



**Proposals Due: February 18, 2015 by 5:00 PM Eastern Time \*, Round 1  
August 5, 2015 by 5:00 PM Eastern Time \*, Round 2**

**All, or none of the available funds could be awarded in either round**

The New York State Energy Research and Development Authority (NYSERDA) announces the availability of up to \$10 million in funds to support research and engineering studies, product development and demonstration projects that improve the resiliency, reliability, efficiency, quality, and overall performance of the electric power delivery system in New York State. Proposals must demonstrate significant statewide public benefit and quantify all energy, environmental and economic impacts. The primary objective of the program is to promote the development of a smart grid that accommodates a diverse supply of generation resources, enhances overall grid performance and enables customers to reduce costs, energy consumption, and environmental impacts.

Examples of preferred technologies include, but are not limited to, the following:

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| <ul style="list-style-type: none"> <li><b>Advanced Monitoring, Measurement and Controls</b></li> <li><b>Transmission &amp; Distribution Automation / Management</b></li> <li><b>Advanced Cabling / Conductors</b></li> <li><b>Distributed Energy Interconnections / Micro-Grids</b></li> <li><b>Innovative Data Analytics</b></li> </ul> | <ul style="list-style-type: none"> <li><b>Grid Scale / Tied Energy Storage</b></li> <li><b>Renewable / Distributed Energy Integration</b></li> <li><b>Advanced System Modeling / Applications</b></li> <li><b>Advanced Sensors / Devices / Systems</b></li> <li><b>Innovative Demand Response Integration</b></li> </ul> |
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NYSERDA is accepting proposals in the following categories:

Category	Total Project Cost Share
Category A: Research Studies	25%
Category B: Engineering Studies	25%
Category C: Product Development	50%
Category D: Demonstration Projects	50%

**Note: This solicitation does not include a per project funding limit. Awards may be unevenly distributed among categories based upon proposal evaluation, portfolio balance, and available funds.**

**Proposal Submission:** Electronic submission is preferable. NYSERDA will also accept proposals by mail or hand-delivery. If submitting electronically, proposers must submit the proposal in either PDF or MS Word format with a completed and signed Proposal Checklist and Disclosure of Prior Findings of Non-Responsibility, in PDF format. Proposal PDFs should be searchable and should be created by direct conversion from MS Word, or other conversion utility, rather than scanning. For ease of identification, all electronic files must be named using the proposer’s entity name in the title of the document. Proposals may be submitted electronically by following the link for electronic submissions found on this PON’s webpage, which is located in the “Current Opportunities” section of NYSERDA’s website (<http://www.nyserdera.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>). Instructions for submitting electronically are located in that section as Attachment G to this PON.

If mailing or hand-delivering, proposers must submit (2) paper copies of their proposal with a completed and signed Proposal Checklist, along with a CD or DVD containing both a PDF or MS Word digital copy of the proposal, following the above guidelines. Mailed or hand-delivered proposals must be clearly labeled and submitted to: Roseanne Viscusi, PON 3026, NYS Energy Research and Development Authority, 17 Columbia Circle, Albany, NY 12203-6399. Programmatic questions should be directed to John Love, 518-862-1090 ext: 3317 ([john.love@nyserdera.ny.gov](mailto:john.love@nyserdera.ny.gov)), or Michael Razanousky, 518-862-1090 ext: 3245 ([michael.razanousky@nyserdera.ny.gov](mailto:michael.razanousky@nyserdera.ny.gov)). Contractual questions should be directed to Nancy Marucci, (518) 862-1090 ext: 3335 ([nancy.marucci@nyserdera.ny.gov](mailto:nancy.marucci@nyserdera.ny.gov)).

No communication intended to influence this procurement is permitted except by contacting Michael Razanousky, (518) 862-1090 ext: 3245. Contacting anyone other than this Designated Contact (either directly by the proposer or indirectly through a lobbyist or other person acting on the proposer’s behalf) in an attempt to influence the procurement: (1) may result in a proposer being deemed a non-responsible offerer, and (2) may result in the proposer not being awarded a contract.

\* Late proposals or proposals lacking the appropriate completed and signed Proposal Checklist will be returned. Faxed or emailed proposals will not be accepted. Proposals will not be accepted at any other NYSERDA location other than the address above. Prior to preparing proposal for future rounds, proposer should contact NYSERDA regarding changes to solicitation. If changes are made to this solicitation, email notification will be sent to original distribution group as well as posted on NYSERDA’s web site: [www.nyserdera.ny.gov](http://www.nyserdera.ny.gov) and in the Contract Reporter.

## ***I. INTRODUCTION***

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This Electric Power Transmission and Distribution Smart Grid Program solicitation is issued for specific technology areas including, but not limited to: energy storage; transmission and distribution automation and management; renewable energy integration; advanced monitoring and controls; distributed energy resource integration; microgrids; advanced sensors, devices and systems, advanced cabling and conductors, and advanced system modeling and applications. Activities include demonstration projects, product development and studies that improve grid resiliency, reliability, efficiency, quality, and performance as the delivery network accommodates clean energy technologies such as renewable power generation, electric vehicles, and efficient distributed generation systems. Projects that promote smart grid technologies, components and/or systems both within and outside of the six NY regulated electric service territories (Consolidated Edison, Orange and Rockland, New York State Electric and Gas, Rochester Gas and Electric, Central Hudson Gas and Electric, and National Grid) and meet the Program Requirements are eligible for funding under this solicitation. The program strives to coordinate its activities with the Reforming the Energy Vision initiative being pursued in New York State. **All projects must demonstrate broad public benefit.**

Proposals will be evaluated in select categories and scored on criteria listed in this solicitation. All of the proposals will be reviewed by a technical evaluation panel (TEP) consisting of both internal NYSERDA staff and outside technical experts. All proposals will be evaluated according to the quality and level of detail provided and must include substantive documentation addressing all evaluation criteria items.

## ***II. PROJECT CATEGORIES***

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This solicitation includes four project categories. **The proposer must indicate under which category they are proposing.** Proposers should give careful consideration to which category they choose to propose under, as inappropriate choices negatively affect project selection results. Proposers are encouraged to contact NYSERDA (see cover page for instructions) with technical questions to promote complete understanding of the project categories as described below:

### **Category A: Research Studies (Proposer total project cost share at or above 25%.)**

- Research aimed at exploring new policy, business models, regulatory planning and cost recovery models, advanced concepts, innovative product and/or technology development. Studies that will reduce barriers to the deployment of advanced technologies that improve the resiliency, reliability, quality and efficiency of the electrical power delivery system.

### **Category B: Engineering Studies (Proposer total project cost share at or above 25%.)**

- Engineering studies that assess the feasibility, design and effectiveness of demonstrating new or under-utilized technologies at a New York site. Studies are expected to ultimately lead to a project proposal under Category D: Demonstration Projects and are intended to support project development activity such as detailed design, site assessment, economic analysis, interconnection and permitting issues associated with potential demonstration projects that improve the resiliency, reliability, quality and efficiency of the electric power delivery system.

### **Category C: New Product Development (Proposer total project cost share at or above 50%.)**

- Development and commercialization of products for improving the resiliency, reliability, quality and efficiency of the electrical power delivery system. Note that bench-scale testing and field verification or testing may be included in Category C projects. Technical and economic feasibility of the technology should have been demonstrated prior to submitting a Category C proposal. If they haven't, consider proposing in Category A.

**Category D: Demonstration Projects (Proposer total project cost share at or above 50%.)**

- Demonstrations of new or under-utilized technologies that are past the technology readiness level 3 or above stage. Projects in this category **should not** include technology or product development tasks. If technology or product development tasks are necessary, consider proposing in Category C. Projects in Category D should demonstrate innovative new or under-utilized products or technologies in pioneering applications. Proposals in this category should clearly identify how this project will bring the product or technology closer to commercial realization and how such demonstration will lead to increased use of the technology in New York State. Proposers must clearly identify whether the demonstration project will support either transmission or local distribution operations.

**NOTE: NYSERDA reserves the right to negotiate scope of work, budget and funding levels on all awarded projects.**

### ***III. ELIGIBLE TECHNOLOGIES***

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Technologies eligible under this solicitation include innovative and under-utilized smart grid and other electric power delivery technologies that improve the resiliency, reliability, performance and efficiency. Potential technologies include, but are not limited to:

- (1) Transmission and distribution advanced monitoring and control systems and subsystems;
- (2) Innovative grid scale energy storage technologies including, but not limited to, stationary batteries, flywheels, ultra-capacitors, flow batteries, compression systems and superconducting magnetic energy storage;
- (3) Transmission and distribution automation and management systems and subsystems;
- (4) Processes, systems and technologies, such as micro-grids, that promote integration of renewable or distributed energy resources and electric energy storage technologies into the distribution system;
- (5) Innovative monitoring and control systems related to power delivery, such as remote or on-site monitoring and diagnostic systems, intelligent remote or on-site control systems to provide command and communication with power delivery systems equipment, or control systems;
- (6) Equipment that enhances reliability, efficiency, optimization, or enables integration of renewable power generation or storage technologies;
- (7) Advanced sensors, devices, control systems and other equipment innovations that improve transmission and distribution system performance and reliability;
- (8) Distributed and renewable energy integration and interconnection systems and subsystems;
- (9) Advanced systems modeling and applications, such as data processing, visualization, diagnostics and analytic technologies; and
- (10) Advanced conductor and cabling technologies to improve throughput and reduce losses.

### ***IV. PROGRAM REQUIREMENTS***

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Projects selected for funding must:

- (1) Address an innovative electric power delivery technology that improves performance, power quality, resiliency, or reliability.

- (2) Provide direct and quantifiable energy, environmental, and economic benefits to New York State such as emissions reductions (such as greenhouse gases and criteria air pollutants), job creation, product manufacturing and sales, increased resiliency and reliability, higher efficiency, and reduced electric costs.
- (3) Include a project budget using the attached Contract Pricing Proposal Form (CPPF) showing total project cost and proposer cost-share. Include a cost-sharing breakdown by project task in the Statement of Work.
- (4) Provide for the sharing of project success by agreeing to pay recoupment, where required, to NYSERDA for any new technology or product development project requesting NYSERDA funding over \$100,000 upon product commercialization, if applicable (see terms and conditions in Attachment F, Sample Agreement).
- (5) Demonstrate that the proposer and/or team of proposers are qualified to carry out the submitted project proposal.
- (6) Provide a strong rationale as to how the project will overcome barriers impeding the implementation or adoption of any new or under-utilized technology.
- (7) For projects that develop technologies or products, emphasize development and/or application of marketable products for near-term commercialization, rather than basic research, and provide a preliminary commercialization and marketing strategy, and discuss the potential for manufacturing in New York State.
- (8) For demonstration projects, clearly identify how this project will bring the product closer to commercial readiness and how such demonstration will lead to increased use of the product in New York State. Demonstration projects must be installed within New York State.
- (9) Provide a letter of support and commitment from all funding sources and entities responsible for managing, operating and maintaining all electric delivery infrastructure impacted by project.
- (10) Demonstrate that the project and funding request addresses a current challenge to technology evolution that is not being addressed adequately by current industry practices and/or federal and/or other state research priorities and funding. Include a cost and New York statewide public benefit analysis to justify allocation of funds.

#### **Other Considerations**

- A proposal may be considered non-responsive if it fails to comply with the requirements of this solicitation.
- Prior to an award being made, potential contractors may be required to demonstrate: access to financial resources sufficient to perform the proposed work, technical experience and adequate facilities (or the ability to access them), a good performance record, and the ability to qualify for an award under applicable laws and regulations.
- Preference will be given to proposers that provide higher cash contributions towards project costs.
- External funding partnerships are encouraged to leverage limited New York State resources. Proposers are encouraged to develop projects that leverage funding with external resources partners such as other research and development organizations.

## **V. ADDITIONAL PROGRAM REQUIREMENTS FOR CATEGORY D DEMONSTRATION PROJECTS ONLY**

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Category D projects selected for funding **must**:

- (1) Have a **New York State demonstration site**.
- (2) Be installed within 36 months of contract award.
- (3) Address safety issues, including public safety, that are applicable to the demonstration project.
- (4) Comply with all applicable building, fire, electrical, and interconnection codes, standards, and requirements.
- (5) Provide equipment sensors, instrumentation, and a complete data acquisition system for remote monitoring and reporting as specified below.
- (6) Demonstrate the technology viability and monitor the performance, characteristics, and benefits for a period adequate to meet project goals. If the period is under 18 months, the proposer must discuss why the proposed time is adequate. Unless the proposer demonstrates a compelling reason otherwise, at least 365 operating days of data will be required after commissioning.
- (7) Present an economic analysis of the proposed technology demonstration including an estimated cost/benefit ratio, and a plan to measure the actual cost/benefit ratio during the demonstration.

