to help increase our revenue. Even though margins on sales of third party equipment are less than what we generate on our own manufactured goods, it does become an important catalyst for professional services and maintenance revenues, which can generate additional margins. Therefore, a significant increase in product revenues that was caused by higher sales of ancillary products may not result in a commensurate percentage increase in our gross or operating profit levels. Further, the frequency and timing of our larger system sales, including megawatt-class UPS products and our CPS, including PowerHouse, is more volatile and can result in material changes in period-to-period revenue. Such revenues also can occur in periods other than when originally anticipated, which can add to the potential volatility and affect our ability to meet forecasted targets.

North America sales were 61% of our total revenue for the three-month period ended March 31, 2010, compared to 76% for the same period in 2009 and 78% in the three-month period ended December 31, 2009.

Since 2005, we have expanded our direct sales capabilities so that we now sell products directly to customers in Asia and Western Europe. We have also added a network of international distributors in other territories to sell products for us. In these markets, customers are more likely to purchase a total solution rather than a stand alone UPS system. This usually results in a longer selling cycle and makes quarterly results more volatile and dependent upon a smaller number of transactions. Thus the amount of revenue from our international markets can fluctuate significantly on a quarterly basis. Sales of Active Power branded products through our direct and manufacturer's representative channels were 63% of our total

[Table of Contents](#)

revenue for the three-month period ended March 31, 2010, compared to 57% for the same period of 2009, and 61% of our total revenue for the three-month period ended December 31, 2009. As direct sales typically have higher profit margins than sales through our OEM channels, we will continue to focus on our direct sales channel to increase revenue and improve profit margins and to decrease our dependency upon our OEM channel. We believe sales of our Active Power branded products in markets that were not covered by our OEMs will continue to increase over time and will continue to become a larger percentage of our total revenue. We believe that our direct sales volumes have not been impacted as much by external factors compared to our OEM channels. This is highlighted by the fact that our direct sales increased by 11% in total for the three-month period ended March 31, 2010 compared to the first quarter of 2009, which compared to a 39% decrease for our OEM channel revenue over the same periods. We continue to expand the sales territories where we sell our Active Power branded products as we increase our sales distribution capabilities, particularly in Europe and Asia. In 2009 we also increased the size of our sales and service organization in the U.K. and Germany. We anticipate higher revenues from both Europe and Asia in 2010 as a result of this expansion of our sales, service and marketing capabilities.

Our products perform well in harsh environments where power quality or reliability is particularly poor, which makes them a good fit for countries with a poor power infrastructure or in harsh manufacturing or process environments, or situations where reliability is paramount, such as mission-critical business applications. Therefore we have traditionally focused our direct sales efforts on these types of customer situations.

Service and other revenue. Service and other revenue primarily relates to revenue generated from both traditional (after-market) service work and from customer-specific system engineering. This includes revenue from design, installation, startup, repairs or reconfigurations of our products and the sale of spare or replacement parts to our OEM and end-user customers. It also includes revenue associated with the costs of travel of our service personnel and revenues or fees received upon contract deferment or cancellation.

Service and other revenue increased by 21% for the three-month period ended March 31, 2010, compared to the same quarter of 2009. This increase is primarily due to higher levels of service and contract work from direct product sales made in prior quarters. For some of these customers we provide a full power solution, including site preparation, installation of an entire power solution and provision of all products required to provide a turnkey product to the end user. Where we make sales through our OEM channel, it is typical for the OEM to provide these types of services to their end-user customers. We anticipate that service and other revenue will continue to grow with product revenue and as our installed base of product expands, because as more units are sold to customers, more installation, startup and maintenance services will be required.

Cost of product revenue. Cost of product revenue includes the cost of component parts of our products, ancillary equipment that is sourced from external suppliers, personnel, equipment and other costs associated with our assembly and test operations, including costs from having underutilized facilities, depreciation of our manufacturing property and equipment, shipping costs, warranty costs, and the costs of manufacturing support functions such as logistics and quality assurance. The cost of product revenue as a percentage of total product revenue was 73% in the three-month periods ended March 31, 2010, as compared to 71% for the comparable period of 2009. This increase is due to increased sales of system and ancillary equipment which have a higher cost of revenue as a percentage of total product revenue as compared to UPS product sales. We continue to operate a manufacturing facility that has a capacity significantly greater than our current product revenue levels. A large portion of the costs involved in operating this manufacturing facility are fixed in nature and we incur approximately \$300,000 to \$700,000 in unabsorbed overhead each quarter. We continue to work on reducing our product costs through design enhancements and modifications, and vendor management programs. The accomplishment of material gross-margin levels is heavily dependent upon our sales channel mix and the effectiveness of our product pricing to our customers as well as the volume of flywheels manufactured. Our ability to improve product gross margin will depend on multiple factors, including our ability to continue to reduce material costs, improve our sales channel mix in favor of direct sales versus OEM, increase product prices, and increase our total revenues to a level that will allow us to improve the utilization of our manufacturing operations.

Items that could impact our ability to further improve our gross margin include sales product volume and mix, pricing discounts and customer incentives, currency fluctuations, and variations in our product cost and productivity.

Cost of service and other revenue. Cost of service and other revenue includes the cost of component parts that we use in service or sell as spare parts, as well as labor and overhead costs of our service organization, including travel and related costs incurred in fulfilling our service obligations to our customers. The cost of service and other revenue increased to 81% of service and other revenue in the three-month period ended March 31, 2010, compared to 68% in the same period of 2009. This increase reflects the higher absolute cost of our service organization as we have expanded our staffing to provide broader service coverage in the US, Asia and Europe. A large portion of the costs involved in operating our service organization are fixed in nature and we incur approximately \$300,000 to \$500,000 in unabsorbed overhead each quarter. We continue to work on reducing our service overhead through better utilization of our service employees and cost control measures.

[Table of Contents](#)

Research and development. Research and development expense primarily consists of compensation and related costs for employees engaged in research, development and engineering activities, third party consulting and development activities, as well as an allocated portion of our occupancy costs. Overall our research and development expenses were \$266,000, or 24%, lower in the first quarter of 2010 compared to the first quarter of 2009 and \$81,000 or 9% lower than the fourth quarter of 2009. Our research and development efforts in 2009 were largely focused on new configurations of our existing flywheel technology under development, as well as enhancements to our megawatt-class UPS products and refinement and standardization of our containerized product solutions. The decrease in spending compared to 2009 reflects lower project related development costs this year. The prior year expenses included higher prototype and development costs for paralleling our megawatt-class UPS products. We believe research and development expenses in the second quarter will remain at similar levels to those recorded in the first quarter.

Selling and marketing. Selling and marketing expense primarily consists of compensation, including variable sales compensation, and related costs, for sales and marketing personnel, and related travel, selling and marketing expenses, as well as an allocated portion of our occupancy costs and the cost of our foreign sales operations. Selling and marketing costs were \$72,000, or 2%, lower in the first quarter of 2010 compared to the amount recorded in the first quarter of 2009 and increased \$389,000, or 14%, from the fourth quarter of 2009. The decrease from the same period in 2009 largely reflects the impact of spending controls and lower variable selling expenses on lower sales levels. The increase from the immediately preceding quarter reflects increased headcount as we concentrate on developing and improving the Active Power brand, and expanding our sales organization to support our direct selling and channel sales activities, as well as increased spending on marketing activities such as tradeshows, which is traditionally heaviest in the first calendar quarter of each year. We believe that sales and marketing expenses will decline slightly in the second quarter of 2010 compared to those recorded in the first quarter of 2010, except for changes in variable selling expenses, based on fluctuations in total revenue.

General and administrative. General and administrative expense is primarily comprised of compensation and related costs for executive and administrative personnel, professional fees, and taxes, including sales, property and franchise taxes. General and administrative expenses for the first quarter of 2010 increased \$178,000, or 16%, compared to the same period in 2009 and increased \$242,000, or 23%, as compared to the immediately preceding quarter. The increase primarily reflects higher professional and consulting services fees.

Interest expense. Net interest expense has increased from \$10,000 in the three-month period ended March 31, 2009 to \$26,000 in the three-month period ended March 31, 2010. This increase is due to the decline in interest rates during 2009 that lowered our investment returns, and interest expense paid on balances outstanding under our revolving credit arrangement. Our average cash and investments balance over the three-month period ending March 31, 2010 has increased by approximately \$1.7 million, or 16%, compared to the average balance over the comparable period ending March 31, 2009.

Other income (expense). Other income (expense) in the first quarter of 2010 and 2009 reflects foreign exchange gains (losses) on a bank account held in foreign currency.

Liquidity and Capital Resources

Our primary sources of liquidity at March 31, 2010 are our cash and investments on hand, our bank credit facilities and projected cash flows from operating activities. If we meet our cash flow projections in our current business plan, we expect that we have adequate capital resources in order to continue operating our business for at least the next 12 months. Our business plan and our assumptions around the adequacy of our liquidity are based on estimates regarding expected revenues and future costs. However, there are scenarios in which our revenues may not meet our projections, our costs may exceed our estimates or our working capital needs may be greater than anticipated. Further, our estimates may change and future events or developments may also affect our estimates. Any of these factors may change our expectation of cash usage in 2010 or significantly affect our level of liquidity.

In February 2010 we sold approximately 13.25 million shares of common stock at a purchase price of \$0.75 per share, for proceeds, net of fees and expenses, of approximately \$9 million, in a firm-commitment underwritten offering made under a shelf registration statement that we had filed with the Securities and Exchange Commission and that had been declared effective in December 2009. The proceeds from this offering were designed to strengthen our balance sheet and will be used by us to help fund our working capital requirements during 2010 and for general corporate purposes.

We recorded positive cash flows from operations during the first quarter of 2010 of \$1.3 million. This was the first time we have generated positive operating cash flows. This, combined with the equity offering completed in February 2010, resulted in our total cash and investments increasing by \$10.1 million during the first quarter to \$17.6 million at March 31, 2010, compared to the \$7.5 million we had on hand at December 31, 2009.

[Table of Contents](#)

In October 2008, we entered into a modified Loan and Security Agreement (the "Loan Agreement") with Silicon Valley Bank ("SVB"). The Loan Agreement provides for a secured revolving line of credit in an amount of up to \$6 million subject to a borrowing base formula. Three million dollars of this credit facility is secured under a U.S. government guaranteed export-import credit facility that would add a U.S. government guarantee to the payments for these foreign shipments and make more of our foreign shipments eligible as security for the credit facility. This guarantee applies to export-import sales of the parent company and does not apply to sales made by our foreign subsidiaries. The remaining \$3 million of this credit facility does not have this guarantee and is secured by a first priority lien on substantially all of our assets. Prior to this modification to add the export-import facility, export revenues were not eligible to be included as part of the borrowing base, which limited our ability to utilize the revolving credit facility. All amounts borrowed under this credit facility are subject to a borrowing base formula based on eligible receivables and inventory. During the years ended December 31, 2009 and 2008 we borrowed \$0.6 million and \$2.0 million, respectively, under this credit facility and these borrowings remained outstanding at March 31, 2010. There were no borrowings or repayments under this credit facility in the three-month period ended March 31, 2010. Based on the borrowing base formula, we had an additional \$0.6 million available for use at March 31, 2010 under this credit facility.

The Loan Agreement requires us to maintain a minimum liquidity ratio of unrestricted cash to the outstanding amounts under the Loan Agreement of at least 1.35 to 1. In addition, the Loan Agreement contains customary affirmative covenants, including covenants that require, among other things, the delivery of financial statements, compliance with laws, the maintenance of insurance and the protection and registration of intellectual property rights. Further, the Loan Agreement contains customary negative covenants, including covenants that limit or restrict our ability to, among other things, dispose of assets, change our business, change our CEO or CFO, make acquisitions, be acquired, incur indebtedness, grant liens, make investments, make distributions, repurchase stock, and enter into certain transactions with our affiliates, in each case subject to customary exceptions for a credit facility of this size and type. We were in compliance with all of these covenants at March 31, 2010.

Revolving loans under this credit facility may be borrowed, repaid and re-borrowed until October 5, 2010, at which time all amounts borrowed must be repaid and all outstanding letters of credit must be cash collateralized. Revolving loans bear interest at a floating per annum rate equal to the greater of (i) SVB's prime rate plus 0.25% or (ii) 5.25%. A default interest rate shall apply during an event of default at a rate per annum equal to 5.0% above the otherwise applicable interest rate. The revolving loans are secured by a first priority lien on substantially all of our assets, provided that such security interest is limited to no more than 65% of the outstanding capital stock held by us of each of our subsidiaries.

The Loan Agreement includes customary events of default that include, among other things, non-payment of principal, interest or fees, violation of covenants, the occurrence of a material adverse change, bankruptcy and insolvency events, defaults under material agreements, material judgments against us and inaccuracy of representations and warranties. The occurrence of an event of default could result in the acceleration of any outstanding obligations under the Loan Agreement.

