ATTACHMENT A

Business Partners Commercial Lighting Program
Participation Agreement

(This Agreement Expires December 30, 2011)

The **New York Energy $mart**[SM] Business Partners Commercial Lighting Program ("Program") promotes effective, energy-efficient lighting solutions for commercial spaces. The Program provides lighting professionals with tools and resources to leverage the principals of effective, energy-efficient lighting design as a profitable business strategy.

REQUIREMENTS FOR PARTICIPATION AND RECEIPT OF INCENTIVES AND AWARDS ARE FULLY DESCRIBED IN PROCUREMENT OPPORTUNITY NOTICE ("PON" 1059) AND SHOULD BE REVIEWED PRIOR TO EXECUTING THIS AGREEMENT.

_____ ("Business Partner") agrees to Participate with the New York State Energy Research and Development Authority ("NYSERDA") in the Program. Business Partner agrees to support the Program by promoting effective, energy-efficient lighting as an easy and desirable approach for organizations to improve their lighting environment and save energy resources. Business Partner has participated in Program training and has read the Program materials, including PON 1059, and agrees to abide by the requirements of the Program. The terms of the PON, this Participation Agreement, including its Terms and Conditions, collectively shall be referred to as the "Agreement."

☐ Our Company already has a Participation Number ☐ Our Company does not have a Participation Number

This Agreement is completely voluntary and can be terminated at any time for any reason by NYSERDA or the Business Partner.

Pursuant to the Program, NYSERDA offers to the Business Partner:

- **Training** to identify techniques that increase sales of efficient lighting systems.
- **Design tools.**
- **Promotional materials** such as Program literature.
- **Technical assistance** including phone support and limited on-site assistance.
- **Publicity** through the Program Website and case studies.

Pursuant to PON 1059, NYSERDA will pay Incentives and Awards to Business Partner for Projects and other activities, which may include the following:

- **Cash Incentives** for the design or installation of eligible Projects.
- **Quarterly Competition Awards.**
- **Cash Incentives** for employees who complete the National Council on Qualifications for the Lighting Professions (NCQLP) Lighting Certification (LC) Exam.
- **Cash Incentives** for web promotion and marketing materials for **Business Partner** identifying their business with the Program.

(Note: Cash incentives and awards under the Program may be taxable. Consult your tax advisor)

Business Partner agrees to promote the use of effective, energy-efficient lighting products and promote effective lighting designs to commercial customers. Business Partner further agrees to abide by the terms of the Agreement. Throughout its efforts, Business Partner also agrees to the following:

- **Accurately Representing the New York Energy $mart^{SM} Business Partners Commercial Lighting Program** and Business Partner's relationship to NYSERDA.
- **Submit at least one Commercial Lighting Program Project Application within six months of signing this Participation Agreement**. This requirement must be met to maintain Business Partner status, to be listed on the Website, and to receive Program incentives.

NYSERDA may revoke the status of the Business Partner if it does not meet all Program requirements or **employ at least one Program-trained individual**.

Type of Business Partner (see Section II: Program Requirements of PON 1059):

__ Electrical Contractor
__ ESCO
__ Distributor
__ Designer (including architects and engineers),
__ Interior Designer
__ Other Lighting Practitioner (e.g., Manufacturer or Manufacturer Rep)

Accepted and Agreed to:

Business Partner **(Organization Name):** _____

Signature: _____ Date: _____

Print Name: _____ Location: _____

Title: _____ Fed. Tax ID # _____

Email Address _____

Signature: _____ Business Partner ID #_____
NYSERDA Signature (assigned by the Program)

1. Incentive and Award Payments
NYSERDA shall pay the Incentives and Awards in accordance with and subject to the provisions of NYSERDA's Prompt Payment Policy after the Program Administrator has verified satisfactory conformance with Program requirements. The Prompt Payment Policy is available on NYSERDA's website at www.nyserda.org/Funding/stdforms.asp.

2. Return of Incentive and Award Amounts
Business Partner agrees to return an Incentive or Award if, at any time, the Program Administrator learns that the Project as described in the Application was not completed in compliance with this Agreement.

3. Limited Scope of Review
The scope of review by NYSERDA and its Program Administrator of the eligible Projects is limited solely to determining whether Program conditions have been met for NYSERDA's Program purposes. It does not include any kind of safety, code or other review and the Business Partner shall not be entitled to rely upon NYSERDA's or its Program Administrator's review of the design and installation of the measures for any reason whatsoever.

4. Changes
(a) Aspects of the Program may be changed by NYSERDA at any time without notice. Approved Applications, however, will be processed to completion under the terms in effect at the time of the approval of the Application by the Program Administrator.
(b) NYSERDA reserves the right, for any reason, to stop accepting Incentive and Award Applications at any time without notice.

5. Indemnification
The Business Partner shall protect, indemnify, and hold harmless NYSERDA and the State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorney's fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to the performance of this Agreement. The obligations of the Business Partner under this section shall survive any expiration or termination of this Agreement.

6. No Warranties
(a) NYSERDA does not endorse, guarantee, or warrant any particular manufacturer or product, and NYSERDA provides no warranties, expressed or implied, for any product or services. The Business Partner reliance upon warranties is limited to any warranties that may arise from, or be provided by, other Program participants, installation contractors, vendors, etc.
(b) The Business Partner acknowledges that neither NYSERDA nor the Program Administrator are responsible for assuring that the design, engineering and installation of lighting equipment are proper or comply with any particular laws (including patent laws), codes, or industry standards. NYSERDA does not make any representations of any kind regarding the results to be achieved by the lighting project or the adequacy or safety of the lighting project.

7. Tax Liability
NYSERDA or the Program Administrator will not be responsible for any tax liability imposed on the Business Partner as a result of the payment of cash Incentives or Awards.

8. Miscellaneous
(a) This Agreement is the entire agreement between the parties and supersedes all other communications and representations.
(b) NYSERDA may exercise any or all of the rights of the Program Administrator, with or without notice, at any time at its election.
(c) The Program Administrator is not an agent of NYSERDA and is administering the Program as an independent contractor.
(d) Business Partners may be asked to cooperate with NYSERDA evaluation contractors in support of evaluation efforts.

9. Insurance
The Business Partner shall maintain general liability insurance coverage of at least $1 million.