### **Data Acquisition Requirements for Category D Demonstration Projects Only**

It is the intent of NYSERDA to provide system level operation and performance information, including economic performance information, to the general public on each of the demonstration projects funded under this solicitation. In order to meet this objective, each demonstration project must provide sufficient instrumentation and data transmittal, and analytical capabilities to allow the collection and analysis of technical and economic performance data.

The demonstration project proposal should include system operating data to be used for evaluation and generation of reports on the overall performance of the technology being demonstrated. Data acquisition sampling rates must be adequate to characterize the benefits and the value proposition of the proposed application. For example, sampling rates for applications designed to enhance power quality or system stability would be much higher than sampling rates for peak shaving or arbitrage applications. In the event that the demonstration system performs multiple activities, the system must provide for the collection of data for all activities. All raw and summary data collected at the project sites must be archived and protected from loss on permanent media.

### **Benefits Data Tracking and Reporting for Category D Demonstration Projects Only**

Data sufficient to demonstrate the economic benefits defined in the proposal must be measured, collected, analyzed, and recorded. For applications that claim multiple benefits, the proposed data and analysis scheme must adequately support the claimed benefit for each of the benefits specified in the proposal.

### **Reporting Requirements for Category D Demonstration Projects Only**

The proposal must identify the project team member who will be responsible for the preparation and delivery of periodic written project reports. System operational summary information must be generated regularly and be included in progress reports. At a minimum, the system operational summary information must include the following:

- Raw data.
- System performance summary.
- Summary of system reliability and failure rates.
- A written summary of the economic benefit derived for the time period.
- A written summary of all operations and maintenance activities for the time period.
- System dispatch information and use patterns associated with the project, as appropriate.
- Energy consumption breakdown of parasitic loads introduced by the demonstration system, as appropriate.
- System performance under typical utility fault conditions, e.g. lightning strikes, primary phase to ground faults, voltage sags/spikes, electric outages, etc., as appropriate.

- System performance under user fault conditions, e.g. fault in customer plant, as appropriate.

Reports must be generated that consolidate all the information from the reports and summarize demonstration system performance for the preceding year.

#### Historical Performance Data Reporting for **Category D Demonstration Projects Only**

Where appropriate to document project benefits, historical utility system operational data prior to the installation of the demonstration system is required in order to provide credible baseline data on electrical system performance before and after the installation of the demonstration system. Information concerning load profiles, peaks, overloads, faults, power quality events, and any other information required to fully characterize the operation of the electrical utility at the demonstration site prior to installation of the demonstration system must be collected by the proposer for a reasonable period of time. Comparison information must be made part of the progress reports.

## ***VI. PROPOSAL REQUIREMENTS***

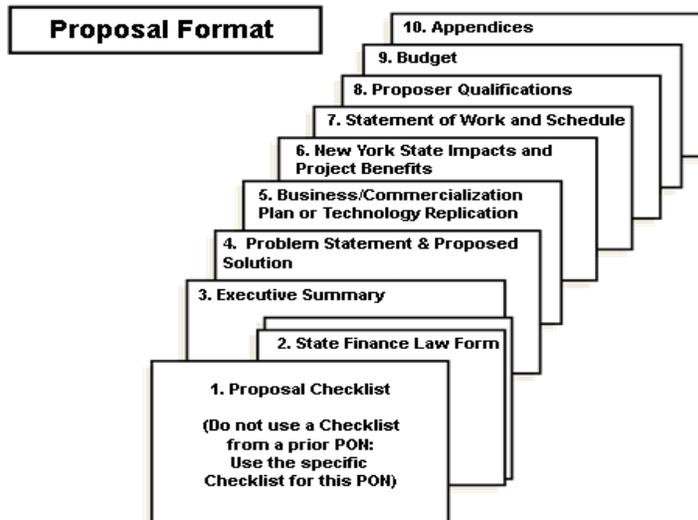
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Proposals should not be excessively long or submitted in an elaborate format that includes expensive binders or graphics - double-sided prints with a staple in the upper left corner is the preferred format. Unnecessary appendices beyond those sufficient to present a complete, comprehensive, and effective response will not influence the evaluation of the proposal. Each page of the proposal should state the name of the proposer, the PON number, and the page number. **The proposal must be in the following format and sequence listed below** (suggested page limits for each section are shown in parentheses following the section title).



**EXCEPT AS NOTED BELOW FOR CATEGORY C PRODUCT DEVELOPMENT PROPOSALS, ALL PROPOSALS MUST INCORPORATE THE FOLLOWING SECTIONS:**

**1. Proposal Checklist - Complete the specific Proposal Checklist attached as part of this PON, and include it as the front cover of the original and each copy of the proposal.** Please note the following:

1. Indicate whether you accept the standard terms and conditions as contained in the attached Sample Agreement. If you do not accept the standard terms and conditions, provide alternate terms with justification based on the risk and benefit to NYSERDA and New York State. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.
2. Be sure the individual who is signing the Proposal Checklist is authorized to commit the proposer's organization to the proposal as submitted.
3. Indicate to which category you are proposing on the proposal checklist. Each proposal will be considered for only one category of funding.

**2. Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k --** Procurement lobbying requirements contained in State Finance Law sections 139-j and 139-k became effective on January 1, 2006. (The laws are available at: <http://www.ogs.state.ny.us/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>). In compliance with §139-j and §139-k of the State Finance Law, for proposals submitted in response to this solicitation that could result in agreements with an annual estimated value in excess of \$15,000, additional forms must be completed and filed with proposals: (1) a signed copy of the Proposal Checklist including required certifications under the State Finance Law and (2) a completed Disclosure of Prior Findings of Non-Responsibility form. Failure to include a signed copy of the Proposal Checklist referenced in this solicitation will disqualify your proposal.

**3. Executive Summary** (two page maximum) – Briefly summarize the team members, the electric power delivery systems-related problem or opportunity, the proposed solution and its innovative characteristics, and potential energy, environmental, and economic benefits to New York State. Use the following Outline:

- A. Team Members
- B. Background
- C. Objective and Scope of Proposed Project
- D. Project Benefits

**4. Problem Statement and Proposed Solution** (two to four pages) – Describe the following:

1. The power systems-related problem or opportunity, and its significance to New York State.

2. The proposed solution and how it addresses the problem or opportunity and provides value to customers: the technical basis, innovative characteristics, and current market penetration in New York State.
3. How the proposed project addresses a current challenge or opportunity that is not being addressed adequately by current industry practices and/or federal and/or other state research priorities and funding.
4. The current state of the technology and the expected change in technology readiness level as a result of the project..
5. Cost, technical, and performance goals of the product or technology.
6. List of major tasks to be accomplished.
7. The expected benefits or economic value proposition to the end user or host site.
8. Duration of project and timing of major milestones.
9. Alternative solutions and why the proposed solution is superior.
10. Barriers to market entry and your ability to overcome them.
11. The monitoring strategy and how the data will be used to further the commercial application of the product or technology.
12. Any patents or licensing agreements associated with the product or system, where applicable.
13. The status of the earlier phase of a project if the proposal addresses a subsequent follow-on phase of a previously co-funded NYSERDA project.
14. If applicable, a brief description of additional phases, beyond the proposed work that will be necessary to fully achieve results.

**4A. Business/Commercialization Plan or Strategy (FOR CATEGORY C PRODUCT DEVELOPMENT PROPOSALS ONLY)**

(Two to three pages) – Describe how project results will be used to commercialize or deploy the new product or technology and indicate the parties involved in the process. Projects nearing commercialization should have a detailed commercialization plan, whereas an early-stage concept should be accompanied by a more detailed assessment outline of how the concept may ultimately be deployed. Cover the following topics:

- **Project Timeline:** Provide a multi-year timeline (e.g., graph) showing the paths, activities, milestones, resources, timing to take the technology from its current state of development to commercial product, and cost sharing in relation to total costs. Identify where you expect to be on this timeline by the end of the proposed effort.
- **Marketing and Sales:** Explain the customer’s economic motivation for buying the new product or technology, versus alternatives (i.e. the ‘value proposition’ to the customer). Identify target markets and their relevant characteristics (e.g., size, competition, regulatory and technological trends, etc.) Describe your proposed marketing strategies, explain why they should be successful, and provide sales estimates. Describe how you will reach your target market and distribute the product to your target market. Describe barriers to market entry and how you will overcome these barriers. Provide an estimate of the price of the product or system that eventually will be commercialized and provide a comparison of that price to competing products or systems.
- **Manufacturing Plan:** Provide a discussion of the commercialization path that is appropriate to the stage of development of the proposed technology. Discuss whether the strategy is for one of the team members to manufacture the product, identify a manufacturing partner, license the technology, or another strategy. Note that, even in early stage projects, initial projections of commercialization paths and challenges are essential to assessing benefits, risks, and future resource requirements. If the proposer plans on manufacturing the product, describe plans for setting up or expanding manufacturing facilities, and discuss any key issues such as: need for specialized production equipment or strategic alliances; critical make/buy decisions or cost/volume issues; and plans for ancillary activities such as service support functions. Indicate whether significant subsystems/components are manufactured in New York.
- **Finance:** Estimate funds required to go from the current stage of development to a financially self-sustaining level of commercialization. Include funding for R&D and initial marketing and manufacturing/deployment programs. Identify potential funding sources and how funding will be acquired. Identify any potential strategic partners who could reduce your costs by providing access to marketing/distribution channels, manufacturing facilities or other assets.
- **Organization Plan:** Describe staffing plans for transition from R&D stage to commercialization stage; include all organizational functions, such as management, administration, engineering, marketing/sales, and manufacturing.

- **Technology Transfer:** Describe any additional actions to promote the new technology, such as the presentation of technical papers.

**5. Technology Transfer and Repeatability** (two to three pages) – Describe the following:

- The target audience for the demonstrated technology that could benefit from the project results and may consider using the technology for other applications in New York State and nationally.
- The strategy for transferring project results to the target audience and causing replication or use of this technology in New York State and nationally.

**6. New York State Impact and Project Benefits** (one to two pages) – Outline benefits as follows:

- Quantify the following potential direct benefits to New York State to the extent possible:
  - Energy benefits (e.g., in New York State, percentage improvement in energy efficiency, reliability improvements, etc.)
  - Environmental benefits (e.g. pollutant emission reductions, elimination of hazardous materials, etc.)
  - Economic benefits (e.g., near-term jobs created, power generation equipment life-cycle cost reductions, etc.)
- Identify other tangible benefits (e.g., compliance with New York State or federal regulations, increased mobility, etc.)

**7. Statement of Work and Schedule** (two to four pages) The Statement of Work (SOW) is the primary contractual document that outlines work activities and quantifies deliverables. **Refer to Attachment C for a Statement of Work format and specific instructions regarding preparing the Statement of Work.**

The Statement of Work specifically delineates each step or procedure required to accomplish the project objectives. Therefore, each action shall be identified, indicating who will perform it, how it will be performed and its intended result. Be clear and specific: concentrate on how and not why. Use active voice sentence structure to make clear who is responsible for specific actions; for example, use the following phrase to start the description of every task and subtask: The Contractor shall ....

Schedule. Present a work schedule with a starting point and duration for each task and subtask. Presentation of the schedule in a bar chart is preferred starting with “Month 1”, Month 2”, etc. The schedule should include timing of major milestones such as design reviews, test result analyses, completion of working prototypes, delivery of products or services, and the start of metrics reporting to NYSERDA, showing progress toward project objectives and goals. Schedule for Category A and B projects preferred to be completed within 18 months, Category C and D projects preferred to be complete in 36 months.

If applicable, a brief description and anticipated duration of additional development or commercialization activities, beyond the proposed work, that will be necessary to fully achieve commercialization.

*(INCLUDE MILESTONE PAYMENTS FOR PROPOSALS ONLY)* Milestone Payments – Provide a list of deliverables associated with each task with proposed milestone payments assigned to major deliverables. The magnitude of the milestone payments should be based on the amount of effort required to reach the deliverable. Completion of final design, equipment delivery, commissioning, submission of data, and acceptance of final report are examples of typical milestones for projects.

**8. Proposer Qualifications** (two to three pages; include resumes and other material in appendices) – Identify:

- Proposing Organization(s) - Include a brief description of organization(s) involved in the proposing team, including major subcontractors. Include date founded, history, size, product portfolio, and location. Also include an explanation of why the proposed organization or team is the best qualified to perform/implement the project from a technical and business perspective. Identify any other organizational qualifications relevant to the proposed work. If applicable, include examples of previous successful commercialization projects and the current status of those successes. For demonstration projects, demonstrate an

understanding of New York State energy markets and interconnection requirements, and include information on the organization that will host the demonstration. (Note: Subcontracts of \$50,000 or more are subject to competitive bid procedures except where the proposal identifies a specific subcontractor as an integral participant in the proposed work; see Sample Agreement).