An increase in sales of our PowerHouse may materially impact the amount of liquidity required to fund our operations. The amount of time between the receipt of payment from our customers and our expenditures for raw materials, manufacture and shipment of products (the cash cycle) for sales of our CleanSource UPS product can be as short as 45 days, and is typically 60 days. However, the cash cycle on a PowerHouse sale can be as much as 210 days, depending upon customer payment terms. We intend to mitigate the financial impact of this longer cash cycle by requiring customer deposits and periodic payments where possible from our customers. This is not always commercially feasible, and in order to increase our PowerHouse sales, we may be required to make larger investments in inventory and receivables. These larger investments may require us to obtain additional sources of working capital, debt or equity financing in order to fund this business.

We are currently evaluating a number of non-equity financing sources, including extended trade credit facilities from some of our suppliers, and advantageous payment terms from business partners, to help us potentially finance growth in our PowerHouse business. We are also looking at possible changes to our current credit facility to enable us to borrow more against it, and in particular against work in progress inventory against PowerHouse orders. The current bank facility expires in October 2010, and we anticipate entering into a new bank facility prior to this expiration date. These financing options are all designed to provide us with additional sources of capital if we require them to fulfill a growing number of PowerHouse sales.

As discussed, should additional funding be required, we would expect to raise the required funds through borrowings or public or private sales of debt or equity securities. If we raise additional funds through the issuance of debt or equity securities, the ownership of our stockholders could be significantly diluted. If we obtain additional debt financing, a substantial portion of our operating cash flow may be dedicated to the payment of principal and interest on such

[Table of Contents](#)

indebtedness, and the terms of the debt securities issued could impose significant restrictions on our operations. If financing is not available, we may be required to reduce, delay or eliminate certain activities or to license or sell to others some of our proprietary technology.

The following table summarizes the quarterly changes in cash provided by (used in) operating activities:

(\$ in thousands)	Three months ended		Variance	
	March 31,		2010 vs. 2009	
	2010	2009	\$	%
Cash provided by (used in) operating activities	\$ 1,320	\$ (521)	\$1,841	353%

Cash provided by operating activities increased by 353% in the three-month period ended March 31, 2010 compared to the same period of 2009. This was primarily due to changes in our working capital. We experience a seasonal decline in revenue in our first calendar quarter, and so were able to decrease our level of receivables by \$4.9 million compared to year end as we collected the prior quarter sales proceeds. These proceeds allowed us to reduce our outstanding accounts payable by \$2.7 million. We were also able to reduce our raw material and finished goods inventory by approximately \$1.6 million during the first quarter of 2010, however the benefits of this were offset by an increase of \$1.6 million in work-in-process inventory units that were manufactured or commenced during the period for delivery in the second quarter of 2010. We anticipate that the level of cash used in operating activities will increase slightly in the second quarter as we invest in inventory and receivables as our revenue levels increase from the first quarter levels.

The following table summarizes the quarterly changes in cash (used in) provided by investing activities:

(\$ in thousands)	Three months ended		Variance	
	March 31,		2010 vs. 2009	
	2010	2009	\$	%
Cash (used in) provided by investing activities	\$ (95)	\$ 173	\$(268)	(155)%

Investing activities primarily consist of sales and purchases of investments and purchases of property and equipment. Fluctuations in the sale and purchase of investments generally reflect our use of these funds to finance our ongoing operations. Capital expenditures were \$95,000 in the three-month period ending March 31, 2010, compared to \$127,000 in the same period of 2009. Cash provided by sales and purchases of investments were \$0 in the three-month period ending March 31, 2010, compared to \$300,000 in the same period of 2009.

The following table summarizes the quarterly changes in cash provided by financing activities:

(\$ in thousands)	Three months ended		Variance	
	March 31,		2010 vs. 2009	
	2010	2009	\$	%
Cash provided by financing activities	\$ 9,007	\$ —	9,007	100%

Funds provided by financing activities during the three months ended March 31, 2010 primarily reflect the sale of common stock in a firm-commitment underwritten offering pursuant to which we sold approximately 13.25 million shares of common stock at a purchase price of \$0.75 per share, for proceeds, net of fees and expenses, of approximately \$9.0 million. These proceeds are designed to strengthen our balance sheet and will be used to help fund our working capital requirements during 2010 and for general corporate purposes.

We believe that our cash and investments will be sufficient to fund our operations for at least the next 12 months. Our sales cycle is such that we generally have visibility 2-3 quarters in advance for future orders that allows us to predict revenues over this period of time with some degree of confidence. However a sudden change in business volume, positive or negative, from any of our business or channel partners or in our direct business could significantly impact our expected revenues. The recent global economic slump has reduced our confidence at predicting future revenues, and even with improving economic conditions, there is still uncertainty and risk in our forecasting. This 2-3 quarter window of sales visibility does provide us with some opportunity to adjust expenditures or take other measures to reduce our cash consumption if we can see and anticipate a shortfall in revenue or give us time to identify additional sources of funding if we anticipate an increase in our working capital requirements due to increased revenues or changes in our revenue mix. If there is a significant increase especially in our PowerHouse business, this could potentially impact the amount of working capital that we may require, due to the longer production time and cash cycle of sales of this product.

We expect the level of capital investments to remain similar in 2010 to those in 2009. We currently intend to invest in several PowerHouse systems to use for demonstration purposes in the U.S. and in the U.K. to help our sales efforts, but are

not planning any other major capital investments during 2010. Outstanding accrued liabilities for tax obligations from the stock option investigation expensed in 2007, have been paid in the second quarter of 2010. Payments were materially consistent with the amount accrued.

Recent Accounting Pronouncements

In October 2009, the FASB updated FASB ASC 605, Revenue Recognition (FASB ASC 605) that amended the criteria for separating consideration in multiple-deliverable arrangements. The amendments establish a selling price hierarchy for determining the selling price of a deliverable. The selling price used for each deliverable will be based on vendor-specific objective evidence if available, third-party evidence if vendor-specific objective evidence is not available, or estimated selling price if neither vendor-specific objective evidence nor third-party evidence is available. The amendments will change the application of the residual method of allocation and require that arrangement consideration be allocated at the inception of the arrangement to all deliverables using the relative selling price method. The relative selling price method allocates any discount in the arrangement proportionally to each deliverable on the basis of each deliverable's selling price. This update will be effective prospectively for revenue arrangements entered into or materially modified in fiscal years beginning on or after June 15, 2010. Early adoption is permitted and so we adopted this policy with effect from the beginning of our financial year on January 1, 2010. Other than increased disclosure requirements, adoption of this policy did not have any material impact on our consolidated financial statements.

We are currently evaluating the requirements of this update and have not yet determined the impact on our consolidated financial statements.

Item 3. Quantitative and Qualitative Disclosures about Market Risk

We invest our cash in a variety of financial instruments, including bank time deposits and taxable variable rate and fixed rate obligations of corporations, municipalities, and local, state and national government entities and agencies. These investments are denominated in U.S. dollars.

Our interest income is sensitive to changes in the general level of U.S. interest rates, particularly since the majority of our investments are in short-term instruments. We believe that our investment policy is conservative, both in terms of the average maturity of investments that we allow and in terms of the credit quality of the investments we hold. We estimate that a 1% decrease in market interest rates would decrease our annual interest income by approximately \$146,000. Because of the nature of the majority of our investments, we do not believe a 1% decline in interest rates would have a material effect on their fair value.

Our international sales have historically been made in U.S. dollars. As we have increased sales in foreign markets and opened operations in multiple foreign countries, we have executed more transactions that are denominated in other currencies, primarily Euros and British pounds. Those sales and expenses in currencies other than U.S. dollars can result in transaction gains and losses which have not been significant to date. Currently, we do not engage in hedging activities for our international operations other than an increasing amount of sales and support expenses being incurred in foreign currencies as a natural hedge. However, recent volatility in currencies, particularly with the pound and Euro, is increasing the amount of potential translation gains and losses and we may engage in hedging activities in the future to mitigate the risks caused by such currency volatility.

Our international business is subject to the typical risks of any international business, including, but not limited to, the risks described in Item 1A—"Risk Factors" in our 2009 Annual Report on Form 10-K. Accordingly, our future results could be materially harmed by the actual occurrence of any of these or other risks.

Item 4. Controls and Procedures

Evaluation of disclosure controls and procedures.

Our Chief Executive Officer and our Chief Financial Officer, based on the evaluation of our disclosure controls and procedures (as defined in Rule 13a-15(e) or 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "Exchange Act")) required by paragraph (b) of Rule 13a-15 or Rule 15d-15, have concluded that, as of March 31, 2010, our disclosure controls and procedures were effective to ensure that the information we are required to disclose in reports that we file or submit under the Exchange Act, (i) is recorded, processed, summarized and reported within the time periods specified in Securities and Exchange Commission rules and forms, and (ii) is accumulated and communicated to our management, including our Chief Executive Officer and our Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in internal control over financial reporting.

During the three months ended March 31, 2010, there were no changes in our internal control over financial reporting identified in connection with the evaluation required by Rule 13a-15(d) and Rule 15d-15(d) under the Exchange Act that have materially affected, or that we believe are reasonably likely to materially affect, our internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act.

PART II – OTHER INFORMATION

Item 1. Legal Proceedings

We are, from time to time, subject to various legal proceedings, claims and litigation arising in the ordinary course of business. We do not believe we are party to any currently pending legal proceedings the outcome of which may have a material effect on our operations or consolidated financial position. There can be no assurance that existing or future legal proceedings arising in the ordinary course of business or otherwise will not have a material adverse affect on our financial position, results of operations or cash flows.

Item 1A. Risk Factors

You should carefully consider the risks described in Item 1A of our 2009 Annual Report on Form 10-K before making a decision to invest in our common stock or in evaluating Active Power and our business. The risks and uncertainties described in our 2009 Annual Report on Form 10-K are not the only ones we face. Additional risks and uncertainties that we do not presently know, or that we currently view as immaterial, may also impair our business operations. This report is qualified in its entirety by these risk factors.

The actual occurrence of any of the risks described in our 2009 Annual Report on Form 10-K could materially harm our business, financial condition and results of operations. In that case, the trading price of our common stock could decline.

Our common stock could be delisted from the NASDAQ Global Market if our stock price continues to trade below \$1.00 per share.

On March 24, 2010, we received a Staff Deficiency Letter from The Nasdaq Global Market LLC, or Nasdaq, notifying us that we were not in compliance with Nasdaq's Marketplace Rule 5450(a)(1), or the Rule, because the closing bid price for our common stock had, for the preceding 30 consecutive business days, closed below the minimum \$1.00 per share requirement for continued listing. In accordance with Marketplace Rule 5810(c) (3) (A) we were provided a period of 180 calendar days, or until September 20, 2010, to regain compliance. If at any time before September 20, 2010, the bid price of our common stock closes at or above \$1.00 per share for a minimum of 10 consecutive business days, Nasdaq will provide written confirmation that we have achieved compliance with the Rule. If compliance with the Rule cannot be demonstrated by September 20, 2010, our common stock will be subject to delisting from The Nasdaq Global Market.

In the event that we receive notice that our common stock is being delisted from The Nasdaq Global Market, Nasdaq rules permit us to appeal any delisting determination by the Nasdaq staff to a Nasdaq Hearings Panel. Alternatively, Nasdaq may permit us to transfer the listing of our common stock to The Nasdaq Capital Market if we satisfy the requirements for initial inclusion set forth in Marketplace Rule 5505(a), except for the bid price requirement. Currently, we believe we satisfy these requirements. If our application for transfer is approved, we would have an additional 180 calendar days to comply with the Rule in order to remain on The Nasdaq Capital Market.

We will continue to monitor the bid price for our common stock and consider various options available to us if our common stock does not trade at a level that is likely to regain compliance.

Delisting from The Nasdaq Global Market could have an adverse effect on our business and on the trading of our common stock. If a delisting of our common stock from The Nasdaq Stock Market were to occur, our common stock would trade on the OTC Bulletin Board or on the "pink sheets" maintained by the National Quotation Bureau, Inc. Such alternatives are generally considered to be less efficient markets, and our stock price, as well as the liquidity of our common stock, may be adversely impacted as a result.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Reserved.

[Table of Contents](#)

Item 5. Other Information.

None.

Item 6. Exhibits.