- Organizational Chart - Prepare an organizational chart listing all team members, including the project manager and any subcontractors and other sponsors involved in the project, showing their roles and responsibilities.
- Qualifications of Key Individuals – Identify key individuals that will be involved in the project and its success. Provide one- to two-paragraph summaries of relevant technical and business expertise of these individuals. Submit resumes (as appendices) of all key project team members. Include in the resumes, education and experience that are relevant to the proposed work.
- Previous Experience - Describe the proposing team's experience that is relevant to the proposed effort. List related projects that have been undertaken and successfully completed by the Proposer and/or subcontractors. List NYSERDA contracts awarded to the proposer, if any, in the past five years.

**9. Budget** – Include a project budget using the attached Contract Pricing Proposal Form (CPPF) showing a total of project costs and proposer cost-share. Phased projects should include a CPPF for each phase, as well as one for the total project.

Cost Sharing - The proposal should show non-NYSERDA funding of the total cost of the project. Cost sharing can be from the proposer, other team members, and other government or private sources. Contributions of direct labor (for which the laborer is paid as an employee) and purchased materials may be considered "cash" contributions. Unpaid labor, indirect labor, or other general overhead may be considered "in-kind" contributions. NYSERDA will not pay for efforts that have already been undertaken. The proposer or proposing team cannot claim as cost-share any expenses that have already been incurred. Complete the following table for **ALL PROPOSALS** (expand table as needed):

FUNDING SOURCE TABLE			
Funding Source	Project Total \$		
	Cash	In-Kind	Total (cash + in-kind)
NYSERDA	\$		\$
Proposer	\$	\$	\$
Co-Funder (identify)	\$	\$	\$
Co-Funder (identify)	\$	\$	\$
Total (\$)	\$	\$	\$

**Attach supporting documentation to support indirect cost (overhead) rate(s) included in your proposal as follows:**

1. Describe the basis for the rates proposed (i.e., based on prior period actual results; based on projections; based on federal government or other independently-approved rates).
2. If rate(s) is approved by an independent organization, such as the federal government, provide a copy of such approval.
3. If rate(s) is based on estimated costs or prior period actual results, include calculations to support proposed rate(s). Calculation should provide enough information for NYSERDA to evaluate and confirm that the rate(s) are consistent with generally accepted accounting principles for indirect costs.

NYSERDA reserves the right to audit any indirect rate presented in the proposal and to make adjustment for such difference. Requests for financial statements or other needed financial information may be made if deemed necessary.

**Recoupment** - For any new product research and/or development, NYSERDA will generally require a royalty based on sales of the new product developed. NYSERDA's standard royalty terms are 1.5% of sales or thirty percent (30%) of all license revenue accruing to the Contractor for products produced in New York State (for a period of fifteen years or until the Contractor pays NYSERDA an amount equal to the amount of funds paid by NYSERDA to the Contractor, whichever comes first) and 5% of sales or sixty percent (60%) of all licensing revenues accruing for products produced outside of New York State (for a period of fifteen years or until the Contractor pays NYSERDA an amount equal to three times the amount of funds paid by NYSERDA to the Contractor, whichever comes first).

**10. Appendices** – Include any resumes, company qualifications, or ancillary information that is deemed necessary to support your proposal. If appropriate, also include:

- **Letters of Interest or Commitment** – If you are relying on any other organization to do some of the work, provide services or equipment, or share in the non-NYSERDA cost, include a letter from that organization describing their planned participation. Also include letters of interest or commitment from businesses or other organizations critical to the future commercialization, demonstration, or implementation of the project. Absence of letters of interest or commitment will be interpreted as the proposer not having support from the identified parties.
- **Exceptions to the Terms and Conditions** – If you do not accept the standard terms and conditions (including the recoupment provisions) as contained in the attached Sample Agreement, provide alternate terms with justification based on the risk and benefit to NYSERDA and New York State. NYSERDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

## ***VII. PROPOSAL EVALUATION***

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Proposals that meet Proposal Requirements will be reviewed by a Technical Evaluation Panel (TEP) using the Evaluation Criteria identified below. After the proposals are reviewed, NYSERDA will issue a letter to each proposer indicating the proposal evaluation results. Proposers receiving favorable evaluations will be invited to enter into contract negotiations with NYSERDA. The proposer may also be asked to address specific questions or recommendations of the TEP before contract award.

### **EVALUATION CRITERIA:**

#### **Problem and Proposed Solution (All Categories) -**

- How significant is the problem or opportunity to New York State?
- Is the proposed work technically feasible, innovative, and superior to alternatives?
- Does the proposal address an eligible technology?
- How well does the proposed solution address the problem or opportunity?
- Are fundamental scientific principles well understood and clearly presented?
- How appropriate are the cost, technical, and performance goals for the proposed technology or product?
- Does the proposer exhibit an understanding of the state-of-the-art, competing products and alternative designs?
- If the proposed work is a follow-on project to a previously co-funded NYSERDA project, what was the outcome of the earlier phase?
- Is the proposed project addressing a current challenge or opportunity that is not being addressed adequately by current industry practices and/or federal and/or other state research priorities and funding.

**Proposed Work (Category D only) –**

- How significant is the demonstration opportunity to New York State?
- How well does the proposed solution address the problem or opportunity?
- Is the proposed demonstration innovative and is it appropriate that the proposed demonstration be funded under this program as opposed to a NYSERDA program that provides incentives to install certified, commercially-ready technologies?
- Does the proposal address an eligible technology?
- Is the proposed demonstration well conceived, technically feasible, and superior to alternatives?
- Does the proposer exhibit an understanding of the state-of-the-art, competing products and alternative designs?
- What is the level of commitment of a New York State site?
- Is an appropriate performance monitoring and data analysis effort included in the proposal?
- If the proposed work is follow-on to a previously co-funded NYSERDA project, what was the outcome of the earlier phase?

**New York State Impact and Project Benefits (All Categories) –**

- To what extent will there be economic benefits in New York State in the form of subsequent commercial activity and economic growth?
- Does the proposal include a New York State demonstration site?
- Are the appropriate letters of support and/or commitments included in the proposal?
- How well are the potential benefits to New York State quantified?
- How likely is it that the projected benefits will be realized?
- Does the proposed project have favorable energy, efficiency, environmental and economic impacts in New York State? How significant are these impacts?
- To what extent will there be economic benefits in New York State in the form of subsequent commercial activity?
- Are the technical risks identified, appropriately addressed, and balanced by project benefits?
- Does the proposal address an innovative electric power delivery technology that improves performance, quality or reliability / resiliency?
- How well does the project reflect NYSERDA's overall objectives (risk/reward relationships, similar ongoing or completed projects, the general distribution of NYSERDA projects among industries and other organizations, and the distribution of projects within New York State)?

**Statement of Work and Schedule (All Categories) -**

- How appropriate are the technical and performance goals for the proposed project?
- Do the proposed technical and performance goals adequately allow for measurement and verification of the success of the proposed project?
- Is the work strategy in the Statement of Work sound and likely to achieve the technical and performance goals?
- Does the Statement of Work include an economic analysis of the technology based on performance measurements?
- Is the Statement of Work well organized, complete, and appropriate for the goals identified?
- How realistic is the schedule for achieving the goals of the proposed project?
- Is the proposed level of effort reasonable to complete the proposed project?
- Are the proposed milestones reasonable?

**(Category D Only) –**

- Are the data acquisition, monitoring, and reporting plans reasonable and do they meet the requirements in Section V, 'ADDITIONAL PROGRAM REQUIREMENTS FOR CATEGORY D DEMONSTRATION PROJECTS ONLY'?
- Is the benefits tracking plan reasonable and does it meet the requirements in Section V, 'ADDITIONAL PROGRAM REQUIREMENTS FOR CATEGORY D DEMONSTRATION PROJECTS ONLY'?
- If monitoring baseline utility system operation is necessary to document system benefits, does the Statement

of Work include a provision to adequately gather baseline utility operational data?

**Proposer Qualifications (All Categories) -**

- Has the proposer provided evidence of being qualified to perform the proposed work based on the qualifications of the organization(s) and the involved individual(s)?
- Were resumes of key individuals included in the proposal?
- To what degree does the proposer have the necessary technical and business background and experience?
- Does the team include a New York State business, thereby providing economic benefits in the form of jobs?
- Has the proposer provided evidence of good past performance on other relevant projects?
- Is the proposing team appropriately organized?
- Are staff allocations and responsibilities reasonable?

**Project Cost and Value (All Categories) -**

- Is the overall project cost justified and reasonable based on the level of effort proposed and the expected outcome and benefits?
- How significant is the potential market opportunity relative to the project cost?
- How appropriate are the proposer's co-funding contributions (sources and amounts) with respect to the degree of risk, potential to benefit from the work, and financial status of the organization?
- How firm are the commitments and support from essential participants, co-funders, and related businesses and other organizations?
- Are the overhead rates reasonable and supported with appropriate documentation?
- Are equipment, facility, material, and travel costs based on reasonable estimates?
- Are the labor rates reflective of the industry?

**Technology Transfer / Repeatability (All Categories) –**

- Does the proposed technology have commercial applications at other New York State sites?
- Does the proposed project demonstrate an effective strategy and strong potential for the project to lead to future use of the technology in New York?
- Does the proposed technology address market needs?

**Business/Commercialization Plan (Category C only) -**

- Is the proposed product or concept likely to be successful?
- Are there sufficient markets or needs for the concept/technology?
- Does the proposed project address market needs?
- Are the business and commercialization or replication plans appropriate for the type of project and stage of development?
- How significant are the barriers to market entry?
- Does the proposer demonstrate a clear understanding of the steps required to overcome these barriers?
- Has the market been identified and characterized?
- Does the proposal identify competing and alternate solutions, and clearly show why this product or concept is superior to, price competitive with, or provides value compared to alternative products or solutions?
- If follow-on financial resources are necessary, are plans to raise necessary financial resources likely to be successful?

**Other Considerations** – Proposals will be reviewed to determine if they reflect NYSERDA's overall objectives, including: risk/reward relationships, similar ongoing or completed projects, and the general distribution of projects among categories, technologies, industries and other organizations, and geographically within New York State.

## **VIII. GENERAL CONDITIONS**

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### **PROPRIETARY INFORMATION**

Careful consideration should be given before confidential information is submitted to NYSEDA as part of your proposal. Review should include whether it is critical for evaluating a proposal, and whether general, non-confidential information, may be adequate for review purposes.

The NYS Freedom of Information Law, Public Officers law, Article 6, provides for public access to information NYSEDA possesses. Public Officers Law, Section 87(2)(d) provides for exceptions to disclosure for records or portions thereof that "are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." Information submitted to NYSEDA that the proposer wishes to have treated as proprietary, and confidential trade secret information, should be identified and labeled "Confidential" or "Proprietary" on each page at the time of disclosure. This information should include a written request to exempt it from disclosure, including a written statement of the reasons why the information should be exempted. See Public Officers Law, Section 89(5) and the procedures set forth in 21 NYCRR Part 501.

[http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSEDA-](http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSEDA-Regulations.ashx)

[Regulations.ashx](http://www.nyserda.ny.gov/About/-/media/Files/About/Contact/NYSEDA-Regulations.ashx). However, NYSEDA cannot guarantee the confidentiality of any information submitted.

### **OMNIBUS PROCUREMENT ACT OF 1992**

It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises, as bidders, subcontractors, and suppliers on its procurement Agreements.

Information on the availability of New York subcontractors and suppliers is available from:

Empire State Development  
Division for Small Business  
30 South Pearl Street  
Albany, NY 12245

A directory of certified minority- and women-owned business enterprises is available from:

Empire State Development  
Minority and Women's Business Development Division  
30 South Pearl Street  
Albany, NY 12245

**State Finance Law sections 139-j and 139-k** - NYSEDA is required to comply with State Finance Law sections 139-j and 139-k. These provisions contain procurement lobbying requirements which can be found at <http://www.ogs.ny.gov/aboutogs/regulations/advisoryCouncil/StatutoryReferences.html>

The attached Proposal Checklist calls for a signature certifying that the proposer will comply with State Finance Law sections 139-j and 139-k and the Disclosure of Prior Findings of Non-responsibility form includes a disclosure statement regarding whether the proposer has been found non-responsible under section 139-j of the State Finance Law within the previous four years.

**Tax Law Section 5-a** - NYSEDA is required to comply with the provisions of Tax Law Section 5-a, which requires a prospective contractor, prior to entering an agreement with NYSEDA having a value in excess of \$100,000, to certify to the Department of Taxation and Finance (the "Department") whether the contractor, its affiliates, its subcontractors and the affiliates of its subcontractors have registered with the Department to collect New York State

and local sales and compensating use taxes. The Department has created a form to allow a prospective contractor to readily make such certification. See, ST-220-TD (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220td\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220td_fill_in.pdf)). Prior to contracting with NYSEDA, the prospective contractor must also certify to NYSEDA whether it has filed such certification with the Department. The Department has created a second form that must be completed by a prospective contractor prior to contacting and filed with NYSEDA. See, ST-220-CA (available at [http://www.tax.ny.gov/pdf/current\\_forms/st/st220ca\\_fill\\_in.pdf](http://www.tax.ny.gov/pdf/current_forms/st/st220ca_fill_in.pdf)). The Department has developed guidance for contractors which is available at <http://www.tax.ny.gov/pdf/publications/sales/pub223.pdf>

**Contract Award** - NYSEDA anticipates making multiple awards under this solicitation. It may award a contract based on initial applications without discussion, or following limited discussion or negotiations pertaining to the Statement of Work. Each offer should be submitted using the most favorable cost and technical terms. NYSEDA may request additional data or material to support applications. NYSEDA will use the Sample Agreement to contract successful proposals. NYSEDA, at its sole discretion, will decide whether to contract successful projects using time and material or milestone payment terms. NYSEDA reserves the right to limit any negotiations to exceptions to standard terms and conditions in the Sample Agreement to those specifically identified in the submitted proposal. NYSEDA expects to notify proposers in approximately 10 weeks from the proposal due date whether your proposal has been selected to receive an award. **NYSEDA may decline to contract with awardees who are delinquent with respect to any obligation under any previous or active NYSEDA agreement.**

**Annual Metrics Reports** – If awarded, the proposer will be required to submit to NYSEDA's Project Manager on an annual basis, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented. Reporting shall commence the first calendar year after the contract is executed. Reports shall be submitted by January 31st for the previous calendar year's activities (i.e. reporting period). Please see Attachment E: Sample Metrics Reporting Guides for the metrics that you will be expected to provide and the reporting duration. **NYSEDA may decline to contract with awardees that are delinquent with respect to metrics reporting for any previous or active NYSEDA agreement.**

**Limitation** - This solicitation does not commit NYSEDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSEDA reserves the right to accept or reject any or all proposals received, to negotiate with all qualified sources, or to cancel in part or in its entirety the solicitation when it is in NYSEDA's best interest. NYSEDA reserves the right to reject proposals based on the nature and number of any exceptions taken to the standard terms and conditions of the Sample Agreement.

#### **DISCLOSURE REQUIREMENT**

The proposer shall disclose any indictment for any alleged felony, or any conviction for a felony within the past five years, under the laws of the United States or any state or territory of the United States, and shall describe circumstances for each. When a proposer is an association, partnership, corporation, or other organization, this disclosure requirement includes the organization and its officers, partners, and directors or members of any similarly governing body. If an indictment or conviction should come to the attention of NYSEDA after the award of a contract, NYSEDA may exercise its stop-work right pending further investigation, or terminate the agreement; the contractor may be subject to penalties for violation of any law which may apply in the particular circumstances. Proposers must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

## ***IX. Attachments***

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**Attachment A - Proposal Checklist**

**Attachment B - Disclosure of Prior Findings of Non-responsibility (mandatory)**

**Attachment C - Statement of Work Format**

**Attachment D - Contract Pricing Proposal Form (CPPF)**

**Attachment D1 – Contract Pricing Proposal Form (Excel)**

**Attachment E - Sample Product Development Metrics**

**Attachment E1 – Sample Demonstration Metrics**

**Attachment E2 – Sample Information Dissemination Metrics**

**Attachment F - Sample Agreement with Exhibits**

**Attachment G – Instructions for Electronic Proposal Submission**

**ATTACHMENT A – PON/RFP No. \_\_\_\_\_ PROPOSAL CHECKLIST (MANDATORY)**

Proposal Title		Due Date	
Primary Contact (Prime Contractor)		Title	
Company		Phone	Fax
		e-mail	
Address		City	State or Province
Zip			
Secondary Contact		Title	
Company		Phone	Fax
		e-mail	
Address		City	State or Province
Zip			
THE PRIME CONTRACTOR MUST <u>SIGN THIS FORM BELOW</u> and ANSWER THE FOLLOWING QUESTIONS:			
Do you accept all Terms & Conditions in the Sample Agreement? (If no, explain on separate page) <b>(NYSERDA may or may not accept any of the listed exceptions; NYSEDA reserves the right to limit any negotiations to exceptions specifically identified herein.)</b>			__ Yes __ No
Do you wish to have any information submitted in your proposal package treated as proprietary or confidential trade secret information? If yes, you must identify and label on each applicable page "confidential" or "proprietary" (For additional information regarding this, please refer to the section entitled "Proprietary Information" in the solicitation document).			__ Yes __ No
Have you been indicted/convicted for a felony within the past 5 years? (if yes, explain on separate pg)			__ Yes __ No
Are you a Minority or Women-Owned Business Enterprise?			__ Yes __ No
Does your proposal contain Minority or Women-Owned Business enterprises as subcontractors?			__ Yes __ No
Are you submitting the required number of copies? (See proposal instructions.)			__ Yes __ No
Is other public funding pending/awarded on this and/or very similar topic (prior and/or competing proposals)? (if yes, explain on separate page)			__ Yes __ No
ON WHAT PAGE IN YOUR PROPOSAL CAN THESE ITEMS BE FOUND?			
[Provide list of items consistent with Proposal Requirements section of solicitation]		Indictment/Conviction of Felony (if applicable) NYSEDA Contracts Awarded (if applicable) Prior and/or Competing Proposals (if applicable)      ___ Exceptions to Terms & Conditions (if applicable) Completed and Signed Contract Pricing Proposal Form(s)  Disclosure of Prior Findings of Non-responsibility Form	
AUTHORIZED SIGNATURE & CERTIFICATION			
I certify that the above information, and all information submitted in connection with State Finance Law §139-j and §139-k, is complete, true, and accurate, that I have read and reviewed the Standard Terms and Conditions set forth in the attached Sample Agreement and that I accept all terms unless otherwise noted herein, and that the proposal requirements noted have been completed and are enclosed. I affirm that I understand and will comply with NYSEDA's procedures under §139-j(3) and §139-j(6)(b) of the State Finance Law. I understand that this proposal may be disqualified if the solicitation requirements are not met. I, the undersigned, am authorized to commit my organization to this proposal.			
Signature		Name	
Title		Organization	
Phone			

**NOTE:** This completed form **MUST** be signed and attached to the front of all copies of your proposal.

Does your proposal contain any proprietary information?

Yes  No

(if yes, follow the instructions in Section VIII to identify proprietary information and include required documentation as an appendix  
Note the Executive Summary must contain entirely *non-proprietary* information.)

## Attachment B - Disclosure of Prior Findings of Non-responsibility Form

**(Mandatory)**

Name of Individual or Entity seeking to enter the procurement contract:		
Address:		
Date:		
Solicitation or Agreement Number:		
Name and Title of Person Submitting this Form:		
Has any Governmental Entity made a finding of non-responsibility regarding the Individual or Entity seeking to enter the Procurement Contract in the last four years? (Please indicate with an "X")		Yes
		No
Was the basis for the finding of non-responsibility due to a violation of §139-j of the State Finance Law? (Please indicate with an "X")		Yes
		No
Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please indicate with an "X")		Yes
		No
If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.		
Government Agency or Authority:		
Date of Finding of Non-responsibility:		
Basis of Finding of Non-responsibility: (Add additional pages as necessary)		

Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named Individual or Entity due to the intentional provision of false or incomplete information? (Please indicate with an "X")		Yes
		No

If you answered yes, please provide details below.

Government Agency or Authority:

Date of Termination or Withholding of Contract:

Basis of Termination or Withholding: (Add additional pages as necessary)

Offerer certifies that all information provided to NYSERDA with respect to State Finance Law §139-k is complete, true, and accurate.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_ Title: \_\_\_\_\_

# PON 3026, Electric Power Transmission and Distribution Smart Grid Attachment C

## Statement of Work Format

**Instructions:** Fill out the Statement of Work below. Areas highlighted, in italics, and in square brackets are instructions that indicate where you should enter information. Areas that are not highlighted are ‘boilerplate’ language that should not be changed unless you have a particular exception to the language.

**Project Goals:** *[Describe the technical, performance, and business goals of the proposed project. These goals should be as specific as possible and include quantitative measures where possible. The goals should clearly identify any technical and business progress that you expect to achieve during the course of this work. The goals should allow for measurement and verification of the success of the proposed project once it is complete.]*

**Work Tasks:** In order to carry out the objectives of this project, the following tasks shall be performed during this program by *[enter name of proposing entity]* (“the Contractor”):

### Task 1: Project Management

**Project Personnel:** *[insert the name of the Proposer’s Project Manager]* shall serve as Project Manager and as such shall have the responsibility of the overall supervision and conduct of the project work on behalf of the Contractor. Any substantive change of project personnel by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld.

**Subcontracts:** *[Include one of the following paragraphs for each subcontractor]* The Contractor shall enter into an agreement with *[insert name of subcontractor if applicable]* to perform work in the area of *[insert one-phrase description of area of work]*.

Regardless of subcontracting arrangements, the Contractor shall be solely responsible for the timely completion of all tasks and deliverables included herein.

*[Include the following for Category D demonstration projects]* The Contractor shall enter into an agreement with *[insert name and address of host site]* to obtain access to the site and authorization to install and operate *[insert one-phrase description of unit]*. The agreement shall clearly define responsibilities of both parties including, but not limited to: installation; access by the Contractor and NYSERDA for monitoring; maintenance; term; final ownership/disposition of the equipment; insurance; indemnification (including a provision by which the site owner disclaims any liability against NYSERDA for any damages or losses occurring by virtue of the *[insert one-phrase description of unit]* being installed or operated at the site; publicity (including but not limited to posting of project success information on NYSERDA’s website).

The Contractor shall submit a copy of the above agreement(s) to NYSERDA’s Project Manager.

**Internal Project Coordination and Coordination with Project Partners:** The Contractor shall coordinate program-wide activities including internal and external communications, milestone and cost tracking, annual full team review meetings, and reports.

**Meetings:** The Contractor shall hold a Kickoff Meeting at the start of the project, a meeting to present Phase 1 results *[include Phase 1 meeting if the project has phases]*, and a Wrap-Up Meeting at the end of the project.

Additional meetings shall be held as necessary to keep NYSERDA’s Project Manager informed of project progress. The Contractor shall schedule meetings at a time and place agreeable to all participants, shall provide a written agenda five days in advance of each meeting, and shall document each meeting with minutes which shall be distributed within ten business days.

**Project Facilities:** A substantial portion of the project work shall be conducted at the Contractor’s facilities in *[indicate city]*. Additional work shall be conducted at locations in *[indicate other locations if applicable]*. Any change of project facilities by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld.

**Project Funding.** It is understood and agreed that NYSERDA and the Contractor are sharing the costs for the project work to be performed and that the cost share identified below shall be readily available. The table below documents the cost sharing by tasks for this research effort. Any change of cost share by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld. *[Fill out the task titles and budget numbers in following ‘Cost-Sharing Table’]*

Cost-Sharing Table			
Task	NYSERDA Funding	Contractor cost-share	Total Task Funding
Task 1: Project Management	\$	\$	\$
Task 2: <i>[insert task title]</i>	\$	\$	\$
Task 3: <i>[insert task title]</i>	\$	\$	\$
<i>[insert as many tasks as necessary]</i>	\$	\$	\$
TOTAL	\$	\$	\$

**Invoicing:** Pursuant to this Agreement, invoices shall set forth total project costs incurred during the progress reporting period. Costs shall be broken down into NYSERDA funding share and cost share provided by others, and they shall be in a format consistent with the cost categories set forth in the Budget. The Contractor shall be responsible to provide adequate cost documentation, including those incurred by the subcontractor, and the total costs per task should be in reasonable agreement with those listed above. NYSERDA reserves the right to limit the amount of progress payment made in any reporting interval to an amount commensurate to the documented cost share incurred.

**Metrics Reporting:** On an annual basis during and for a period of *[for product/technology development projects insert, ‘ten years after the project is completed’; for demonstration projects insert, ‘five years after commissioning of the equipment’; and for technology facilitation studies insert, ‘two years after the project is completed’]*, the Contractor shall submit, to NYSERDA’s Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented. The Contractor shall provide metrics in accordance with the attached Metrics Reporting Guide. [Examples of metrics data that will be reported can be found in Attachment E. The appropriate form for the type of project proposed will be used.]

**Project Dissemination:** The Contractor shall prepare and present technical papers at appropriate conferences and symposia, exhibit displays at trade shows where economically viable, and write articles for publication in technical journals. At the appropriate time in the product development and in accordance with this Agreement, the Contractor shall prepare media presentation packages and submit them to NYSERDA for review and approval.

During the performance period of this Agreement and upon 90-days notice, the Contractor shall be prepared to attend an annual one-day workshop at a New York State venue and conduct a technical presentation of project

results. Organized by NYSERDA, it is envisioned that numerous projects will be presented over the course of the day to relevant stakeholders and that each individual presentation will require approximately 30-minutes.