The following documents are filed as exhibits to this report:

- 3.1* Restated Certificate of Incorporation (filed as Exhibit 3.1 to Active Power's Quarterly Report on Form 10-Q filed on July 28, 2006)
- 3.2.* Second Amended and Restated Bylaws (filed as Exhibit 3.2 to Active Power's Current Report on Form 8-K filed on February 2, 2007)
- 3.3* Amendment to Second Amended and Restated Bylaws (filed as Exhibit 3.01 to Active Power's Current Report on Form 8-K filed on December 7, 2007)
- 4.1* Specimen certificate for shares of Common Stock (filed as Exhibit 4.1 to Active Power's IPO Registration Statement on Form S-1 (SEC File No. 333-36946) (the "IPO Registration Statement"))
- 4.2* Rights Agreement, dated as of December 13, 2001, between Active Power and Equiserve Trust N.A., which includes the form of Certificate of Designation for the Series A Junior Participating Preferred Stock as Exhibit A, the form of Rights Certificate as Exhibit B and the Summary of Rights to Purchase Series A Preferred Stock as Exhibit C (filed as Exhibit 4.1 to Active Power's Current Report on Form 8-K filed on December 14, 2001)
- 4.3* See Exhibits 3.1, 3.2 and 3.3 for provisions of the Certificate of Incorporation and Bylaws of the registrant defining the rights of holders of common stock
- 10.1* Underwriting Agreement dated February 19, 2010 (filed as Exhibit 1.1 to Active Power's Current Report on Form 8-K filed on February 22, 2010)
- 10.2 Severance Benefits Agreement between Active Power and James Clishem dated April 14, 2010
- 10.3 Severance Benefits Agreement between Active Power and John Penver dated April 14, 2010
- 10.4 Form of Severance Benefits Agreement
- 31.1 Certification of Chief Executive Officer pursuant to Exchange Act Rules 13a-14(a) and 15d-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2003
- 31.2 Certification of Chief Financial Officer pursuant to Exchange Act Rules 13a-14(a) and 15(d)-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2003
- 32.1 Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2003
- 32.2 Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2003

* Incorporated by reference to the indicated filing.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

ACTIVE POWER, INC.
(Registrant)

April 27, 2010
(Date)

/s/ JAMES A. CLISHEM

James A. Clisem
President and Chief Executive Officer
(Principal Executive Officer)

April 27, 2010
(Date)

/s/ JOHN K. PENVER

John K. Penver
Vice President of Finance, Chief Financial Officer and Secretary
(Principal Financial and Accounting Officer)

SEVERANCE BENEFITS AGREEMENT

THIS SEVERANCE BENEFITS AGREEMENT (the "Agreement") is made as of the 14th day of April, 2010 between Active Power, Inc., (the "Company"), and James Clishem, an individual resident of the State of Texas ("Employee"). Employee and the Company are collectively referred to herein as the "Parties." This Agreement amends, restates and supersedes the Severance Benefits Agreement dated October 29, 2008 between Employee and the Company (the "Prior Agreement").

1. At-Will Employment Status. Employee is currently employed by the Company. Employee is employed on an "at will" basis, which means that either the Company or Employee may terminate Employee's employment with the Company at any time and for any or no reason.

2. Severance Benefits upon Involuntary Termination Without Cause or Resignation for Good Reason. Although Employee's employment is at-will, if Employee is terminated by the Company without Cause (as defined below) or resigns with Good Reason (as defined below), then Employee shall be entitled to receive:

(a) continuing severance pay at a rate equal to 100% of Employee's base salary, as then in effect (less applicable withholding taxes), for a period of twelve (12) months from the date of such termination, to be paid periodically in accordance with the Company's normal payroll practices; and

(b) all stock options and restricted stock held by Employee in which Employee would have vested if Employee had remained employed with the Company for a period of twelve (12) months following the date of termination shall immediately vest and, if applicable, become exercisable as of the date of termination; and

(c) if Employee elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for Employee, within the time period prescribed pursuant to COBRA, the Company will reimburse Employee for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Employee's termination) until the earlier of (i) a period of twelve (12) months from the last date of employment of the Employee with the Company, (ii) until Employee has secured other employment, or (iii) the date Employee is no longer eligible to receive continuation coverage pursuant to COBRA. COBRA reimbursements shall be made by the Company to Employee consistent with the Company's normal expense reimbursement policy, provided that Employee submits documentation to the Company substantiating Employee's payments for such COBRA coverage; and

(d) all or a portion of Employee's bonus under the Company's management incentive program for the year in which Employee's termination without Cause or resignation for Good Reason occurs, determined as follows: (i) with respect to corporate or individual objectives that are measured over a period of time (such as revenue for a fiscal year), the amount of such bonus with respect to such objective shall be determined based on a comparison of the amount of such objective actually achieved through the date of such termination against a pro rated portion (based on a number of days, weeks or months, as applicable, during the applicable measurement period for which Employee remained a service provider of the Company) of the target objective, and shall be payable on a pro rata basis (based on the number of days during the applicable measurement period for which Employee remained a service provider of the Company), and (ii) with respect to corporate or individual objectives that are measured based on the occurrence of a specific event at a point in time, the full amount of such bonus with respect to such objective shall be payable if such objective is achieved prior to the date of such termination. All determinations of the amount of the achievement of such objectives and the amounts of such bonuses shall be made by the Board of Directors of the Company, in its sole discretion.

3. Acceleration Upon Termination After a Change in Control. Although Employee's employment is at-will, in the event that Employee is terminated by the Company without Cause or resigns with Good Reason within twelve (12) months after a Change in Control (as defined below), in addition to the benefits set forth in Sections 2(a), 2(c) and 2(d), but in lieu of the benefits set forth in Section 2(b) above, one hundred percent (100%) of the stock options and restricted stock held by Employee prior to the date of the Change of Control shall immediately vest and, if applicable, become exercisable as of the date of termination.

4. Confidential Information/ Non-Competition Agreement.

(a) Employee is employed hereunder by the Company in a confidential relationship wherein Employee, in the course of his employment with the Company, has and will continue to become familiar with and aware of Confidential Information (as defined in the Confidentiality Agreement), including but not limited to confidential information regarding the Company's customers and specific manner of doing business, including the processes, techniques and trade secrets utilized by the Company, and future plans with respect thereto. In consideration for Employee's promises herein, the Company agrees to provide Employee with such Confidential Information; in return, Employee recognizes and acknowledges that such information must be maintained in confidence, and to further such protection agrees to the restrictive covenants set forth in this Section 4.

(b) Employee acknowledges that Employee's fulfillment of the obligations contained in this Agreement, including, but not limited to, Employee's obligation neither to use, except for the benefit of the Company, or to disclose the Company's Confidential Information and Employee's obligation not to compete contained in this Section 4 is necessary to protect the Company's Confidential Information and to preserve the Company's value and goodwill. Employee further acknowledges the time, geographic and scope limitations of Employee's obligations under this Section 4 are reasonable, especially in light of the Company's desire to protect its Confidential Information, and that Employee will not be precluded from gainful employment if Employee is obligated not to compete with the Company during the period and within the Territory as described in this Section 4.

(c) Employee will not, during the period of his employment by or with the Company, and for a period of twelve (12) months immediately following the termination of his employment with the Company, for any reason whatsoever, directly or indirectly, for himself or on behalf of or in conjunction with any other person, company, partnership, corporation, business or entity of whatever nature:

(i) engage, as an officer, director, shareholder, owner, partner, joint venturer, or in a managerial capacity, whether as an employee, independent contractor, consultant or advisor, or as a sales representative, in any business selling any products or services in direct competition with the Company, within 100 miles of (i) the principal executive offices of the Company or (ii) any place where the Company conducts business, provides products or services, or in which the Company (including the subsidiaries thereof) is in the process of initiating business operations as of the date on which Employee's employment by the Company hereunder is terminated (the "Territory");

(ii) call upon any person who is, at that time, within the Territory, an employee of the Company (including the subsidiaries thereof) in a managerial capacity for the purpose or with the intent of enticing such employee away from or out of the employ of the Company (including the subsidiaries thereof);

(iii) call upon any person or entity which is, at that time, or which has been, within one (1) year prior to that time, a customer of the Company (including the subsidiaries thereof) within the Territory for the purpose of soliciting or selling products or services in direct competition with the Company within the Territory;

(iv) call upon any prospective acquisition candidate, on Employee's own behalf or on behalf of any competitor, which candidate was either called upon by the Company (including the subsidiaries thereof) or for which the Company made an acquisition analysis, for the purpose of acquiring such entity, provided however, that this section (iv) will not apply if the Company affirmatively declined to proceed with the acquisition; or

(v) disclose customers of the Company (or the subsidiaries thereof) to any person, firm, partnership, corporation or business for any competitive reason.

As used in Section 4(c), references to the business, customers, Territory, etc. of the Company refer to the status of the Company prior to any Change in Control (*i.e.*, such breadth of business, customers, Territory, etc. shall not automatically be expanded to include those of a successor to the Company resulting from a Change in Control). Notwithstanding the above, the foregoing covenant shall not be deemed to prohibit Employee from acquiring as an investment not more than three percent (3%) of the capital stock of a competing business, whose stock is traded on a national securities exchange or over-the-counter.

(d) Because of the difficulty of measuring economic losses to the Company as a result of a breach of the foregoing covenant, and because of the immediate and irreparable damage that could be caused to the Company for which it would have no other adequate remedy, Employee agrees that the foregoing covenant may be enforced by the Company in the event of breach by him by injunctions and restraining orders without the necessity of posting any bond therefor.

(e) In the course of Employee's employment with the Company, Employee will become exposed to certain of the Company's confidential information and business relationships, which the above covenants are designed to protect and Employee agrees to keep such confidential information in the strictest confidence. It is agreed by the parties that the foregoing covenants in this Section 4 impose a reasonable restraint on Employee in light of the activities and business of the Company (including the Company's subsidiaries) on the date of the execution of this Agreement and the current plans of the Company (including the Company's subsidiaries); but it is also the intent of the Company and Employee that such covenants be construed and enforced in accordance with the changing activities, business and locations of the Company (including the Company's subsidiaries) throughout the term of this covenant, subject to the following paragraph. For example, if, during Employee's term of employment, the Company (including the Company's subsidiaries) engages in new and different activities, enters a new business or established new locations for its current activities or business in addition to or other than the activities or business of the Company (including the Company's subsidiaries) as of the date of this Agreement or the locations currently established therefor, then, to the extent described in Section 4(c), Employee will be precluded from soliciting the customers or employees of such new activities or business or from such new location and from directly competing with such new business within 100 miles of its then-established operating locations through the term of this covenant.

It is further agreed by the parties hereto that, in the event that Employee shall cease to be employed by the Company, and shall later enter into a business or pursue other activities not in competition with the Company (including the Company's subsidiaries) as of Employee's last date of employment with the Company, or similar activities or business in locations the operation of which, under such circumstances, does not violate clause (i) of this Section 4, and in any event such new business, activities or location are not in violation of this Section 4 or of Employee's obligations under this Section 4, if any, Employee shall not be chargeable with a violation of this Section 4 if the Company (including the Company's subsidiaries) shall thereafter enter the same, similar or a competitive (i) business, (ii) course of activities or (iii) location, as applicable.

(f) The covenants in this Section 4 are severable and separate, and the unenforceability of any specific covenant shall not affect the provisions of any other covenant. Moreover, in the event any court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth herein are unreasonable, then it is the intention of the Parties that such restrictions be enforced to the fullest extent which the court deems reasonable, and the Agreement shall thereby be reformed to such extent.

(g) All of the covenants in this Section 4 shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of such covenants.

(h) It is specifically agreed that the period of twelve (12) months following Employee's employment set forth at the beginning of this Section 4, during which the agreements and covenants of Employee made in this Section 4 shall be effective, shall be computed by excluding from such computation any time during which Employee is in violation of any provision of this Section 4.

5. Conditions Precedent. Any severance payments and/or benefits contemplated by Sections 2 and 3 above are conditional on Employee:

(a) continuing to comply with the terms of this Agreement and the Proprietary Information and Nondisclosure Agreement between Employee and the Company (the "Confidentiality Agreement");

(b) signing and not revoking a separation agreement and release of claims, the key terms of which are included in the attached Exhibit A (the "Release"), which becomes effective and irrevocable no later than sixty (60) days following the termination date (such deadline, the "Release Deadline"). If the Release does not become effective and irrevocable by the Release Deadline, Employee will forfeit any rights to severance payments and benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable.

(i) In the event the termination occurs at a time during the calendar year where the Release could become effective in the calendar year following the calendar year in which Employee's termination occurs (whether or not it actually becomes effective in the following year), then any severance payments and benefits under this Agreement that would be considered Deferred Payments (as defined in below) will be paid on the first payroll date to occur during the calendar year following the calendar year in which such termination occurs, or, if later, (A) the date the Release actually becomes effective, (B) such time as required by the payment schedule applicable to each payment or benefit as set forth in Section 2 above or (C) such time as required by Section 8 below.

(ii) No severance payments and benefits under this Agreement will be paid or provided until the Release becomes effective and irrevocable, and any such severance payments and benefits otherwise payable between Employee's termination date and the date the Release becomes effective and irrevocable will be paid on the date the Release becomes effective and irrevocable. In the event of Employee's death before all of the severance payments and benefits under this Agreement have been paid, such unpaid amounts will be paid in a lump sum payment promptly following such event to Employee's designated beneficiary, if living, or otherwise to the personal representative of Employee's estate; and

(c) in the event of a resignation for Good Reason, providing the Company with written notice of the acts or omissions constituting the grounds for Good Reason within ninety (90) days of the initial existence of the grounds for Good Reason and a reasonable opportunity for the Company to cure the conditions giving rise to such Good Reason, which shall not be less than thirty (30) days following the date of notice from Employee. If the Company cures the conditions giving rise to such Good Reason within thirty (30) days of the date of such notice, Employee will not be entitled to severance payments and/or benefits contemplated by Sections 2 or 3 above if Employee thereafter resigns from the Company based on such grounds. Unless otherwise required by law, no severance payments and/or benefits under Sections 2 or 3 will be paid and/or provided until after the expiration of any relevant revocation period.