**Progress Reports:** The Contractor shall prepare reports *[insert monthly (required for Category D demonstration projects) or quarterly as appropriate. Note that invoicing should be on the same schedule as reporting]*. The progress reports shall be in a letter format and shall include the following subjects in the order indicated, with appropriate explanation and discussion:

- a. Title of project.
- b. Agreement number.
- c. Period of this report.
- d. Progress of this report
- e. Planned progress in the future.
- f. Identification of problems.
- g. Planned Solutions.
- h. Ability to meet schedule, reasons for slippage in schedule.
- i. Schedule - percentage completed and projected percentage of completion of performance by months - could be a bar chart or milestone chart.
- j. Analysis of actual cost incurred in relation to budget.

Copies of the progress reports shall be submitted to NYSERDA's Project Manager by the 15th of each month following the period of work that was performed.

*[Include Phase 1 Report paragraph if applicable]* **Phase 1 Report:** The Contractor shall prepare a report summarizing the actual and projected progress made in Phase 1. The report shall be submitted at least one month prior to the completion of Phase 1 tasks. The report shall compare actual and expected outcomes to Phase 1 objectives. If outcomes were less than expected, the report shall identify possible reasons for the reduced outcome and describe how challenges will be addressed.

**Final Report:** The Contractor shall prepare a Final Report in accordance with Exhibit C of this Agreement *[this is in Attachment F of this solicitation]*, detailing all of the work performed and task deliverables, but excluding proprietary information. The comprehensive Final Report shall cover all aspects of the project and shall merge together, and build further on, the previously generated Progress Reports. Hard copy of pertinent data taken during the various testing programs shall be included. Conclusions and recommendations for further work shall be provided.

Two copies of the draft Final Report shall be submitted to the NYSERDA Project Manager, who will provide comments to the Contractor within 30 working days after receipt of the draft. The Contractor shall prepare the Final Report in final form, reflecting these comments. Within 30 working days after receipt of the comments, the Contractor shall submit the Final Report to the NYSERDA Project Manager.

**Deliverables:** The following list of deliverables shall be presented to NYSERDA from Task 1:

- Summary of meetings and meeting notes
- Appropriate metrics deliverables
- Annual Reports on product Metrics after all phases have been completed
- Regular Progress Reports to NYSERDA's Project Manager by the 15th of the month following completion of the Reporting Period
- Immediate written notification of any significant breakthroughs or problems
- Phase 1 completion report (Phased Category B projects only)
- Final Report on work completed and task deliverables

## **START WRITING TECHNICAL WORK SCOPE TASKS HERE**

### **INSTRUCTIONS FOR WRITING TECHNICAL WORK SCOPE TASKS:**

*[Task 2.0, 3.0, 4.0, etc. Project-specific Work Scope Tasks. Add as many tasks and subtasks as necessary to cover all actions needed to achieve the goals and objectives of the project. These will be action steps. Each task should include a concise narrative description of the work that will be performed and how the work will be performed and deliverables to be provided. Task descriptions should NOT include proprietary information. Complicated tasks can be broken down into 'subtasks'.*

*While the focus of this program is technology demonstration and product development, proposers are encouraged to include business tasks, when appropriate, to ensure that progress in business activities occurs in parallel with progress in technology development. Business tasks should not require excessive funding, should be appropriate for the stage of technology development, and should be directly related to bringing the product to market (i.e., developing a business plan, attracting funding, developing strategic partnerships, etc.)*

#### **Category A and B Research and Engineering Studies:**

*Typical tasks for study projects may include, but are not limited to, requirements definition, preliminary design.*

#### **Category C Product Development:**

*Typical tasks for product development projects may include, but are not limited to, requirements definition, preliminary design, prototype construction, testing, final design, and field testing.*

#### **Category D and E: Demonstration Projects**

*Typical tasks for demonstration projects may include, but are not limited to, site-specific design (not technology or product development), equipment ordering/fabrication, system construction and installation, commissioning, monitoring and analysis, and technology transfer.*

*(INCLUDE MILESTONE PAYMENTS FOR ALL PROPOSALS) Milestone Payments – Provide a list of deliverables associated with each task with proposed milestone payments assigned to major deliverables. The magnitude of the milestone payments should be based on the amount of effort required to reach the deliverable. Completion of final design, equipment delivery, commissioning, submission of data, and acceptance of final report are examples of typical milestones for demonstration projects.*

*Statements of Work for Category D projects **MUST** include activities that meet the requirements in Section V, **REQUIREMENTS FOR CATEGORY D DEMONSTRATION PROJECTS ONLY:** Data Acquisition System (DAS) Requirements, Reporting Requirements, Benefits Data Tracking and Reporting, and Historical Performance Data Reporting. Include the type of data that will be collected, sampling rates, and duration of monitoring. Include the type of analyses that will be performed on the data.]*



New York State Energy Research and Development Authority Contract Pricing Proposal Form			Solicitation/Contract No. PON 3026	Page	
Contractor:			Name of Proposed Project:		
Address:					
Location (where work is to be performed):			NYSERDA funding:		
			Total Project Cost:		
<b>Cost Element</b>			<b>Total Project Cost</b>	<b>Funding &amp; Co-funding via NYSERDA</b>	<b>Cost-sharing &amp; Other Co-funding</b>
1. Direct Materials					
a. Purchased Parts					
b. Other					
Total Direct Materials					
2. Materials Overhead			Rate:		
3. Direct Labor (specify names/titles)			Hours	Rate/hr	
Total Direct Labor					
4. Labor Overhead			Rate %	\$ Base	
Total Labor Overhead					
5. Outside Special Testing					
6. Equipment					
7. Travel					
8. Other Direct Costs					
9. Subcontractors/Consultants					
Total Subcontractors/Consultants					
10. General & Administrative Expense			Rate %	Element(s)	
11. Fee or Profit (If allowable) Rate:					
12. Total Estimated Project Cost					
This proposal reflects our best estimates as of this date, in accordance with the instructions to proposers.					
Typed Name and Title:			Signature:		Date:

Has any executive agency of the U.S. government performed any review of your records in connection with any prime contract or subcontract within the past twelve months?      \_\_\_ Yes      \_\_\_ No  
 If yes, identify:

Supporting Schedule - Contract Pricing Proposal Form		
Element No.	Item Description	Amount

**INSTRUCTIONS FOR PREPARATION OF COST ESTIMATE**

Your cost proposal may be the basis of contract negotiation; it should be specific and complete in every detail. Supporting schedules (as described in Section B) providing the basis for your estimates must be provided.

**A. GENERAL**

The schedule must be submitted on NYSERDA's Contract Pricing Proposal Form.

**B. INSTRUCTIONS AND DESCRIPTION OF REQUIRED SUPPORT DETAIL**

(Title each supporting schedule and cross-reference it to the item number on the Contract Pricing Proposal Form)

**1a. DIRECT MATERIALS - PURCHASED PARTS**

Provide the following information for each proposed item with an estimated unit cost in excess of \$15,000.

- o Description of item
- o Proposed vendor
- o Quantity needed
- o Unit cost
- o Basis for cost (i.e., catalog, prior purchase, quote, etc.)
- o Total cost
- o Evidence of a competitive selection process in accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement.

**1b. OTHER DIRECT MATERIALS**

In accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement, for all items in excess of \$5,000, provide whatever information would be necessary to understand what is being obtained, how it is being obtained, what it will cost and how the estimated cost was determined with justification for all items.

**2. MATERIALS OVERHEAD (also applicable to other Indirect Rate categories: 4. LABOR OVERHEAD and 10. G&A EXPENSE)**

- o If Government-approved indirect rates are proposed, then supply a copy of an appropriate Government document verifying those rates.
- o If Government-approved rates are not proposed, supply the following, unless previously provided, for the years comprising the proposed period of contract performance.
  - o A description (chart or other) of the organization of the indirect cost center.
  - o The budget of indirect costs, by account, for each proposed indirect expense rate.
  - o The budget for the base, for each proposed rate, (direct labor dollars, hours, costs, etc.) itemized as to contract hours or costs, research and development hours of costs, and any other direct base effort.
  - o Actual incurred rates for the prior three years, including actual base and pool amounts.

**3. DIRECT LABOR**

- a. Commercial Enterprises

- (1) Attach supporting schedules showing:
  - o Each category or type of labor being estimated
  - o Applicable labor rates per hour (straight-time)
- (2) Explain the method used for computing the rates (i.e., actual of an individual, actual average of a category or other grouping, etc.) Also identify any proposed labor escalation and the bases for it.

b. Educational Institutions

Provide the following for each calendar year of the contract:

- (1) For individuals not on an "actual hours worked" basis:
  - o individual's name
  - o annual salary and the period for which the salary is applicable (preferably in weeks)
  - o the proportionate time to be charged to this effort.
- (2) For individuals who maintain time records as the basis for charging costs, supply the detail as requested in Instructions 3(a)(1)

4. LABOR OVERHEAD (Same as Instructions for 2. MATERIALS OVERHEAD)

5. OUTSIDE SPECIAL TESTING

- a. Describe the effort.
- b. Provide the units of time (hours, days, weeks), cost rates, and the vendor.
- c. In accordance with the requirements of the Subcontract Procedures section of the attached Sample Agreement, provide the basis for selection of the vendor. Identify M/WBE vendors contacted for quotes and if none, explain why. Explain and justify the basis for any non-competitive selection.

6. EQUIPMENT

Capability to perform the work with existing facilities and equipment is assumed. It is NYSERDA's policy not to compensate for general purpose facilities or equipment. If some special purpose items are needed solely for this contract and are not available by other means (contractor assets, lease, etc.), then provide the following information for each item of required equipment.

- o vendor
- o model number
- o quantity
- o competitive selection process
- o unit cost and source of cost/price (i.e., quote, catalog, purchase history)
- o description of the use or application (NYSERDA dedicated, contract dedicated, other)

7. TRAVEL

- a. NYSERDA will accept as a direct charge only that travel required to perform the statement of work.
- b. Attach a schedule indicating the need for the proposed travel, the estimated number of person-trips required, destinations, mode and cost of transportation, and number of days subsistence per trip for each destination.
- c. Identify and support any other special transportation costs required in the performance of this project.

8. OTHER DIRECT COSTS

- a. Identify the type of cost (i.e. postage, telephone, publications, graphics, etc.)
- b. Provide cost details for the amounts estimated (hours or units, rates, etc.)
- c. If any internal service center rates are applied, provide details similar to that required in Instruction #B.
- d. For computer costs identify the make, model and type of computer, hours of service and appropriate rates, and whether the machine is company owned or leased.

9. SUBCONTRACTORS/CONSULTANTS

- a. Explain the specific technical area in which such service is to be used and identify the contemplated consultants.
- b. State the number of days and the hours per day of such service estimated to be required and the consultant's quoted rate per day. Document when/where the consultant has received the proposed rate in performing similar services for others.

10. GENERAL & ADMINISTRATIVE (G&A) EXPENSE (Same as instructions for 2. MATERIALS OVERHEAD)

11. FEE OR PROFIT

List the rate proposed for profit. No fee or profit is allowed under product development, demonstration or other certain cost-sharing projects.









# Metrics Reporting Guide

## Product Development

On an annual basis, the Contractor shall submit, to NYSERDA's Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented.

Reporting shall commence the first calendar year after the contract was executed. Reports shall be submitted by January 31st for the previous calendar years activities (i.e. reporting period). Sales reporting shall continue under the terms of the agreement in section 8.03 if recoupment terms apply to this contract. Reports shall continue to be submitted for **ten** consecutive calendar years after the project is completed. The Contractor shall make every effort to quantify and document benefits and incorporate them into the Final Report and technology transfer activities as required in this agreement.

A form will be provided to you to submit the following metrics:

### Product Metrics

<b>Development Stage</b>	<i>Development stage of the product (e.g. Initial Prototype, Refined Prototype, Commercial Product, etc.)</i>
<b>Outcomes of Product Development Efforts</b>	<i>Outcomes as a result of product development activities (e.g. Copyrights, License Agreements, Certifications, UL Listing, etc.)</i>
<b>Units Sold</b>	<i>Total number of units sold</i>
<b>Units Sold in NYS</b>	<i>Number of units sold in New York State</i>
<b>Product Sales</b>	<i>Total annual sales of the product associated with the contract(s)</i>
<b>Recoupment Payment</b>	<i>Payment amount owed to NYSERDA under the terms of the agreement (if applicable).</i>
<b>Investments</b>	<i>Investment dollars as a result of NYSERDA project from a source other than NYSERDA.</i>

### Patent Information

<b>Patent Number</b>	<i>Patent number or patent application number for patents as a result of work funded by NYSERDA</i>
<b>Issue Date</b>	<i>Date patent was issued or application submitted</i>
<b>Patent Description</b>	<i>Abstract or brief description of the patent</i>

## Information Dissemination

- Name of Presentation or Event** *Names of the presentation or event where information was communicated about the product, company or research*
- Organization that hosted the event** *Name of the organization that hosted the event*
- Type of event** *The type of event where information was communicated about your company, product or research (e.g. conference, workshop, media event, etc.)*

## Publications

- Publication Date** *Date information is published (month & year)*
- Publication Title** *Name of publication written as a result of research performed under contract with NYSERDA*
- Publication Type** *Examples: Citation, Final/Technical Report, Newsletter, Trade Publication etc.*
- Periodical Name** *Name of periodical the publication appeared in (if applicable)*
- Policy Development** *State if this publication been cited in government policy development*
- Names of Authors** *Author First & Last Names*

## Resources Saved per Product Unit (e.g. Energy, Emissions, Fuel etc.)

<input type="checkbox"/>	<i>Add Metric</i>		
	General Resource Type	Specific Resource Type	Unit of Measurement
<input type="checkbox"/>			

# Metrics Reporting Guide

## Product Demonstration

On an annual basis, the Contractor shall submit, to NYSERDA's Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented.