6. Definitions. For purposes of this Agreement,

(a) Cause. For purposes of this Agreement, “Cause” shall mean (i) Employee’s continued failure to substantially perform the duties and obligations of Employee’s position (for reasons other than death or Disability (as defined below)), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) Employee’s failure or refusal to comply with reasonable written policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by Employee that results in a substantial gain or personal enrichment of Employee at the expense of the Company; (iv) Employee’s violation of a federal or state law or regulation applicable to the Company’s business, which violation was or is reasonably likely to be materially injurious to the Company; (v) Employee’s violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state; or (vi) the Employee’s material breach of the terms of Section 4 of this Agreement or of the Confidentiality Agreement.

(b) Change in Control. For purposes of this Agreement, “Change in Control” shall mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group (“Person”), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change in Control; or

(ii) Change in Effective Control of the Company. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, a change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the state of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(c) *Disability*. For purposes of this Agreement, "Disability" shall mean the inability of Employee to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(d) *Good Reason*. For purposes of this Agreement, "Good Reason" shall mean, without Employee's written consent: (i) there is a material reduction of the level of Employee's base compensation (except where there is a general reduction applicable to the management team generally); (ii) there is a material reduction in Employee's overall responsibilities or authority, or scope of duties, provided, however, that a reduction in responsibilities, authority or duties solely by virtue of the Company being acquired and made part of a larger entity (as, for example, when the Chief Executive Officer of the Company remains as such following a Change of Control but is not made the Chief Executive Officer of the acquiring corporation) will not constitute "Good Reason"; or (iii) a material change in the geographic location at which Employee must perform his services; provided, that in no instance will the relocation of Employee to a facility or a location of fifty (50) miles or less from Employee's then current office location be deemed material for purposes of this Agreement. In no instance will a resignation by Employee be deemed to be for Good Reason if it is made more than twenty four (24) months following the initial occurrence of any of the events that otherwise would constitute Good Reason hereunder.

(e) The Board shall make all determinations relating to termination, including without limitation any determination regarding Cause.

7. Tax Treatment. The Company makes no representations or warranties with respect to the tax consequences of the payment of any sums to Employee under the terms of this Agreement. Employee agrees and understands that, with the exception of the withholdings from the severance payments, Employee is responsible for payment of any local, state and/or federal taxes on the sums paid hereunder by the Company and any penalties or assessments thereon. Employee further agrees to indemnify and hold the Company harmless from any claims, demands, deficiencies, penalties, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of Employee's failure to pay federal or state taxes or damages sustained by the Company by reason of any such claims, including reasonable attorney fees.

8. Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, no severance payments or benefits payable to Employee, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, is considered deferred compensation under Internal Revenue Code Section 409A (together, the "Deferred Payments") will be payable until Employee has a "separation from service" within the meaning of Section 409A ("Section 409A") of the Internal Revenue Code of 1986, as amended (the "Code"). Similarly, no severance payable to Employee, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Employee has a "separation from service" within the meaning of Section 409A.

(b) Further, if Employee is a "specified employee" within the meaning of Section 409A at the time of Employee's separation from service (other than due to death), any Deferred Payments that otherwise are payable within the first six (6) months following Employee's separation from service will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Employee's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, in the event of Employee's death following Employee's separation from service but prior to the six (6) month anniversary of Employee's separation from service (or any later delay date), then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Employee's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under the Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(c) Any severance payment that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Payments for purposes of the Agreement. Any severance payment that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Payments for purposes of the Agreement. For purposes of this subsection (c), “Section 409A Limit” will mean the lesser of two (2) times: (i) Employee’s annualized compensation based upon the annual rate of pay paid to Employee during Employee’s taxable year preceding Employee’s taxable year of Employee’s separation from service as determined under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Employee’s employment is terminated.

(d) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided under the Agreement will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. Employee and the Company agree to work together in good faith to consider amendments to the Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Employee under Section 409A.

9. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Employee (i) constitute “parachute payments” within the meaning of Section 280G of the Code, and (ii) would be subject to the excise tax imposed by Section 4999 of the Code (the “Excise Tax”), then Employee’s benefits under this Agreement shall be either

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by Employee on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in severance and other benefits constituting “parachute payments” is necessary so that benefits are delivered to a lesser extent, reduction will occur in the following order: reduction of cash payments, cancellation of equity awards granted within the twelve (12) month period prior to a “change in control” (as determined under Code Section 280G) that are deemed to have been granted contingent upon the change in control (as determined under Code Section 280G), cancellation of accelerated vesting of equity awards, reduction of employee benefits.

Unless the Company and Employee otherwise agree in writing, any determination required under this Section shall be made in writing by the Company's independent public accountants (the "Accountants"), whose determination shall be conclusive and binding upon Employee and the Company for all purposes. For purposes of making the calculations required by this Section, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Section 280G and 4999 of the Code. The Company and Employee shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section.

10. Confidential Information. Employee shall continue to comply with the terms and conditions of the Confidentiality Agreement, and maintain the confidentiality of all of the Company's confidential and proprietary information. Such information includes, but is not limited to, all customer lists, equipment, records, data, notes, reports, proposals, correspondence, specifications, drawings, blueprints, sketches, materials, or other documents or property belonging to the Company.

11. Miscellaneous.

(a) Withholding Taxes. The Company may withhold from all benefits payable under this Agreement all federal, state, city or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

(b) Entire Agreement; Binding Effect. This Agreement and the Confidentiality Agreement set forth the entire understanding between the Parties as to the subject matter of this Agreement and supersede all prior agreements, commitments, representations, writings and discussions between them, including the Prior Agreement; and neither of the Parties shall be bound by any obligations, conditions, warranties or representations with respect to the subject matter of this Agreement, except as expressly provided herein or therein or as duly set forth on or subsequent to the date hereof in a written instrument signed by the proper and fully authorized representative of the party to be bound hereby. This Agreement is binding on Employee and on the Company and his/her and its successors and assigns (whether by assignment, by operation of law or otherwise).

(c) Arbitration. The Parties agree that, unless otherwise agreed to in a writing signed by the Employee and the Chairman of the Board of Directors of the Company, any and all disputes arising out of, or relating to, the terms of this Agreement, their interpretation, and any of the matters herein released, shall be subject to binding arbitration in Travis County, Texas before the American Arbitration Association under its National Rules for the Resolution of Employment Disputes. The Parties agree that the prevailing party in any arbitration shall be entitled to injunctive relief in any court of competent jurisdiction to enforce the arbitration award. The Parties agree that the prevailing party in any arbitration shall be awarded its reasonable attorney fees and costs. **The Parties hereby agree to waive their right to have any dispute between them resolved in a court of law by a judge or jury.** This section will not prevent either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the Parties and the subject matter of their dispute relating to Employee's obligations under this Agreement and the agreements incorporated herein by reference.

(d) Governing Law; Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the employment laws of Texas and the other laws of the State of Texas as they apply to contracts entered into and wholly to be performed therein by residents thereof. In addition, each party hereto irrevocably and unconditionally agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought only in a state or federal court within Texas.

(e) Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

(f) Effect of Headings. The Section and subsection headings contained herein are for convenience only and shall not affect the construction hereof.

(g) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute but one instrument.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

Employee

Active Power, Inc.

/s/ James Clishem

/s/ Benjamin Scott

Signature

By: Benjamin Scott, Chairman

James Clishem

Dated: April 14, 2010

(Print Name)

Dated: April 14, 2010

SIGNATURE PAGE TO SEVERANCE BENEFITS AGREEMENT
ACTIVE POWER, INC.

Exhibit A

ACTIVE POWER, INC.

RELEASE OF CLAIMS

This Release of Claims ("Agreement") is made by and between Active Power, Inc. (the "Company"), and ("Employee").

WHEREAS, Employee has agreed to enter into a release of claims in favor of the Company upon certain events specified in the Severance Benefits Agreement by and between Company and Employee, as amended (the "Severance Agreement").

NOW THEREFORE, in consideration of the mutual promises made herein, the Parties hereby agree as follows:

1. Termination. Employee's employment from the Company terminated on .

2. Confidential Information. Employee shall continue to maintain the confidentiality of all confidential and proprietary information of the Company and shall continue to comply with the terms and conditions of the Proprietary Information and Nondisclosure Agreement between Employee and the Company (the "Confidentiality Agreement"), as well as Section 4 of the Severance Agreement. Employee shall return all the Company property and confidential and proprietary information in his possession to the Company on the Effective Date of this Agreement.

3. Payment of Salary. Employee acknowledges and represents that the Company has paid all salary, wages, bonuses, accrued vacation, commissions and any and all other benefits due to Employee.

4. Release of Claims. Except as set forth in the last paragraph of this Section 4, Employee agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Employee by the Company. Employee, on behalf of himself, and his respective heirs, family members, executors and assigns, hereby fully and forever releases the Company and its past, present and future officers, agents, directors, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, parents, predecessor and successor corporations, and assigns, from, and agrees not to sue or otherwise institute or cause to be instituted any legal or administrative proceedings concerning any claim, duty, obligation or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that he may possess arising from any omissions, acts or facts that have occurred up until and including the Effective Date of this Agreement including, without limitation,

(h) any and all claims relating to or arising from Employee's employment relationship with the Company and the termination of that relationship;

(i) any and all claims relating to, or arising from, Employee's right to purchase, or actual purchase of shares of stock of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

(j) any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; breach of contract, both express and implied; breach of a covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; and conversion;

(k) any and all claims for violation of any federal, state or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, The Worker Adjustment and Retraining Notification Act, any provisions of the Texas Labor Code, and any other law of the State of Texas;

(l) any and all claims for violation of the federal, or any state, constitution;

(m) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination; and

(n) any and all claims for attorneys' fees and costs.

Employee agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. Nothing in this Agreement waives Employee's rights to indemnification or any payments under any fiduciary insurance policy, if any, provided by any act or agreement of the Company, state or federal law or policy of insurance.

5. Acknowledgment of Waiver of Claims under ADEA. Employee acknowledges that he is waiving and releasing any rights he may have under the Age Discrimination in Employment Act of 1967 ("ADEA") and that this waiver and release is knowing and voluntary. Employee and the Company agree that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Agreement. Employee acknowledges that the consideration given for this waiver and release Agreement is in addition to anything of value to which Employee was already entitled. Employee further acknowledges that he has been advised by this writing that (a) he should consult with an attorney prior to executing this Agreement; (b) he has at least twenty-one (21) days within which to consider this Agreement; (c) he has seven (7) days following the execution of this Agreement by the parties to revoke the Agreement; (d) this Agreement shall not be effective until the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Employee from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties or costs for doing so, unless specifically authorized by federal law. Any revocation should be in writing and delivered to _____ at the Company by close of business on the seventh day from the date that Employee signs this Agreement.

6. No Pending or Future Lawsuits. Employee represents that he has no lawsuits, claims, or actions pending in his name, or on behalf of any other person or entity, against the Company or any other person or entity referred to herein. Employee also represents that he does not intend to bring any claims on his own behalf or on behalf of any other person or entity against the Company or any other person or entity referred to herein.

7. Application for Employment. Employee understands and agrees that, as a condition of this Agreement, he shall not be entitled to any employment with the Company, its subsidiaries, or any successor, and he hereby waives any right, or alleged right, of employment or re-employment with the Company.

8. No Cooperation. Employee agrees that he will not counsel or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against the Company and/or any officer, director, employee, agent, representative, shareholder or attorney of the Company, unless under a subpoena or other court order to do so.

9. Cooperation with Company. Employee agrees to cooperate, at the request of the Company, in the defense and/or prosecution of any charges, claims, investigations (internal or external), administrative proceedings and/or lawsuits relating to matters occurring during or relating to Employee's period of employment about which Employee may have relevant information. Employee shall further reasonably cooperate with regard to the transition of Employee's job duties and business relationships. Employee agrees to respond to reasonable requests for information from the Company in a timely manner.

10. No Admission of Liability. No action taken by the Company, either previously or in connection with this Agreement shall be deemed or construed to be (a) an admission of the truth or falsity of any claims heretofore made or (b) an acknowledgment or admission by the Company of any fault or liability whatsoever to the Employee or to any third party.

11. Costs. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with this Agreement.

12. Authority. Employee represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind them to the terms and conditions of this Agreement.

13. No Representations. Employee represents that he has had the opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

14. Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

15. Entire Agreement. This Agreement, along with the Confidentiality Agreement, and Employee's written equity compensation agreements with the Company, represents the entire agreement and understanding between the Company and Employee concerning Employee's separation from the Company.

16. No Oral Modification. This Agreement may only be amended in writing signed by Employee and a duly authorized officer of the Company (other than Employee).

17. Governing Law. This Agreement shall be governed by the internal substantive laws, but not the choice of law rules, of the State of Texas.

18. Effective Date. Each Party has seven (7) days after that Party signs this Agreement to revoke it. This Agreement will become effective on the eighth (8th) day after Employee signed this Agreement, so long as it has been signed by both Parties.

19. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

20. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims. The Parties acknowledge that:

(o) They have read this Agreement;

(p) They have had the opportunity of being represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;

(q) They understand the terms and consequences of this Agreement and of the releases it contains;

(r) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Active Power, Inc.