Reporting shall commence the first calendar year after the contract was executed. Reports shall be submitted by January 31st for the previous calendar years activities (i.e. reporting period). Reports shall continue to be submitted for **five** consecutive calendar years after commissioning or acceptance of equipment. The Contractor shall make every effort to quantify and document benefits and incorporate them into the Final Report and technology transfer activities as required in this agreement.

A form will be provided to you to submit the following metrics:

### Site Metrics

<b>Installation Status</b>	<i>Current status of system installation (e.g. Design, Installed &amp; Commissioning, Operational, etc.)</i>
<b>Expected Duration</b>	<i>Number of years equipment is expected to be installed</i>
<b>Replication of System</b>	<i>Additional installations of a similar system as a result of the NYSERDA project</i>
<b>Jobs</b>	<i>Jobs created/retained as a result of a NYSERDA project</i>

### Information Dissemination

<b>Name of Presentation or Event</b>	<i>Names of the presentation or event where information was communicated about the product, company or research</i>
<b>Organization that hosted the event</b>	<i>Name of the organization that hosted the event</i>
<b>Type of event</b>	<i>The type of event where information was communicated about your company, product or research (e.g. conference, workshop, media event, etc.)</i>

## Publications

- Publication Date** *Date information is published (month & year)*
- Publication Title** *Name of publication written as a result of research performed under contract with NYSERDA*
- Publication Type** *Examples: Citation, Final/Technical Report, Newsletter, Trade Publication etc.*
- Periodical Name** *Name of periodical the publication appeared in (if applicable)*
- Policy Development** *State if this publication been cited in government policy development*
- Names of Authors** *Author First & Last Names*

### Resources Saved

<input type="checkbox"/>	<i>Add Metric</i>		
	General Resource Type	Specific Resource Type	Unit of Measurement
<input type="checkbox"/>			

### Resources Used

<input type="checkbox"/>	<i>Add Metric</i>		
	General Resource Type	Specific Resource Type	Unit of Measurement
<input type="checkbox"/>			

# Metrics Reporting Guide

## Information Dissemination

On an annual basis, the Contractor shall submit, to NYSERDA's Project Manager, a prepared analysis and summary of metrics addressing the anticipated energy, environmental and economic benefits that are realized by the project. All estimates shall reference credible sources and estimating procedures, and all assumptions shall be documented.

Reporting shall commence the first calendar year after the contract was executed. Reports shall be submitted by January 31st for the previous calendar years activities (i.e. reporting period). Reports shall continue to be submitted for **two** consecutive calendar years after the project is completed. The Contractor shall make every effort to quantify and document benefits and incorporate them into the Final Report and technology transfer activities as required in this agreement.

A form will be provided to you to submit the following metrics:

## Information Dissemination

<b>Name of Presentation or Event</b>	<i>Names of the presentation or event where information was communicated about the product, company or research</i>
<b>Organization that hosted the event</b>	<i>Name of the organization that hosted the event</i>
<b>Type of event</b>	<i>The type of event where information was communicated about your company, product or research (e.g. conference, workshop, media event, etc.)</i>

## Publications

<b>Publication Date</b>	<i>Date information is published (month &amp; year)</i>
<b>Publication Title</b>	<i>Name of publication written as a result of research performed under contract with NYSERDA</i>
<b>Publication Type</b>	<i>Examples: Citation, Final/Technical Report, Newsletter, Trade Publication etc.</i>
<b>Periodical Name</b>	<i>Name of periodical the publication appeared in (if applicable)</i>
<b>Policy Development</b>	<i>State if this publication been cited in government policy development</i>
<b>Names of Authors</b>	<i>Author First &amp; Last Names</i>

## ATTACHMENT F – SAMPLE AGREEMENT

New York State Energy Research and Development Authority  
("NYSERDA")

### AGREEMENT

1. Agreement Number:
2. Contractor:
3. Project Director:
4. Effective Date:
5. Total Amount of Award:
6. Project Period: **[Optional for defined-scope R&D projects]**
7. Commitment Terms and Conditions

This Agreement consists of this form plus the following documents:

- Exhibit A, Statement of Work;
- Exhibit B, General Contract Provisions, Terms and Conditions;
- Exhibit C, Standard Terms and Conditions;
- Exhibit D, Prompt Payment Policy Statement;
- Exhibit E, NYSERDA Report Format and Style Guide.

8. ACCEPTANCE. THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNLESS EXECUTED BELOW BY NYSERDA.

**[CONTRACTOR]**

**NEW YORK STATE ENERGY  
RESEARCH AND  
DEVELOPMENT AUTHORITY**

By \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_

Jeffrey J. Pitkin  
Treasurer

Title \_\_\_\_\_

STATE OF            )  
                          ) SS.:  
COUNTY OF        )

On the \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individuals(s), or the person upon behalf of which the individual(s) acted, executed the document.

\_\_\_\_\_  
Notary Public

## EXHIBIT B

### GENERAL CONTRACT PROVISIONS, TERMS AND CONDITIONS

#### Article I

##### Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

(a) General Definitions:

Agreement: This Agreement shall consist of Page One and Exhibits A, B, C, D, and E hereto, all of which are made a part hereof as if set forth here in full.

Budget: The Budget set forth at Exhibit A hereto.

Cash-based Expenses: Those obligations of Contractor that shall be settled in cash.

Contract Administrator: NYSERDA's Director of Contract Management, Cheryl M. Glanton, or such other person who may be designated, in writing, by NYSERDA.

Contract Information: Recorded information regardless of form or characteristic first produced in the performance of this Agreement, that is specified to be compiled under this Agreement, specified to be delivered under this Agreement, or that is actually delivered in connection with this Agreement, and including the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable.

Proprietary Information: Recorded information regardless of form or characteristic, produced or developed outside the scope of this Agreement and without NYSERDA financial support, provided that such information is not generally known or available from other sources without obligation concerning their confidentiality; has not been made available by the owner to others without obligation concerning its confidentiality; and is not already available to NYSERDA without obligation concerning its confidentiality. Under no circumstances shall any information included in the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable, be considered Proprietary Information.

Person: An individual, a corporation, an association or partnership, an organization, a business or a government or political subdivision thereof, or any governmental agency or instrumentality.

Statement of Work: The Statement of Work attached hereto as Exhibit A.

Subcontract: An agreement for the performance of Work by a Subcontractor, including any purchase order for the procurement of permanent equipment or expendable supplies in connection with the Work.

Subcontractor: A person who performs Work directly or indirectly for or on behalf of the Contractor (and whether or not in privity of contract with the Contractor) but not including any employees of the Contractor or the Subcontractors.

Work: The Work described in the Exhibit A (including the procurement of equipment and supplies in connection therewith) and the performance of all other requirements imposed upon the Contractor under this Agreement.

***[If Sections 8.02 and 8.03 of this Sample Agreement are applicable, the following Definitions shall be included:]***

(b) Payments to NYSERDA Definitions:

Practical Application: To manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system, under conditions indicating that the benefits of the invention are available to the public on reasonable terms.

Product: [PRODUCT OR TECHNOLOGY DEFINITION], and including any improvements, enhancements or modifications thereto.

New York State Product: The Product will be considered a New York State Product if Contractor demonstrates that either: (1) in excess of 50% of the value or value added to such Product was added within the geographical boundaries of the State of New York; “value added” means any separable component of the Product, contributed by the Contractor or paid for by the Contractor to others, for parts, components, and services, and all manufacturing costs, including but not limited to labor, labor overhead, materials, and G&A, but excluding profit; or (2) in excess of 75% of the nonmanufacturing selling and administrative costs, allocated on a per unit basis for the Product, derive from within the geographic boundaries of New York State; such costs include those associated with the selling of the Product, shipping, administrative salaries, executive salaries, administrative office expenses, sales commissions, advertising, marketing, and research and development, but excluding: (a) any separable component of the Product paid for by the Contractor to others for parts, components, and services, and (b) and any other manufacturing or product costs. Qualification as a New York State Product shall be determined using generally accepted accounting principles and shall be capable of being proven by an audit conducted in accordance with generally accepted auditing standards.

License/Franchise: A grant of authority by Contractor to another person to make, use, or sell the Product.

Licensing Revenue: Gross revenue of any kind or character derived by Contractor from a Licensing or Franchising of the Product.

Sale: A sale or lease of the Product by the Contractor or any parent, subsidiary, affiliate or assignee thereof.

Sales Revenue: Gross revenue, excluding returns and allowances such as sales tax, freight, and insurance, if applicable, derived from Sales.

## Article II

### Performance of Work

Section 2.01. Manner of Performance. Subject to the provisions of Article XII hereof, the Contractor shall perform all of the Work described in the Statement of Work, or cause such Work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform the Work in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in the Statement of Work. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the Work in accordance with this Agreement.

Section 2.02. Project Personnel. It is understood and agreed that the Project Director identified at Item 3, Page One of this Agreement shall be responsible for the overall supervision and conduct of the Work on behalf of the Contractor and that the persons described in the Statement of Work shall serve in the capacities described therein. Any change of Project Director by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty (30) days after receipt of request for approval by NYSERDA, the requested change in Project Director shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to thirty (30) days.

Section 2.03. Title to Equipment. Title shall vest in the Contractor to all equipment purchased hereunder.

***[OR, if specific equipment has been identified by the Project Manager for NYSERDA to retain title in, then use the following:]***

Section 2.03. Title to Equipment. Title shall vest in NYSERDA to all of the following equipment purchased hereunder:

- 1)

- 2)
- 3)
- 4)

Upon the request of NYSERDA, the Contractor shall execute, acknowledge, deliver and perform, or cause to be executed, acknowledged, delivered or performed, all such bills of sale, assignments, conveyances or other documents or acts as NYSERDA may reasonably request in order to assure the better vesting in and confirming to NYSERDA, its successor and assigns, of title to and possession of such equipment. If, after six (6) months following the later of (a) Contractor's completion of these obligations, (b) completion of the Work, or (3) the termination of this Agreement, NYSERDA has not removed any such equipment, it will be deemed abandoned and become the property of the Contractor. Any such removal of equipment by NYSERDA shall be at NYSERDA's expense.

### Article III

#### Deliverables

Section 3.01. Deliverables. All deliverables shall be provided in accordance with the Exhibit A, Statement of Work.

### Article IV

#### Payment

Section 4.01. Payment Terms. **[If cost-share is applicable, insert -** It is understood and agreed that NYSERDA and the Contractor are sharing the costs for the Work to be performed.] In consideration for this Agreement and as NYSERDA's full payment for the costs of the performance of all Work, and in respect of all other direct and indirect costs, charges or expenses incurred in connection therewith, NYSERDA shall pay to the Contractor amounts not to exceed the maximum amount set forth in Item 5, Page One of this Agreement for the cost elements identified in the Budget to be funded with NYSERDA funds, subject to the provisions and restrictions contained herein, including, without limitation, the Prompt Payment Policy Statement attached hereto as Exhibit D. NYSERDA's payments shall be on a reimbursement basis, and shall be paid only to the extent that Cash-based Expenses are incurred by the Contractor in performance of the Work in accordance with the provisions of this Agreement, and the following:

#### ***[CASE I: Cost Reimbursable]***

(a) Staff Charges: To the extent Cash-based Expenses are incurred by the Contractor, Contractor shall be reimbursed for amounts paid to its employees for the services performed by its employees under the terms of this Agreement at the lesser of

the employee's wage rate as shown in the Budget or the actual wages paid to the employee and applicable at the time the Work is performed.

(b) Direct Charges: To the extent Cash-based Expenses are incurred by the Contractor, the Contractor shall be reimbursed for reasonable and necessary actual direct costs incurred (e.g., equipment, supplies, travel and other costs directly associated with the performance of the Agreement) to the extent required in the performance of the Work and to the extent such costs are anticipated in the Budget. Travel, lodging, meals and incidental expenses shall be reimbursed for reasonable and necessary costs incurred. Costs shall not exceed the daily per diem rates published in the Federal Travel Regulations. Reimbursement for the use of personal vehicles shall be limited to the Internal Revenue Service business standard mileage rate in effect at the time the expense was incurred.

(c) Indirect Costs: The Contractor shall be reimbursed for fringe benefits, overhead, general and administrative (G&A), and other indirect costs, all at the fixed rate as shown in the Budget. Contractor hereby warrants and guarantees, in accordance with Section 9.01(k) hereto, that its rates for the foregoing indirect costs charged herein have been determined based on the Contractor's reasonably anticipated indirect costs during the term of the Agreement and calculated consistent with generally accepted accounting principles.

***[For consultant services contracts, where appropriate, insert:]***

(d) Profit: The Contractor shall be paid a profit at a fixed rate as shown in the Budget applied to costs incurred in the performance of the Statement of Work. The percentage for profit shall be applied to all items in the Budget with the exception of travel costs.

***[CASE II: Billing Rates]***

(a) Billing Rates: The Contractor shall be reimbursed for the services performed by its employees under the terms of this Agreement at the lesser of employee's billing rate set forth in the Budget or the employee's billing rate applicable at the time the Work is performed. Such billing rates shall be inclusive of actual Cash-based Expenses in the form of wages paid the employee, fringe benefits, overhead, general and administrative (G&A), and other indirect costs. Contractor hereby warrants and guarantees that the billing rates charged herein are Contractor's customary billing rates for performance of work of the type described in the Statement of Work attached hereto.

(b) Direct Charges: To the extent Cash-based Expenses are incurred by the Contractor, the Contractor shall be reimbursed for reasonable and necessary actual direct costs incurred (e.g., equipment, supplies, travel and other costs directly associated with the performance of the Agreement) to the extent required in the performance of the Work and to the extent such costs are anticipated in the Budget. Travel, lodging, meals and incidental expenses shall be reimbursed for reasonable and necessary costs incurred.

Costs should generally not exceed the daily per diem rates published in the Federal Travel Regulations. Reimbursement for the use of personal vehicles shall be limited to the Internal Revenue Service business standard mileage rate in effect at the time the expense was incurred.

***[Case III – Fixed Fee/Milestone]***

Subject to any applicable provisions set forth in Exhibit A, Statement of Work, at the completion of each Milestone Event so identified, the Contractor may submit invoices, including documentation reasonably sufficient to demonstrate completion, requesting payment by NYSERDA of the amounts corresponding to the amounts indicated in Exhibit A, Statement of Work, including evidence of the Contractor's cost share, if applicable.

Section 4.02. Progress Payments.

(a) Invoicing: The Contractor may submit invoices for progress payments no more than once each month and no less than once each calendar quarter for Work performed during such period. Invoices shall be addressed to NYSERDA, "Attention: Accounts Payable," or submitted electronically to [invoices@nyserda.ny.gov](mailto:invoices@nyserda.ny.gov). Such invoices shall make reference to the Agreement number shown at Item 1 on page 1 of this Agreement. Invoices shall be inclusive of the total project costs incurred, delineated into NYSERDA's Funding share and the Cost-Share and Other Co-funding share, if applicable, and they shall be in a format consistent with the cost categories set forth in the Budget. Invoices shall be itemized and provide reasonable documentation for the above to provide evidence of costs incurred. If a wage rate or billing rate is used, Contractor must certify on its invoice that such rate represents the lesser of: (i) the actual rate at the time the Work was performed, and (ii) the rate listed for each such employee listed in the Budget. NYSERDA may adjust amounts payable to correlate the proportion of NYSERDA's funding share paid to the proportion of the Work completed.

***[For Milestone contracts , delete the following:]***

(b) Retainage: In accordance with and subject to the provisions of Exhibit D, NYSERDA shall pay to the Contractor, within the prescribed time after receipt of an invoice for a progress payment, 90% of NYSERDA's share of the amount so requested, unless NYSERDA should determine that any such payment or any part thereof is otherwise not properly payable pursuant to the terms of the Agreement or the Budget.

Section 4.03. Final Payment. Upon final acceptance by NYSERDA of all deliverables contained in Exhibit A, Statement of Work, pursuant to Section 6.02 hereof, the Contractor shall submit an invoice for final payment with respect to the Work, together with such supporting information and documentation as, and in such form as, NYSERDA may require. All invoices for final payment hereunder must, under any and all circumstances, be received by NYSERDA within six (6) months following Acceptance of Work pursuant to Section 6.02 hereof. In accordance with and subject to

the provisions of NYSERDA's Prompt Payment Policy Statement, attached hereto as Exhibit D, NYSERDA shall pay to the Contractor within the prescribed time after receipt of such invoice for final payment, the total amount payable pursuant to Section 4.01 hereof, less all progress payments/milestone payments previously made to the Contractor with respect thereto and subject to the maximum commitment set forth in Section 4.06 hereof.

Section 4.04. Release by the Contractor. The acceptance by the Contractor of final payment shall release NYSERDA from all claims and liability that the Contractor, its representatives and assigns might otherwise have relating to this Agreement.

Section 4.05. Maintenance of Records. The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of three years after acceptance of the Work, full and detailed books, accounts, and records pertaining to this Agreement, including without limitation, all data, bills, invoices, payrolls, time records, expense reports, subcontracting efforts and other documentation evidencing, or in any material way related to, Contractor's performance under this Agreement.

Section 4.06. Maximum Commitment. The maximum aggregate amount payable by NYSERDA to the Contractor shall be the amount appearing at Item 5 of page one of this Agreement. NYSERDA shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance and completion of the Work.

Section 4.07. Audit. NYSERDA shall have the right from time to time and at all reasonable times during the term of this Agreement and for the maintenance period set forth in Section 4.05 hereof to inspect and audit any and all books, accounts and records related to this Agreement or reasonably necessary to the performance of an audit at the office or offices of the Contractor where they are then being kept, maintained and preserved pursuant to Section 4.05 hereof. Any payment made under the Agreement shall be subject to retroactive reduction for amounts included therein which are found by NYSERDA on the basis of any audit of the Contractor by NYSERDA, the State of New York or an agency of the United States not to constitute an allowable charge or cost hereunder.

## Article V

### Assignments, Subcontracts and Purchase Orders

Section 5.01. General Restrictions. Except as specifically provided otherwise in this Article, the assignment, transfer, conveyance, subcontracting or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of NYSERDA shall be void and of no effect as to NYSERDA.

Section 5.02. Subcontract Procedures. Without relieving it of, or in any way limiting, its obligations to NYSERDA under this Agreement, the Contractor may enter

into Subcontracts for the performance of Work or for the purchase of materials or equipment. Except for a subcontractor or supplier specified in a team arrangement with the Contractor in the Contractor's original proposal, and except for any subcontract or order for equipment, supplies or materials from a single subcontractor or supplier totaling less than \$50,000, the Contractor shall select all subcontractors or suppliers through a process of competitive bidding or multi-source price review. A team arrangement is one where a subcontractor or supplier specified in the Contractor's proposal is performing a substantial portion of the Work and is making a substantial contribution to the management and/or design of the Project. In the event that a competitive bidding or multi-source price review is not feasible, the Contractor shall document an explanation for, and justification of, a sole source selection. The Contractor shall document the process by which a subcontractor or supplier is selected by making a record summarizing the nature and scope of the work, equipment, supplies or materials sought, the name of each person or organization submitting, or requested to submit, a bid or proposal, the price or fee bid, and the basis for selection of the subcontractor or supplier. An explanation for, and justification of, a sole source selection must identify why the work, equipment, supplies or materials involved are obtainable from or require a subcontractor with unique or exceptionally scarce qualifications or experience, specialized equipment, or facilities not readily available from other sources, or patents, copyrights, or proprietary data. All Subcontracts shall contain provisions comparable to those set forth in this Agreement applicable to a subcontractor or supplier, and those set forth in Exhibit C to the extent required by law, and all other provisions now or hereafter required by law to be contained therein. Each Subcontract shall make express reference to this Agreement, and shall state that in the event of any conflict or inconsistency between any Subcontract and this Agreement, the terms and conditions of this Agreement shall control as between Subcontractor and Contractor. If this Agreement includes a provision requiring Contractor to make Payments to NYSERDA for the Sale or Licensing of a Product, each Subcontract shall include the provisions of Section 8.02, suitably modified to identify the parties. The Contractor shall submit to NYSERDA's Contract Administrator for review and written approval any subcontract(s) specified in the Statement of Work as requiring NYSERDA approval, including any replacements thereof.

Section 5.03. Performance. The Contractor shall promptly and diligently comply with its obligations under each Subcontract and shall take no action that would impair its rights thereunder. The Contractor shall take no action, and shall take all reasonable steps to prevent its Subcontractors from taking any action, that would impair NYSERDA's rights under this Agreement. The Contractor shall not assign, cancel or terminate any Subcontract without the prior written approval of NYSERDA's Contract Administrator as long as this Agreement remains in effect. Such approval shall not be unreasonably withheld and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by NYSERDA, the requested assignment, cancellation, or termination of the Subcontract shall be considered approved by NYSERDA. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to sixty (60) days.

## Article VI

### Schedule; Acceptance of Work

Section 6.01. Schedule. The Work shall be performed as expeditiously as possible in conformity with the schedule requirements contained herein and in the Statement of Work. The draft and final versions of all deliverables shall be submitted by the dates specified in the Exhibit A Schedule. It is understood and agreed that the delivery of the draft and final versions of such deliverables by the Contractor shall occur in a timely manner and in accordance with the requirements of the Exhibit A Schedule.

Section 6.02. Acceptance of Work. The completion of the Work shall be subject to acceptance by NYSERDA in writing of all deliverables as defined in Exhibit A, Statement of Work.

## Article VII

### Force Majeure

Section 7.01. Force Majeure. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes, or the delay or failure to perform by any Subcontractor by reason of any cause or circumstance beyond the reasonable control of such Subcontractor.

## Article VIII

### Rights in Information; Confidentiality

Section 8.01. Rights in Contract and Proprietary Information; Confidentiality.

(a) NYSERDA shall have the right to use, duplicate, or disclose Contract Information, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so.

(b) The Contractor shall have the right to use Contract Information for its private purposes, subject to the provisions of this Agreement.

(c) NYSERDA shall have no rights to any Proprietary Information.

(d) No information shall be treated by NYSERDA as confidential unless such information is clearly so marked by Contractor at the time it is disclosed to NYSERDA; see Exhibit C, Section 7 regarding NYSERDA's obligations under the Freedom of Information Law. Under no circumstances shall any information included in the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, be considered confidential or Proprietary Information.

(e) The Contractor agrees that to the extent it receives or is given any information from NYSERDA or a NYSERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon or instructions given by NYSERDA, unless another use is specifically authorized by prior written approval of the NYSERDA Project Manager. Contractor acknowledges that in the performance of the Work under this Agreement, Contractor may come into possession of personal information as that term is defined in Section 92 of the New York State Public Officers Law. Contractor agrees not to disclose any such information without the consent of NYSERDA.

*[If recoupment applies, include the following Sections 8.02 & 8.03:]*

Section 8.02. Rights in the Product.

(a) The Contractor shall have the right to make, use and sell the Product.

(b) Should NYSERDA, or any political subdivision or instrumentality of the State of New York (each, a "New York Purchaser") desire to purchase the Product from Contractor or any parent, subsidiary, affiliate, assignee, licensee or franchisee thereof ("Seller"), Seller shall grant such New York Purchaser terms, including price, that are at least as favorable as the terms granted by Seller to any buyer of the Product within the previous year. During the period of performance of the agreement between New York Purchaser and Seller, if Seller enters into an agreement with any other party that includes terms more favorable than those granted to the New York Purchaser, then the terms granted by Seller to such New York Purchaser shall automatically be deemed to be modified to provide the New York Purchaser with those more favorable terms as of the date such more favorable terms were offered to the other party. Contractor shall notify the New York Purchaser promptly of the existence of such more favorable terms and the New York Purchaser shall have the right to receive the more favorable terms immediately. If requested in writing by the New York Purchaser, Contractor shall amend the agreement with such New York Purchaser to contain the more favorable terms and conditions. Contractor shall include these terms in any distribution, licensing or franchising agreement concerning the Product.

The sale price for any Sale made to NYSERDA pursuant to this Section shall be discounted by the applicable amount due to NYSERDA by Contractor pursuant to Section 8.03(a) or (b) hereof. The amount of this discount shall be credited towards the aggregate amount due by Contractor to NYSERDA pursuant to Section 8.03(c) hereof.

(c) Should a patent application be filed related to the Product, Contractor shall forward to NYSERDA's Project Manager a copy of the United States Patent and Trademark Office filing receipt bearing the patent application number. The Contractor or any assignee acting on behalf of the Contractor shall include, within the specification of any patent application and any patent or certificate issuing thereon related to the Product the following statement: "This invention was made with the support of the New York State Energy Research and Development Authority (NYSERDA) under Agreement Number [Item 1 from Page One] and NYSERDA may have rights in this invention."