Dated: _____, 20__

By _____

_____, an individual

Dated: _____, 20__

SEVERANCE BENEFITS AGREEMENT

THIS SEVERANCE BENEFITS AGREEMENT (the "Agreement") is made as of the 14th day of April, 2010 between Active Power, Inc., (the "Company"), and John Penver, an individual resident of the State of Texas ("Employee"). Employee and the Company are collectively referred to herein as the "Parties." This Agreement amends, restates and supersedes the Severance Benefits Agreement dated October 29, 2008 between Employee and the Company (the "Prior Agreement").

1. At-Will Employment Status. Employee is currently employed by the Company. Employee is employed on an "at will" basis, which means that either the Company or Employee may terminate Employee's employment with the Company at any time and for any or no reason.

2. Severance Benefits upon Involuntary Termination Without Cause or Resignation for Good Reason. Although Employee's employment is at-will, if Employee is terminated by the Company without Cause (as defined below) or resigns with Good Reason (as defined below), then Employee shall be entitled to receive:

(a) continuing severance pay at a rate equal to 100% of Employee's base salary, as then in effect (less applicable withholding taxes), for a period of nine (9) months from the date of such termination, to be paid periodically in accordance with the Company's normal payroll practices; and

(b) all stock options and restricted stock held by Employee in which Employee would have vested if Employee had remained employed with the Company for a period of nine (9) months following the date of termination shall immediately vest and, if applicable, become exercisable as of the date of termination; and

(c) if Employee elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for Employee, within the time period prescribed pursuant to COBRA, the Company will reimburse Employee for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Employee's termination) until the earlier of (i) a period of nine (9) months from the last date of employment of the Employee with the Company, (ii) until Employee has secured other employment, or (iii) the date Employee is no longer eligible to receive continuation coverage pursuant to COBRA. COBRA reimbursements shall be made by the Company to Employee consistent with the Company's normal expense reimbursement policy, provided that Employee submits documentation to the Company substantiating Employee's payments for such COBRA coverage; and

(d) all or a portion of Employee's bonus under the Company's management incentive program for the year in which Employee's termination without Cause or resignation for Good Reason occurs, determined as follows: (i) with respect to corporate or individual objectives that are measured over a period of time (such as revenue for a fiscal year), the amount of such bonus with respect to such objective shall be determined based on a comparison of the amount of such objective actually achieved through the date of such termination against a pro rated portion (based on a number of days, weeks or months, as applicable, during the applicable measurement period for which Employee remained a service provider of the Company) of the target objective, and shall be payable on a pro rata basis (based on the number of days during the applicable measurement period for which Employee remained a service provider of the Company), and (ii) with respect to corporate or individual objectives that are measured based on the occurrence of a specific event at a point in time, the full amount of such bonus with respect to such objective shall be payable if such objective is achieved prior to the date of such termination. All determinations of the amount of the achievement of such objectives and the amounts of such bonuses shall be made by the Board of Directors of the Company, in its sole discretion.

3. Acceleration Upon Termination After a Change in Control. Although Employee's employment is at-will, in the event that Employee is terminated by the Company without Cause or resigns with Good Reason within twelve (12) months after a Change in Control (as defined below), in addition to the benefits set forth in Sections 2(a), 2(c) and 2(d), but in lieu of the benefits set forth in Section 2(b) above, one hundred percent (100%) of the stock options and restricted stock held by Employee prior to the date of the Change of Control shall immediately vest and, if applicable, become exercisable as of the date of termination.

4. Confidential Information/ Non-Competition Agreement.

(a) Employee is employed hereunder by the Company in a confidential relationship wherein Employee, in the course of his employment with the Company, has and will continue to become familiar with and aware of Confidential Information (as defined in the Confidentiality Agreement), including but not limited to confidential information regarding the Company's customers and specific manner of doing business, including the processes, techniques and trade secrets utilized by the Company, and future plans with respect thereto. In consideration for Employee's promises herein, the Company agrees to provide Employee with such Confidential Information; in return, Employee recognizes and acknowledges that such information must be maintained in confidence, and to further such protection agrees to the restrictive covenants set forth in this Section 4.

(b) Employee acknowledges that Employee's fulfillment of the obligations contained in this Agreement, including, but not limited to, Employee's obligation neither to use, except for the benefit of the Company, or to disclose the Company's Confidential Information and Employee's obligation not to compete contained in this Section 4 is necessary to protect the Company's Confidential Information and to preserve the Company's value and goodwill. Employee further acknowledges the time, geographic and scope limitations of Employee's obligations under this Section 4 are reasonable, especially in light of the Company's desire to protect its Confidential Information, and that Employee will not be precluded from gainful employment if Employee is obligated not to compete with the Company during the period and within the Territory as described in this Section 4.

(c) Employee will not, during the period of his employment by or with the Company, and for a period of nine (9) months immediately following the termination of his employment with the Company, for any reason whatsoever, directly or indirectly, for himself or on behalf of or in conjunction with any other person, company, partnership, corporation, business or entity of whatever nature:

(i) engage, as an officer, director, shareholder, owner, partner, joint venturer, or in a managerial capacity, whether as an employee, independent contractor, consultant or advisor, or as a sales representative, in any business selling any products or services in direct competition with the Company, within 100 miles of (i) the principal executive offices of the Company or (ii) any place where the Company conducts business, provides products or services, or in which the Company (including the subsidiaries thereof) is in the process of initiating business operations as of the date on which Employee's employment by the Company hereunder is terminated (the "Territory");

(ii) call upon any person who is, at that time, within the Territory, an employee of the Company (including the subsidiaries thereof) in a managerial capacity for the purpose or with the intent of enticing such employee away from or out of the employ of the Company (including the subsidiaries thereof);

(iii) call upon any person or entity which is, at that time, or which has been, within one (1) year prior to that time, a customer of the Company (including the subsidiaries thereof) within the Territory for the purpose of soliciting or selling products or services in direct competition with the Company within the Territory;

(iv) call upon any prospective acquisition candidate, on Employee's own behalf or on behalf of any competitor, which candidate was either called upon by the Company (including the subsidiaries thereof) or for which the Company made an acquisition analysis, for the purpose of acquiring such entity, provided however, that this section (iv) will not apply if the Company affirmatively declined to proceed with the acquisition; or

(v) disclose customers of the Company (or the subsidiaries thereof) to any person, firm, partnership, corporation or business for any competitive reason.

As used in Section 4(c), references to the business, customers, Territory, etc. of the Company refer to the status of the Company prior to any Change in Control (*i.e.*, such breadth of business, customers, Territory, etc. shall not automatically be expanded to include those of a successor to the Company resulting from a Change in Control). Notwithstanding the above, the foregoing covenant shall not be deemed to prohibit Employee from acquiring as an investment not more than three percent (3%) of the capital stock of a competing business, whose stock is traded on a national securities exchange or over-the-counter.

(d) Because of the difficulty of measuring economic losses to the Company as a result of a breach of the foregoing covenant, and because of the immediate and irreparable damage that could be caused to the Company for which it would have no other adequate remedy, Employee agrees that the foregoing covenant may be enforced by the Company in the event of breach by him by injunctions and restraining orders without the necessity of posting any bond therefor.

(e) In the course of Employee's employment with the Company, Employee will become exposed to certain of the Company's confidential information and business relationships, which the above covenants are designed to protect and Employee agrees to keep such confidential information in the strictest confidence. It is agreed by the parties that the foregoing covenants in this Section 4 impose a reasonable restraint on Employee in light of the activities and business of the Company (including the Company's subsidiaries) on the date of the execution of this Agreement and the current plans of the Company (including the Company's subsidiaries); but it is also the intent of the Company and Employee that such covenants be construed and enforced in accordance with the changing activities, business and locations of the Company (including the Company's subsidiaries) throughout the term of this covenant, subject to the following paragraph. For example, if, during Employee's term of employment, the Company (including the Company's subsidiaries) engages in new and different activities, enters a new business or established new locations for its current activities or business in addition to or other than the activities or business of the Company (including the Company's subsidiaries) as of the date of this Agreement or the locations currently established therefor, then, to the extent described in Section 4(c), Employee will be precluded from soliciting the customers or employees of such new activities or business or from such new location and from directly competing with such new business within 100 miles of its then-established operating locations through the term of this covenant.

It is further agreed by the parties hereto that, in the event that Employee shall cease to be employed by the Company, and shall later enter into a business or pursue other activities not in competition with the Company (including the Company's subsidiaries) as of Employee's last date of employment with the Company, or similar activities or business in locations the operation of which, under such circumstances, does not violate clause (i) of this Section 4, and in any event such new business, activities or location are not in violation of this Section 4 or of Employee's obligations under this Section 4, if any, Employee shall not be chargeable with a violation of this Section 4 if the Company (including the Company's subsidiaries) shall thereafter enter the same, similar or a competitive (i) business, (ii) course of activities or (iii) location, as applicable.

(f) The covenants in this Section 4 are severable and separate, and the unenforceability of any specific covenant shall not affect the provisions of any other covenant. Moreover, in the event any court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth herein are unreasonable, then it is the intention of the Parties that such restrictions be enforced to the fullest extent which the court deems reasonable, and the Agreement shall thereby be reformed to such extent.

(g) All of the covenants in this Section 4 shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of such covenants.

(h) It is specifically agreed that the period of nine (9) months following Employee's employment set forth at the beginning of this Section 4, during which the agreements and covenants of Employee made in this Section 4 shall be effective, shall be computed by excluding from such computation any time during which Employee is in violation of any provision of this Section 4.

5. Conditions Precedent. Any severance payments and/or benefits contemplated by Sections 2 and 3 above are conditional on Employee:

(a) continuing to comply with the terms of this Agreement and the Proprietary Information and Nondisclosure Agreement between Employee and the Company (the "Confidentiality Agreement");

(b) signing and not revoking a separation agreement and release of claims, the key terms of which are included in the attached Exhibit A (the "Release"), which becomes effective and irrevocable no later than sixty (60) days following the termination date (such deadline, the "Release Deadline"). If the Release does not become effective and irrevocable by the Release Deadline, Employee will forfeit any rights to severance payments and benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable.

(i) In the event the termination occurs at a time during the calendar year where the Release could become effective in the calendar year following the calendar year in which Employee's termination occurs (whether or not it actually becomes effective in the following year), then any severance payments and benefits under this Agreement that would be considered Deferred Payments (as defined in below) will be paid on the first payroll date to occur during the calendar year following the calendar year in which such termination occurs, or, if later, (A) the date the Release actually becomes effective, (B) such time as required by the payment schedule applicable to each payment or benefit as set forth in Section 2 above or (C) such time as required by Section 8 below.

(ii) No severance payments and benefits under this Agreement will be paid or provided until the Release becomes effective and irrevocable, and any such severance payments and benefits otherwise payable between Employee's termination date and the date the Release becomes effective and irrevocable will be paid on the date the Release becomes effective and irrevocable. In the event of Employee's death before all of the severance payments and benefits under this Agreement have been paid, such unpaid amounts will be paid in a lump sum payment promptly following such event to Employee's designated beneficiary, if living, or otherwise to the personal representative of Employee's estate; and

(c) in the event of a resignation for Good Reason, providing the Company with written notice of the acts or omissions constituting the grounds for Good Reason within ninety (90) days of the initial existence of the grounds for Good Reason and a reasonable opportunity for the Company to cure the conditions giving rise to such Good Reason, which shall not be less than thirty (30) days following the date of notice from Employee. If the Company cures the conditions giving rise to such Good Reason within thirty (30) days of the date of such notice, Employee will not be entitled to severance payments and/or benefits contemplated by Sections 2 or 3 above if Employee thereafter resigns from the Company based on such grounds. Unless otherwise required by law, no severance payments and/or benefits under Sections 2 or 3 will be paid and/or provided until after the expiration of any relevant revocation period.

6. Definitions. For purposes of this Agreement,

(a) Cause. For purposes of this Agreement, “Cause” shall mean (i) Employee’s continued failure to substantially perform the duties and obligations of Employee’s position (for reasons other than death or Disability (as defined below)), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) Employee’s failure or refusal to comply with reasonable written policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by Employee that results in a substantial gain or personal enrichment of Employee at the expense of the Company; (iv) Employee’s violation of a federal or state law or regulation applicable to the Company’s business, which violation was or is reasonably likely to be materially injurious to the Company; (v) Employee’s violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state; or (vi) the Employee’s material breach of the terms of Section 4 of this Agreement or of the Confidentiality Agreement.

(b) Change in Control. For purposes of this Agreement, “Change in Control” shall mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group (“Person”), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change in Control; or

(ii) Change in Effective Control of the Company. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, a change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the state of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(c) *Disability*. For purposes of this Agreement, "Disability" shall mean the inability of Employee to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(d) *Good Reason*. For purposes of this Agreement, "Good Reason" shall mean, without Employee's written consent: (i) there is a material reduction of the level of Employee's base compensation (except where there is a general reduction applicable to the management team generally); (ii) there is a material reduction in Employee's overall responsibilities or authority, or scope of duties, provided, however, that a reduction in responsibilities, authority or duties solely by virtue of the Company being acquired and made part of a larger entity (as, for example, when the Chief Executive Officer of the Company remains as such following a Change of Control but is not made the Chief Executive Officer of the acquiring corporation) will not constitute "Good Reason"; or (iii) a material change in the geographic location at which Employee must perform his services; provided, that in no instance will the relocation of Employee to a facility or a location of fifty (50) miles or less from Employee's then current office location be deemed material for purposes of this Agreement. In no instance will a resignation by Employee be deemed to be for Good Reason if it is made more than twenty four (24) months following the initial occurrence of any of the events that otherwise would constitute Good Reason hereunder.

(e) The Board shall make all determinations relating to termination, including without limitation any determination regarding Cause.

7. Tax Treatment. The Company makes no representations or warranties with respect to the tax consequences of the payment of any sums to Employee under the terms of this Agreement. Employee agrees and understands that, with the exception of the withholdings from the severance payments, Employee is responsible for payment of any local, state and/or federal taxes on the sums paid hereunder by the Company and any penalties or assessments thereon. Employee further agrees to indemnify and hold the Company harmless from any claims, demands, deficiencies, penalties, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of Employee's failure to pay federal or state taxes or damages sustained by the Company by reason of any such claims, including reasonable attorney fees.

8. Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, no severance payments or benefits payable to Employee, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, is considered deferred compensation under Internal Revenue Code Section 409A (together, the "Deferred Payments") will be payable until Employee has a "separation from service" within the meaning of Section 409A ("Section 409A") of the Internal Revenue Code of 1986, as amended (the "Code"). Similarly, no severance payable to Employee, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Employee has a "separation from service" within the meaning of Section 409A.

(b) Further, if Employee is a "specified employee" within the meaning of Section 409A at the time of Employee's separation from service (other than due to death), any Deferred Payments that otherwise are payable within the first six (6) months following Employee's separation from service will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Employee's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, in the event of Employee's death following Employee's separation from service but prior to the six (6) month anniversary of Employee's separation from service (or any later delay date), then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Employee's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under the Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(c) Any severance payment that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Payments for purposes of the Agreement. Any severance payment that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Payments for purposes of the Agreement. For purposes of this subsection (c), “Section 409A Limit” will mean the lesser of two (2) times: (i) Employee’s annualized compensation based upon the annual rate of pay paid to Employee during Employee’s taxable year preceding Employee’s taxable year of Employee’s separation from service as determined under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Employee’s employment is terminated.

(d) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided under the Agreement will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. Employee and the Company agree to work together in good faith to consider amendments to the Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Employee under Section 409A.

9. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Employee (i) constitute “parachute payments” within the meaning of Section 280G of the Code, and (ii) would be subject to the excise tax imposed by Section 4999 of the Code (the “Excise Tax”), then Employee’s benefits under this Agreement shall be either

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by Employee on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in severance and other benefits constituting “parachute payments” is necessary so that benefits are delivered to a lesser extent, reduction will occur in the following order: reduction of cash payments, cancellation of equity awards granted within the twelve (12) month period prior to a “change in control” (as determined under Code Section 280G) that are deemed to have been granted contingent upon the change in control (as determined under Code Section 280G), cancellation of accelerated vesting of equity awards, reduction of employee benefits.

Unless the Company and Employee otherwise agree in writing, any determination required under this Section shall be made in writing by the Company's independent public accountants (the "Accountants"), whose determination shall be conclusive and binding upon Employee and the Company for all purposes. For purposes of making the calculations required by this Section, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Section 280G and 4999 of the Code. The Company and Employee shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section.

10. Confidential Information. Employee shall continue to comply with the terms and conditions of the Confidentiality Agreement, and maintain the confidentiality of all of the Company's confidential and proprietary information. Such information includes, but is not limited to, all customer lists, equipment, records, data, notes, reports, proposals, correspondence, specifications, drawings, blueprints, sketches, materials, or other documents or property belonging to the Company.

11. Miscellaneous.

(a) Withholding Taxes. The Company may withhold from all benefits payable under this Agreement all federal, state, city or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

(b) Entire Agreement; Binding Effect. This Agreement and the Confidentiality Agreement set forth the entire understanding between the Parties as to the subject matter of this Agreement and supersede all prior agreements, commitments, representations, writings and discussions between them, including the January 31, 2005 offer letter and the Prior Agreement; and neither of the Parties shall be bound by any obligations, conditions, warranties or representations with respect to the subject matter of this Agreement, except as expressly provided herein or therein or as duly set forth on or subsequent to the date hereof in a written instrument signed by the proper and fully authorized representative of the party to be bound hereby. This Agreement is binding on Employee and on the Company and his/her and its successors and assigns (whether by assignment, by operation of law or otherwise).

(c) Arbitration. The Parties agree that, unless otherwise agreed to in a writing signed by the Employee and the Chairman of the Board of Directors of the Company, any and all disputes arising out of, or relating to, the terms of this Agreement, their interpretation, and any of the matters herein released, shall be subject to binding arbitration in Travis County, Texas before the American Arbitration Association under its National Rules for the Resolution of Employment Disputes. The Parties agree that the prevailing party in any arbitration shall be entitled to injunctive relief in any court of competent jurisdiction to enforce the arbitration award. The Parties agree that the prevailing party in any arbitration shall be awarded its reasonable attorney fees and costs. **The Parties hereby agree to waive their right to have any dispute between them resolved in a court of law by a judge or jury.** This section will not prevent either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the Parties and the subject matter of their dispute relating to Employee's obligations under this Agreement and the agreements incorporated herein by reference.

(d) Governing Law; Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the employment laws of Texas and the other laws of the State of Texas as they apply to contracts entered into and wholly to be performed therein by residents thereof. In addition, each party hereto irrevocably and unconditionally agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought only in a state or federal court within Texas.

(e) Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

(f) Effect of Headings. The Section and subsection headings contained herein are for convenience only and shall not affect the construction hereof.

(g) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute but one instrument.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

Employee

Active Power, Inc.

/s/ John Penver

/s/ Benjamin Scott

Signature

By: Benjamin Scott, Chairman

John Penver

Dated: April 14, 2010

(Print Name)

Dated: April 14, 2010

SIGNATURE PAGE TO SEVERANCE BENEFITS AGREEMENT
ACTIVE POWER, INC.

Exhibit A

ACTIVE POWER, INC.

RELEASE OF CLAIMS

This Release of Claims ("Agreement") is made by and between Active Power, Inc. (the "Company"), and ("Employee").

WHEREAS, Employee has agreed to enter into a release of claims in favor of the Company upon certain events specified in the Severance Benefits Agreement by and between Company and Employee, as amended (the "Severance Agreement").

NOW THEREFORE, in consideration of the mutual promises made herein, the Parties hereby agree as follows:

1. Termination. Employee's employment from the Company terminated on .

2. Confidential Information. Employee shall continue to maintain the confidentiality of all confidential and proprietary information of the Company and shall continue to comply with the terms and conditions of the Proprietary Information and Nondisclosure Agreement between Employee and the Company (the "Confidentiality Agreement"), as well as Section 4 of the Severance Agreement. Employee shall return all the Company property and confidential and proprietary information in his possession to the Company on the Effective Date of this Agreement.

3. Payment of Salary. Employee acknowledges and represents that the Company has paid all salary, wages, bonuses, accrued vacation, commissions and any and all other benefits due to Employee.

4. Release of Claims. Except as set forth in the last paragraph of this Section 4, Employee agrees that the foregoing consideration represents settlement in full of all outstanding obligations owed to Employee by the Company. Employee, on behalf of himself, and his respective heirs, family members, executors and assigns, hereby fully and forever releases the Company and its past, present and future officers, agents, directors, employees, investors, shareholders, administrators, affiliates, divisions, subsidiaries, parents, predecessor and successor corporations, and assigns, from, and agrees not to sue or otherwise institute or cause to be instituted any legal or administrative proceedings concerning any claim, duty, obligation or cause of action relating to any matters of any kind, whether presently known or unknown, suspected or unsuspected, that he may possess arising from any omissions, acts or facts that have occurred up until and including the Effective Date of this Agreement including, without limitation,

(h) any and all claims relating to or arising from Employee's employment relationship with the Company and the termination of that relationship;

(i) any and all claims relating to, or arising from, Employee's right to purchase, or actual purchase of shares of stock of the Company, including, without limitation, any claims for fraud, misrepresentation, breach of fiduciary duty, breach of duty under applicable state corporate law, and securities fraud under any state or federal law;

(j) any and all claims for wrongful discharge of employment; termination in violation of public policy; discrimination; breach of contract, both express and implied; breach of a covenant of good faith and fair dealing, both express and implied; promissory estoppel; negligent or intentional infliction of emotional distress; negligent or intentional misrepresentation; negligent or intentional interference with contract or prospective economic advantage; unfair business practices; defamation; libel; slander; negligence; personal injury; assault; battery; invasion of privacy; false imprisonment; and conversion;

(k) any and all claims for violation of any federal, state or municipal statute, including, but not limited to, Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Fair Labor Standards Act, the Employee Retirement Income Security Act of 1974, The Worker Adjustment and Retraining Notification Act, any provisions of the Texas Labor Code, and any other law of the State of Texas;

(l) any and all claims for violation of the federal, or any state, constitution;

(m) any and all claims arising out of any other laws and regulations relating to employment or employment discrimination; and

(n) any and all claims for attorneys' fees and costs.

Employee agrees that the release set forth in this section shall be and remain in effect in all respects as a complete general release as to the matters released. Nothing in this Agreement waives Employee's rights to indemnification or any payments under any fiduciary insurance policy, if any, provided by any act or agreement of the Company, state or federal law or policy of insurance.

5. Acknowledgment of Waiver of Claims under ADEA. Employee acknowledges that he is waiving and releasing any rights he may have under the Age Discrimination in Employment Act of 1967 ("ADEA") and that this waiver and release is knowing and voluntary. Employee and the Company agree that this waiver and release does not apply to any rights or claims that may arise under the ADEA after the Effective Date of this Agreement. Employee acknowledges that the consideration given for this waiver and release Agreement is in addition to anything of value to which Employee was already entitled. Employee further acknowledges that he has been advised by this writing that (a) he should consult with an attorney prior to executing this Agreement; (b) he has at least twenty-one (21) days within which to consider this Agreement; (c) he has seven (7) days following the execution of this Agreement by the parties to revoke the Agreement; (d) this Agreement shall not be effective until the revocation period has expired; and (e) nothing in this Agreement prevents or precludes Employee from challenging or seeking a determination in good faith of the validity of this waiver under the ADEA, nor does it impose any condition precedent, penalties or costs for doing so, unless specifically authorized by federal law. Any revocation should be in writing and delivered to _____ at the Company by close of business on the seventh day from the date that Employee signs this Agreement.

6. No Pending or Future Lawsuits. Employee represents that he has no lawsuits, claims, or actions pending in his name, or on behalf of any other person or entity, against the Company or any other person or entity referred to herein. Employee also represents that he does not intend to bring any claims on his own behalf or on behalf of any other person or entity against the Company or any other person or entity referred to herein.

7. Application for Employment. Employee understands and agrees that, as a condition of this Agreement, he shall not be entitled to any employment with the Company, its subsidiaries, or any successor, and he hereby waives any right, or alleged right, of employment or re-employment with the Company.

8. No Cooperation. Employee agrees that he will not counsel or assist any attorneys or their clients in the presentation or prosecution of any disputes, differences, grievances, claims, charges, or complaints by any third party against the Company and/or any officer, director, employee, agent, representative, shareholder or attorney of the Company, unless under a subpoena or other court order to do so.

9. Cooperation with Company. Employee agrees to cooperate, at the request of the Company, in the defense and/or prosecution of any charges, claims, investigations (internal or external), administrative proceedings and/or lawsuits relating to matters occurring during or relating to Employee's period of employment about which Employee may have relevant information. Employee shall further reasonably cooperate with regard to the transition of Employee's job duties and business relationships. Employee agrees to respond to reasonable requests for information from the Company in a timely manner.

10. No Admission of Liability. No action taken by the Company, either previously or in connection with this Agreement shall be deemed or construed to be (a) an admission of the truth or falsity of any claims heretofore made or (b) an acknowledgment or admission by the Company of any fault or liability whatsoever to the Employee or to any third party.

11. Costs. The Parties shall each bear their own costs, expert fees, attorneys' fees and other fees incurred in connection with this Agreement.

12. Authority. Employee represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind them to the terms and conditions of this Agreement.

13. No Representations. Employee represents that he has had the opportunity to consult with an attorney, and has carefully read and understands the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

14. Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

15. Entire Agreement. This Agreement, along with the Confidentiality Agreement, and Employee's written equity compensation agreements with the Company, represents the entire agreement and understanding between the Company and Employee concerning Employee's separation from the Company.

16. No Oral Modification. This Agreement may only be amended in writing signed by Employee and a duly authorized officer of the Company (other than Employee).

17. Governing Law. This Agreement shall be governed by the internal substantive laws, but not the choice of law rules, of the State of Texas.

18. Effective Date. Each Party has seven (7) days after that Party signs this Agreement to revoke it. This Agreement will become effective on the eighth (8th) day after Employee signed this Agreement, so long as it has been signed by both Parties.

19. Counterparts. This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned.

20. Voluntary Execution of Agreement. This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the Parties hereto, with the full intent of releasing all claims. The Parties acknowledge that:

(o) They have read this Agreement;

(p) They have had the opportunity of being represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or that they have voluntarily declined to seek such counsel;

(q) They understand the terms and consequences of this Agreement and of the releases it contains;

(r) They are fully aware of the legal and binding effect of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the respective dates set forth below.

Active Power, Inc.

Dated: _____, 20__

By _____

_____, an individual

Dated: _____, 20__

SEVERANCE BENEFITS AGREEMENT

THIS SEVERANCE BENEFITS AGREEMENT (the "Agreement") is made as of the [] day of [], 2010 between Active Power, Inc., (the "Company"), and [], an individual resident of [] ("Employee"). Employee and the Company are collectively referred to herein as the "Parties." This Agreement amends, restates and supersedes the Change of Control Severance Agreement dated [] between Employee and the Company (the "Prior Agreement").

1. At-Will Employment Status. Employee is currently employed by the Company. Employee is employed on an "at will" basis, which means that either the Company or Employee may terminate Employee's employment with the Company at any time and for any or no reason.

2. Severance Benefits upon Involuntary Termination Without Cause or Resignation for Good Reason. Although Employee's employment is at-will, if Employee is terminated by the Company without Cause (as defined below) or resigns with Good Reason (as defined below), then Employee shall be entitled to receive:

(a) continuing severance pay at a rate equal to 100% of Employee's base salary, as then in effect (less applicable withholding taxes), for a period of six (6) months from the date of such termination, to be paid periodically in accordance with the Company's normal payroll practices; and

(b) all stock options and restricted stock held by Employee in which Employee would have vested if Employee had remained employed with the Company for a period of six (6) months following the date of termination shall immediately vest and, if applicable, become exercisable as of the date of termination; and

(c) if Employee elects continuation coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") for Employee, within the time period prescribed pursuant to COBRA, the Company will reimburse Employee for the COBRA premiums for such coverage (at the coverage levels in effect immediately prior to Employee's termination) until the earlier of (i) a period of six months from the last date of employment of the Employee with the Company, (ii) until Employee has secured other employment, or (iii) the date Employee is no longer eligible to receive continuation coverage pursuant to COBRA. COBRA reimbursements shall be made by the Company to Employee consistent with the Company's normal expense reimbursement policy, provided that Employee submits documentation to the Company substantiating Employee's payments for such COBRA coverage; and

(d) all or a portion of Employee's bonus under the Company's management incentive program for the year in which Employee's termination without Cause or resignation for Good Reason occurs, determined as follows: (i) with respect to corporate or individual objectives that are measured over a period of time (such as revenue for a fiscal year), the amount of such bonus with respect to such objective shall be determined based on a comparison of the amount of such objective actually achieved through the date of such termination against a pro rated portion (based on a number of days, weeks or months, as applicable, during the applicable measurement period for which Employee remained a service provider of the Company) of the target objective, and shall be payable on a pro rata basis (based on the number of days during the applicable measurement period for which Employee remained a service provider of the Company), and (ii) with respect to corporate or individual objectives that are measured based on the occurrence of a specific event at a point in time, the full amount of such bonus with respect to such objective shall be payable if such objective is achieved prior to the date of such termination. All determinations of the amount of the achievement of such objectives and the amounts of such bonuses shall be made by the Board of Directors of the Company, in its sole discretion.

3. Acceleration Upon Termination After a Change in Control. Although Employee's employment is at-will, in the event that Employee is terminated by the Company without Cause or resigns with Good Reason within twelve months after a Change in Control (as defined below), in addition to the benefits set forth in Sections 2(a), 2(c) and 2(d), but in lieu of the benefits set forth in Section 2(b) above, one hundred percent (100%) of the stock options and restricted stock held by Employee prior to the date of the Change of Control shall immediately vest and, if applicable, become exercisable as of the date of termination.

4. Confidential Information/ Non-Competition Agreement.

(a) Employee is employed hereunder by the Company in a confidential relationship wherein Employee, in the course of his employment with the Company, has and will continue to become familiar with and aware of Confidential Information (as defined in the Confidentiality Agreement), including but not limited to confidential information regarding the Company's customers and specific manner of doing business, including the processes, techniques and trade secrets utilized by the Company, and future plans with respect thereto. In consideration for Employee's promises herein, the Company agrees to provide Employee with such Confidential Information; in return, Employee recognizes and acknowledges that such information must be maintained in confidence, and to further such protection agrees to the restrictive covenants set forth in this Section 4.

(b) Employee acknowledges that Employee's fulfillment of the obligations contained in this Agreement, including, but not limited to, Employee's obligation neither to use, except for the benefit of the Company, or to disclose the Company's Confidential Information and Employee's obligation not to compete contained in this Section 4 is necessary to protect the Company's Confidential Information and to preserve the Company's value and goodwill. Employee further acknowledges the time, geographic and scope limitations of Employee's obligations under this Section 4 are reasonable, especially in light of the Company's desire to protect its Confidential Information, and that Employee will not be precluded from gainful employment if Employee is obligated not to compete with the Company during the period and within the Territory as described in this Section 4.

(c) Employee will not, during the period of his employment by or with the Company, and for a period of six (6) months immediately following the termination of his employment with the Company, for any reason whatsoever, directly or indirectly, for himself or on behalf of or in conjunction with any other person, company, partnership, corporation, business or entity of whatever nature:

(i) engage, as an officer, director, shareholder, owner, partner, joint venturer, or in a managerial capacity, whether as an employee, independent contractor, consultant or advisor, or as a sales representative, in any business selling any products or services in direct competition with the Company, within 100 miles of (i) the principal executive offices of the Company or (ii) any place where the Company conducts business, provides products or services, or in which the Company (including the subsidiaries thereof) is in the process of initiating business operations as of the date on which Employee's employment by the Company hereunder is terminated (the "Territory");

(ii) call upon any person who is, at that time, within the Territory, an employee of the Company (including the subsidiaries thereof) in a managerial capacity for the purpose or with the intent of enticing such employee away from or out of the employ of the Company (including the subsidiaries thereof);

(iii) call upon any person or entity which is, at that time, or which has been, within one (1) year prior to that time, a customer of the Company (including the subsidiaries thereof) within the Territory for the purpose of soliciting or selling products or services in direct competition with the Company within the Territory;

(iv) call upon any prospective acquisition candidate, on Employee's own behalf or on behalf of any competitor, which candidate was either called upon by the Company (including the subsidiaries thereof) or for which the Company made an acquisition analysis, for the purpose of acquiring such entity, provided however, that this section (iv) will not apply if the Company affirmatively declined to proceed with the acquisition; or

(v) disclose customers of the Company (or the subsidiaries thereof) to any person, firm, partnership, corporation or business for any competitive reason.

As used in Section 4(c), references to the business, customers, Territory, etc. of the Company refer to the status of the Company prior to any Change in Control (*i.e.*, such breadth of business, customers, Territory, etc. shall not automatically be expanded to include those of a successor to the Company resulting from a Change in Control). Notwithstanding the above, the foregoing covenant shall not be deemed to prohibit Employee from acquiring as an investment not more than three percent (3%) of the capital stock of a competing business, whose stock is traded on a national securities exchange or over-the-counter.

(d) Because of the difficulty of measuring economic losses to the Company as a result of a breach of the foregoing covenant, and because of the immediate and irreparable damage that could be caused to the Company for which it would have no other adequate remedy, Employee agrees that the foregoing covenant may be enforced by the Company in the event of breach by him by injunctions and restraining orders without the necessity of posting any bond therefor.

(e) In the course of Employee's employment with the Company, Employee will become exposed to certain of the Company's confidential information and business relationships, which the above covenants are designed to protect and Employee agrees to keep such confidential information in the strictest confidence. It is agreed by the parties that the foregoing covenants in this Section 4 impose a reasonable restraint on Employee in light of the activities and business of the Company (including the Company's subsidiaries) on the date of the execution of this Agreement and the current plans of the Company (including the Company's subsidiaries); but it is also the intent of the Company and Employee that such covenants be construed and enforced in accordance with the changing activities, business and locations of the Company (including the Company's subsidiaries) throughout the term of this covenant, subject to the following paragraph. For example, if, during Employee's term of employment, the Company (including the Company's subsidiaries) engages in new and different activities, enters a new business or established new locations for its current activities or business in addition to or other than the activities or business of the Company (including the Company's subsidiaries) as of the date of this Agreement or the locations currently established therefor, then, to the extent described in Section 4(c), Employee will be precluded from soliciting the customers or employees of such new activities or business or from such new location and from directly competing with such new business within 100 miles of its then-established operating locations through the term of this covenant.

It is further agreed by the parties hereto that, in the event that Employee shall cease to be employed by the Company, and shall later enter into a business or pursue other activities not in competition with the Company (including the Company's subsidiaries) as of Employee's last date of employment with the Company, or similar activities or business in locations the operation of which, under such circumstances, does not violate clause (i) of this Section 4, and in any event such new business, activities or location are not in violation of this Section 4 or of Employee's obligations under this Section 4, if any, Employee shall not be chargeable with a violation of this Section 4 if the Company (including the Company's subsidiaries) shall thereafter enter the same, similar or a competitive (i) business, (ii) course of activities or (iii) location, as applicable.

(f) The covenants in this Section 4 are severable and separate, and the unenforceability of any specific covenant shall not affect the provisions of any other covenant. Moreover, in the event any court of competent jurisdiction shall determine that the scope, time or territorial restrictions set forth herein are unreasonable, then it is the intention of the Parties that such restrictions be enforced to the fullest extent which the court deems reasonable, and the Agreement shall thereby be reformed to such extent.

(g) All of the covenants in this Section 4 shall be construed as an agreement independent of any other provision in this Agreement, and the existence of any claim or cause of action of Employee against the Company, whether predicated on this Agreement or otherwise, shall not constitute a defense to the enforcement by the Company of such covenants.

(h) It is specifically agreed that the period of six (6) months following Employee's employment set forth at the beginning of this Section 4, during which the agreements and covenants of Employee made in this Section 4 shall be effective, shall be computed by excluding from such computation any time during which Employee is in violation of any provision of this Section 4.

5. Conditions Precedent. Any severance payments and/or benefits contemplated by Sections 2 and 3 above are conditional on Employee:

(a) continuing to comply with the terms of this Agreement and the Proprietary Information and Nondisclosure Agreement between Employee and the Company (the "Confidentiality Agreement");

(b) signing and not revoking a separation agreement and release of claims in a form reasonably acceptable to the Company (the "Release") which becomes effective and irrevocable no later than sixty (60) days following the termination date (such deadline, the "Release Deadline"). If the Release does not become effective and irrevocable by the Release Deadline, Employee will forfeit any rights to severance payments and benefits under this Agreement. In no event will severance payments or benefits be paid or provided until the Release becomes effective and irrevocable.

(i) In the event the termination occurs at a time during the calendar year where the Release could become effective in the calendar year following the calendar year in which Employee's termination occurs (whether or not it actually becomes effective in the following year), then any severance payments and benefits under this Agreement that would be considered Deferred Payments (as defined in below) will be paid on the first payroll date to occur during the calendar year following the calendar year in which such termination occurs, or, if later, (A) the date the Release actually becomes effective, (B) such time as required by the payment schedule applicable to each payment or benefit as set forth in Section 2 above or (C) such time as required by Section 8 below.

(ii) No severance payments and benefits under this Agreement will be paid or provided until the Release becomes effective and irrevocable, and any such severance payments and benefits otherwise payable between Employee's termination date and the date the Release becomes effective and irrevocable will be paid on the date the Release becomes effective and irrevocable. In the event of Employee's death before all of the severance payments and benefits under this Agreement have been paid, such unpaid amounts will be paid in a lump sum payment promptly following such event to Employee's designated beneficiary, if living, or otherwise to the personal representative of Employee's estate; and

(c) in the event of a resignation for Good Reason, providing the Company with written notice of the acts or omissions constituting the grounds for Good Reason within ninety (90) days of the initial existence of the grounds for Good Reason and a reasonable opportunity for the Company to cure the conditions giving rise to such Good Reason, which shall not be less than thirty (30) days following the date of notice from Employee. If the Company cures the conditions giving rise to such Good Reason within thirty (30) days of the date of such notice, Employee will not be entitled to severance payments and/or benefits contemplated by Sections 2 or 3 above if Employee thereafter resigns from the Company based on such grounds. Unless otherwise required by law, no severance payments and/or benefits under Sections 2 or 3 will be paid and/or provided until after the expiration of any relevant revocation period.

6. Definitions. For purposes of this Agreement,

(a) *Cause*. For purposes of this Agreement, “Cause” shall mean (i) Employee’s continued failure to substantially perform the duties and obligations of Employee’s position (for reasons other than death or Disability (as defined below)), which failure, if curable within the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice from the Company of such failure; (ii) Employee’s failure or refusal to comply with reasonable written policies, standards and regulations established by the Company from time to time which failure, if curable in the discretion of the Company, is not cured to the reasonable satisfaction of the Company within thirty (30) days after receipt of written notice of such failure from the Company; (iii) any act of personal dishonesty, fraud, embezzlement, misrepresentation, or other unlawful act committed by Employee that results in a substantial gain or personal enrichment of Employee at the expense of the Company; (iv) Employee’s violation of a federal or state law or regulation applicable to the Company’s business, which violation was or is reasonably likely to be materially injurious to the Company; (v) Employee’s violation of, or a plea of nolo contendere or guilty to, a felony under the laws of the United States or any state; or (vi) the Employee’s material breach of the terms of Section 4 of this Agreement or of the Confidentiality Agreement.

(b) *Change in Control*. For purposes of this Agreement, “Change in Control” shall mean the occurrence of any of the following events:

(i) Change in Ownership of the Company. A change in the ownership of the Company which occurs on the date that any one person, or more than one person acting as a group (“Person”), acquires ownership of the stock of the Company that, together with the stock held by such Person, constitutes more than 50% of the total voting power of the stock of the Company, except that any change in the ownership of the stock of the Company as a result of a private financing of the Company that is approved by the Board will not be considered a Change in Control; or

(ii) Change in Effective Control of the Company. If the Company has a class of securities registered pursuant to Section 12 of the Exchange Act, a change in the effective control of the Company which occurs on the date that a majority of members of the Board is replaced during any twelve (12) month period by directors whose appointment or election is not endorsed by a majority of the members of the Board prior to the date of the appointment or election. For purposes of this clause (ii), if any Person is considered to be in effective control of the Company, the acquisition of additional control of the Company by the same Person will not be considered a Change in Control; or

(iii) Change in Ownership of a Substantial Portion of the Company's Assets. A change in the ownership of a substantial portion of the Company's assets which occurs on the date that any Person acquires (or has acquired during the twelve (12) month period ending on the date of the most recent acquisition by such person or persons) assets from the Company that have a total gross fair market value equal to or more than 50% of the total gross fair market value of all of the assets of the Company immediately prior to such acquisition or acquisitions. For purposes of this subsection (iii), gross fair market value means the value of the assets of the Company, or the value of the assets being disposed of, determined without regard to any liabilities associated with such assets.

For these purposes, persons will be considered to be acting as a group if they are owners of a corporation that enters into a merger, consolidation, purchase or acquisition of stock, or similar business transaction with the Company.

Notwithstanding the foregoing provisions of this definition, a transaction will not be deemed a Change in Control unless the transaction qualifies as a change in control event within the meaning of Section 409A.

Further and for the avoidance of doubt, a transaction will not constitute a Change in Control if: (i) its sole purpose is to change the state of the Company's incorporation, or (ii) its sole purpose is to create a holding company that will be owned in substantially the same proportions by the persons who held the Company's securities immediately before such transaction.

(c) *Disability*. For purposes of this Agreement, "Disability" shall mean the inability of Employee to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(d) *Good Reason*. For purposes of this Agreement, "Good Reason" shall mean, without Employee's written consent: (i) there is a material reduction of the level of Employee's base compensation (except where there is a general reduction applicable to the management team generally); (ii) there is a material reduction in Employee's overall responsibilities or authority, or scope of duties, provided, however, that a reduction in responsibilities, authority or duties solely by virtue of the Company being acquired and made part of a larger entity (as, for example, when the Chief Executive Officer of the Company remains as such following a Change of Control but is not made the Chief Executive Officer of the acquiring corporation) will not constitute "Good Reason"; or (iii) a material change in the geographic location at which Employee must perform his services; provided, that in no instance will the relocation of Employee to a facility or a location of fifty (50) miles or less from Employee's then current office location be deemed material for purposes of this Agreement. In no instance will a resignation by Employee be deemed to be for Good Reason if it is made more than twenty four (24) months following the initial occurrence of any of the events that otherwise would constitute Good Reason hereunder.

(e) The Board shall make all determinations relating to termination, including without limitation any determination regarding Cause.

7. Tax Treatment. The Company makes no representations or warranties with respect to the tax consequences of the payment of any sums to Employee under the terms of this Agreement. Employee agrees and understands that, with the exception of the withholdings from the severance payments, Employee is responsible for payment of any local, state and/or federal taxes on the sums paid hereunder by the Company and any penalties or assessments thereon. Employee further agrees to indemnify and hold the Company harmless from any claims, demands, deficiencies, penalties, assessments, executions, judgments, or recoveries by any government agency against the Company for any amounts claimed due on account of Employee's failure to pay federal or state taxes or damages sustained by the Company by reason of any such claims, including reasonable attorney fees.

8. Section 409A.

(a) Notwithstanding anything to the contrary in this Agreement, no severance payments or benefits payable to Employee, if any, pursuant to this Agreement that, when considered together with any other severance payments or separation benefits, is considered deferred compensation under Internal Revenue Code Section 409A (together, the "Deferred Payments") will be payable until Employee has a "separation from service" within the meaning of Section 409A ("Section 409A") of the Internal Revenue Code of 1986, as amended (the "Code"). Similarly, no severance payable to Employee, if any, pursuant to this Agreement that otherwise would be exempt from Section 409A pursuant to Treasury Regulation Section 1.409A-1(b)(9) will be payable until Employee has a "separation from service" within the meaning of Section 409A.

(b) Further, if Employee is a "specified employee" within the meaning of Section 409A at the time of Employee's separation from service (other than due to death), any Deferred Payments that otherwise are payable within the first six (6) months following Employee's separation from service will become payable on the first payroll date that occurs on or after the date six (6) months and one (1) day following the date of Employee's separation from service. All subsequent Deferred Payments, if any, will be payable in accordance with the payment schedule applicable to each payment or benefit. Notwithstanding anything herein to the contrary, in the event of Employee's death following Employee's separation from service but prior to the six (6) month anniversary of Employee's separation from service (or any later delay date), then any payments delayed in accordance with this paragraph will be payable in a lump sum as soon as administratively practicable after the date of Employee's death and all other Deferred Payments will be payable in accordance with the payment schedule applicable to each payment or benefit. Each payment and benefit payable under the Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

(c) Any severance payment that satisfies the requirements of the “short-term deferral” rule set forth in Section 1.409A-1(b)(4) of the Treasury Regulations shall not constitute Deferred Payments for purposes of the Agreement. Any severance payment that qualifies as a payment made as a result of an involuntary separation from service pursuant to Section 1.409A-1(b)(9)(iii) of the Treasury Regulations that does not exceed the Section 409A Limit shall not constitute Deferred Payments for purposes of the Agreement. For purposes of this subsection (c), “Section 409A Limit” will mean the lesser of two (2) times: (i) Employee’s annualized compensation based upon the annual rate of pay paid to Employee during Employee’s taxable year preceding Employee’s taxable year of Employee’s separation from service as determined under Treasury Regulation Section 1.409A-1(b)(9)(iii)(A)(1) and any Internal Revenue Service guidance issued with respect thereto; or (ii) the maximum amount that may be taken into account under a qualified plan pursuant to Section 401(a)(17) of the Code for the year in which Employee’s employment is terminated.

(d) The foregoing provisions are intended to comply with the requirements of Section 409A so that none of the severance payments and benefits to be provided under the Agreement will be subject to the additional tax imposed under Section 409A, and any ambiguities herein will be interpreted to so comply. Employee and the Company agree to work together in good faith to consider amendments to the Agreement and to take such reasonable actions which are necessary, appropriate or desirable to avoid imposition of any additional tax or income recognition prior to actual payment to Employee under Section 409A.

9. Limitation on Payments. In the event that the severance and other benefits provided for in this Agreement or otherwise payable to Employee (i) constitute “parachute payments” within the meaning of Section 280G of the Code, and (ii) would be subject to the excise tax imposed by Section 4999 of the Code (the “Excise Tax”), then Employee’s benefits under this Agreement shall be either

(a) delivered in full, or

(b) delivered as to such lesser extent which would result in no portion of such benefits being subject to the Excise Tax, whichever of the foregoing amounts, taking into account the applicable federal, state and local income taxes and the Excise Tax, results in the receipt by Employee on an after-tax basis, of the greatest amount of benefits, notwithstanding that all or some portion of such benefits may be taxable under Section 4999 of the Code. If a reduction in severance and other benefits constituting “parachute payments” is necessary so that benefits are delivered to a lesser extent, reduction will occur in the following order: reduction of cash payments, cancellation of equity awards granted within the twelve (12) month period prior to a “change in control” (as determined under Code Section 280G) that are deemed to have been granted contingent upon the change in control (as determined under Code Section 280G), cancellation of accelerated vesting of equity awards, reduction of employee benefits.

Unless the Company and Employee otherwise agree in writing, any determination required under this Section shall be made in writing by the Company’s independent public accountants (the “Accountants”), whose determination shall be conclusive and binding upon Employee and the Company for all purposes. For purposes of making the calculations required by this Section, the Accountants may make reasonable assumptions and approximations concerning applicable taxes and may rely on reasonable, good faith interpretations concerning the application of Section 280G and 4999 of the Code. The Company and Employee shall furnish to the Accountants such information and documents as the Accountants may reasonably request in order to make a determination under this Section. The Company shall bear all costs the Accountants may reasonably incur in connection with any calculations contemplated by this Section.

10. Confidential Information. Employee shall continue to comply with the terms and conditions of the Confidentiality Agreement, and maintain the confidentiality of all of the Company's confidential and proprietary information. Such information includes, but is not limited to, all customer lists, equipment, records, data, notes, reports, proposals, correspondence, specifications, drawings, blueprints, sketches, materials, or other documents or property belonging to the Company.

11. Miscellaneous.

(a) Withholding Taxes. The Company may withhold from all benefits payable under this Agreement all federal, state, city or other taxes as shall be required pursuant to any law or governmental regulation or ruling.

(b) Entire Agreement; Binding Effect. This Agreement and the Confidentiality Agreement set forth the entire understanding between the Parties as to the subject matter of this Agreement and supersede all prior agreements, commitments, representations, writings and discussions between them, including the Prior Agreement; and neither of the Parties shall be bound by any obligations, conditions, warranties or representations with respect to the subject matter of this Agreement, except as expressly provided herein or therein or as duly set forth on or subsequent to the date hereof in a written instrument signed by the proper and fully authorized representative of the party to be bound hereby. This Agreement is binding on Employee and on the Company and his/her and its successors and assigns (whether by assignment, by operation of law or otherwise).

(c) Arbitration. The Parties agree that, unless otherwise agreed to in a writing signed by the Employee and the Chairman of the Board of Directors of the Company, any and all disputes arising out of, or relating to, the terms of this Agreement, their interpretation, and any of the matters herein released, shall be subject to binding arbitration in Travis County, Texas before the American Arbitration Association under its National Rules for the Resolution of Employment Disputes. The Parties agree that the prevailing party in any arbitration shall be entitled to injunctive relief in any court of competent jurisdiction to enforce the arbitration award. The Parties agree that the prevailing party in any arbitration shall be awarded its reasonable attorney fees and costs. **The Parties hereby agree to waive their right to have any dispute between them resolved in a court of law by a judge or jury.** This section will not prevent either party from seeking injunctive relief (or any other provisional remedy) from any court having jurisdiction over the Parties and the subject matter of their dispute relating to Employee's obligations under this Agreement and the agreements incorporated herein by reference.

(d) Governing Law; Jurisdiction. This Agreement shall be governed by, and construed and enforced in accordance with, the employment laws of Texas and the other laws of the State of Texas as they apply to contracts entered into and wholly to be performed therein by residents thereof. In addition, each party hereto irrevocably and unconditionally agrees that any suit, action or other legal proceeding arising out of this Agreement may be brought only in a state or federal court within Texas.

(e) Severability. In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

(f) Effect of Headings. The Section and subsection headings contained herein are for convenience only and shall not affect the construction hereof.

(g) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute but one instrument.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth below.

Employee

Active Power, Inc.

Signature

By: James Clishem,
Chief Executive Officer

(Print Name)

Dated: _____

Dated: _____

SIGNATURE PAGE TO SEVERANCE BENEFITS AGREEMENT
ACTIVE POWER, INC.

CERTIFICATIONS

I, James A. Clishem, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Active Power, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 27, 2010

/s/ James A. Clishem

James A. Clishem
President and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATIONS

I, John K. Penver, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Active Power, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: April 27, 2010

/s/ John K. Penver

John K. Penver
Vice President of Finance, Chief Financial
Officer and Secretary
(Principal Financial and Accounting Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Active Power, Inc. (the "Company") for the period ending March 31, 2010, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, James A. Clishem, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ James A. Clishem

James A. Clishem
President and Chief Executive Officer
April 27, 2010

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO SECTION 906
OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report on Form 10-Q of Active Power, Inc. (the "Company") for the period ending March 31, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, John K. Penver, Vice President of Finance, Chief Financial Officer and Secretary of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d), as applicable, of the Securities Exchange Act of 1934, as amended; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

A signed original of this written statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff upon request.

/s/ John K. Penver

John K. Penver
Vice President of Finance, Chief Financial
Officer and Secretary
April 27, 2010