(d) Contractor shall notify NYSERDA within three (3) months after a patent is issued related to the Product, and shall provide the patent title, issuance number and a generalized description of the claims set forth therein. If within three (3) years after the issuance date for any patent related to the Product, Contractor fails to demonstrate that Contractor has taken effective steps to bring said patent to the point of Practical Application, then NYSERDA may, by written notice to Contractor, require the Contractor to grant a non-exclusive or exclusive license to such patent to responsible applicants under terms that are commercially reasonable under the circumstances. If Contractor has not executed such license with a responsible applicant within ninety (90) days after such notice, then NYSERDA shall have the right to grant responsible applicants, on Contractor's behalf, a non-exclusive or exclusive license under terms that are commercially reasonable under the circumstances.

(e) The Contractor shall include the foregoing clauses, suitably modified to identify the parties, in all subcontracts which involve the performance of Work under this Agreement. The Subcontractor shall retain all rights provided for the Contractor, and the Contractor shall retain all rights provided for NYSERDA, as set forth above.

(f) The Contractor shall enforce Sections 8.02 and 8.03 hereof against all current or former employees to the extent necessary to protect NYSERDA's rights herein.

#### Section 8.03. Calculation of Payments to NYSERDA.

(a) New York State Product: Upon a Sale of a New York State Product, or at such time as Licensing Revenue become due to the Contractor with respect to a New York State Product, Contractor agrees to pay to NYSERDA: (i) one and one half percent (1.5%) of the Sales Revenue, or (ii) thirty percent (30%) of all License Revenue accruing to the Contractor.

(b) Non - New York State Product: Upon a Sale of a Product that does not qualify as a New York State Product, or at such time as Licensing Revenue become due to the Contractor with respect to a Product that does not qualify as a New York State Product, Contractor shall pay to NYSERDA: (i) five percent (5%) of the Sales Revenue, or (ii) sixty percent (60%) of all Licensing Revenues accruing to the Contractor.

(c) Duration of Payments to NYSERDA: The Contractor's obligation to make payments to NYSERDA shall extend (i) from the date the Contractor first receives Sales

Revenue or Licensing Revenue and continue for a period of fifteen (15) years thereafter; or (ii) until the amount paid by Contractor to NYSERDA attributable to actual Sales Revenue or Licensing Revenue from a New York State Product is equal to one times the amount of funds actually paid by NYSERDA to the Contractor under this Agreement; or (iii) until the amount paid by Contractor to NYSERDA, whether or not derived from any Sales Revenue or Licensing Revenue, is equal to three times the amount of funds actually paid by NYSERDA to the Contractor under this Agreement; whichever occurs first.

(d) Due Date of Payments. Such payments shall be payable in annual installments and shall be paid by the first day of March in the calendar year immediately following the year during which the Contractor receives revenues as described above (the "Due Date"). Any payment not received by the applicable Due Date shall be deemed delinquent. A delinquent payment shall be made with interest with such interest computed commencing with the Due Date of such payment. The annual interest rate payable shall be the "Prime Rate" existing as of the Due Date of such payment plus five (5) percentage points. Such interest shall be compounded on a monthly basis.

(e) Annual Reports. The Contractor shall provide to NYSERDA a written Annual Report detailing the status of development and utilization of the Product. The Annual Report shall provide detail as to all Sales, identifying each buyer or lessee, the number of items sold or leased, the Sales Revenue and/or Licensing Revenue, and calculating the resultant amount earned by, and paid or due to NYSERDA in accordance with paragraph (a) hereof. If the amount due to NYSERDA is calculated in whole or in part in accordance with paragraph (a) hereof, the Annual Report shall include documentation or substantiating information reasonably sufficient to establish that that such Product qualifies as a New York State Product. The Annual Report shall be furnished to NYSERDA not later than February 1 following the calendar year covered by the Report. The Contractor's obligation to provide Annual Reports shall commence on February 1 of the calendar year following either the Contractor's receipt of Final Payment pursuant to Section 4.03 hereto, at such time as Licensing Revenues become due to the Contractor or upon the first Sale, whichever event occurs first. In the event that, for a period of five consecutive years, the Annual Reports indicate that no Sales are made and no payment is due to NYSERDA, the Contractor may cease submittal of annual reports. If, however, Sales are made in subsequent years, or Licensing Revenues become due to the Contractor, the Contractor's obligation to submit Annual Reports shall resume.

(f) Maintenance and Audit of Records. Until such time as the Contractor's payment obligations to NYSERDA pursuant to this Section 8.03 have been met, the Contractor shall keep, maintain, and preserve at its principal office, full and detailed books, accounts, and records in connection with Sales, including any licenses or franchises granted, and the Contractor shall provide to NYSERDA, on a reasonable basis, access to all books and records related thereto.

(g) Licensing or Franchise Agreements. The Contractor shall not enter into any agreement with any party with respect to the licensing, franchising, or assignment of

rights in the Product that contains provisions inconsistent with the Contractor's obligation as set forth in this Article VIII. Further, any such agreement shall specifically provide NYSERDA the right to review the books and records of any party to such agreement to assure compliance with the payment provisions contained in Section 8.03(a) and (b) hereof. The Contractor shall provide copies of any proposed licensing or franchise agreements to NYSERDA and shall not execute any such agreements without the prior written consent of NYSERDA. Such consent shall not be unreasonably withheld, and, in the event that notice of consent or disapproval is not received by the Contractor within thirty (30) days after receipt of request for approval by NYSERDA, such licensing or franchise agreement shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to thirty (30) days after the lapse of the original review period.

(h) Modification of Payment Terms. Should Contractor provide to NYSERDA a copy of a proposed licensing or franchise agreement under subsection (g), NYSERDA agrees to negotiate, upon Contractor's execution of such licensing or franchise agreement, a modification of the Licensing Revenue terms in subsections (a)(i) and (b)(i) such that the amount of payment due to NYSERDA by Contractor will approximate the amount that would have been due upon a Sale of the Product.

## Article IX

### Warranties and Guarantees

Section 9.01. Warranties and Guarantees. The Contractor warrants and guarantees that:

(a) all information provided and all representations made by Contractor as a part of the Proposal Checklist or application, if any, submitted to NYSERDA in order to obtain this Agreement were, to the best of Contractor's knowledge, complete, true and accurate when provided or made;

(b) as of the Effective Date, it is financially and technically qualified to perform the Work, and is qualified to do business and is in good standing in all jurisdictions necessary for Contractor to perform its obligations under this Agreement;

(c) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, if any, that may in any way affect the performance of this Agreement;

(d) the design, supervision and workmanship furnished with respect to performance of the Work shall be in accordance with sound and currently accepted scientific standards and engineering practices;

(e) all materials, equipment and workmanship furnished by it and by Subcontractors in performance of the Work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and engineering practices;

(f) neither the Contractor nor any of its employees, agents, representatives or servants has actual knowledge of any patent issued under the laws of the United States or any other matter which could constitute a basis for any claim that the performance of the Work or any part thereof infringes any patent or otherwise interferes with any other right of any Person;

(g) to the best of Contractor's knowledge, there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Work or NYSERDA's rights hereunder;

(h) it has no actual knowledge that any information or document or statement furnished by the Contractor in connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Work;

(i) all information provided to NYSERDA with respect to State Finance Law Sections 139-j and 139-k is complete, true and accurate;

(j) Contractor is familiar with and will comply with NYSERDA's Code of Conduct for Contractors, Consultants, and Vendors with respect to the performance of this Agreement;<sup>1</sup> and

(k) its rates for the indirect costs charged herein have been determined based on the Contractor's reasonably anticipated indirect costs during the term of the Agreement and calculated consistent with generally accepted accounting principles.

## Article X

### Indemnification

Section 10.01. Indemnification. The Contractor 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, attorneys' fees and expenses) imposed upon or incurred by or asserted

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<sup>1</sup>[http://www.nyserda.ny.gov/~media/Files/About/Board%20Governance/CodeConduct.ashx?sc\\_database=web](http://www.nyserda.ny.gov/~media/Files/About/Board%20Governance/CodeConduct.ashx?sc_database=web)

against NYSERDA or the State of New York resulting from, arising out of or relating to Contractor's or its Subcontractors' performance of this Agreement. The obligations of the Contractor under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

Article XI  
Insurance

***[Under NYSERDA'S risk management program, projects are defined according to the following categories: Category A (low risk; no insurance required); Category B (medium risk; "standard" insurance requirements); and Category C (high risk; insurance to be negotiated on a case-by-case basis). The following language represents NYSERDA'S "standard" insurance requirements.]***

Section 11.01. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional direct cost to NYSERDA, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of the types and in the amounts specified in the Section hereof entitled Types of Insurance. All such insurance shall be evidenced by insurance policies, each of which shall:

- (a) except policies in evidence of insurance required under Section 11.02(b), name or be endorsed to cover NYSERDA, the State of New York and the Contractor as additional insureds;
- (b) provide that such policy may not be cancelled or modified until at least 30 days after receipt by NYSERDA of written notice thereof; and
- (c) be reasonably satisfactory to NYSERDA in all other respects.

Section 11.02. Types of Insurance. The types and amounts of insurance required to be maintained under this Article are as follows:

- (a) Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the performance of this Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster; and
- (b) Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.

**[For contracts containing recoupment, insert:]** (c) Upon commencement of marketing of the Product, product liability insurance for bodily injury liability, including death and property damage liability arising out of the use of the Product with minimum

limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster. Product liability insurance naming the NYSERDA and State of New York as additional insureds required under this Agreement shall remain in effect for as long as the payment obligation pursuant to Section 8.03 of this Agreement is in effect.

Section 11.03. Delivery of Policies; Insurance Certificates. Prior to commencing the Work, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, indicating the Agreement number thereon, evidencing the insurance required by Article XI hereof. **[For contracts containing recoupment, insert:** Upon commencement of marketing of the Product, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, indicating the Agreement number thereon, evidencing the insurance required by Section 11.02 (c) hereof and bearing notations evidencing the payment of the premiums thereon or accompanied by other evidence of such payment satisfactory to NYSERDA.] In the event any policy furnished or carried pursuant to this Article will expire on a date prior to acceptance of the Work by NYSERDA pursuant to the section hereof entitled Acceptance of Work, the Contractor, not less than 15 days prior to such expiration date, shall deliver to NYSERDA certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect NYSERDA hereunder, or if deemed necessary by NYSERDA due to events rendering a review necessary, upon request the Contractor shall deliver to NYSERDA a certified copy of each policy.

## Article XII

### Stop Work Order; Termination

#### Section 12.01. Stop Work Order.

(a) NYSERDA may at any time, by written Order to the Contractor, require the Contractor to stop all or any part of the Work called for by this Agreement for a period of up to ninety (90) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this Section. Upon receipt of such an Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of work stoppage consistent with public health and safety. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, NYSERDA shall either:

- (i) by written notice to the Contractor, cancel the Stop Work Order, which shall be effective as provided in such cancellation notice, or if not specified therein, upon receipt by the Contractor, or

- (ii) terminate the Work covered by such order as provided in the Termination Section of this Agreement.

(b) If a Stop Work Order issued under this Section is cancelled or the period of the Order or any extension thereof expires, the Contractor shall resume Work. An equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, if any, or a combination thereof, and in any other provisions of the Agreement that may be affected, and the Agreement shall be modified in writing accordingly, if:

- (i) the Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Agreement, and
- (ii) the Contractor asserts a claim for such adjustments within 30 days after the end of the period of Work stoppage; provided that, if NYSERDA decides the facts justify such action, NYSERDA may receive and act upon any such claim asserted at any time prior to final payment under this Agreement.

(c) If a Stop Work Order is not cancelled and the Work covered by such Order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed by equitable adjustment or otherwise.

(d) Notwithstanding the provisions of this Section 12.01, the maximum amount payable by NYSERDA to the Contractor pursuant to this Section 12.01 shall not be increased or deemed to be increased except by specific written amendment hereto.

#### Section 12.02. Termination.

(a) This Agreement may be terminated by NYSERDA at any time during the term of this Agreement with or without cause, upon ten (10) days prior written notice to the Contractor. In such event, payment shall be paid to the Contractor for Work performed and expenses incurred prior to the effective date of termination in accordance with the provisions of the Article hereof entitled Payment and in reimbursement of any amounts required to be paid by the Contractor pursuant to Subcontracts; provided, however, that upon receipt of any such notice of termination, the Contractor shall cease the performance of Work, shall make no further commitments with respect thereto and shall reduce insofar as possible the amount of outstanding commitments (including, to the extent requested by NYSERDA, through termination of subcontracts containing provisions therefor). Articles VIII, IX, and X shall survive any termination of this Agreement, and Article XVI shall survive until the payment obligations pursuant to Article VIII have been met.

(b) NYSERDA specifically reserves the right to terminate this agreement in the event that the certification filed by the Contractor in accordance with State Finance Law

Sections 139-j and 139-k is found to have been intentionally false or intentionally incomplete, or that the certification filed by the Contractor in accordance with New York State Tax Law Section 5-a is found to have been intentionally false when made. Terminations under this subsection (b) will be effective upon Notice.

(c) Nothing in this Article shall preclude the Contractor from continuing to carry out the Work called for by the Agreement after receipt of a Stop Work Order or termination notice at its own election, provided that, if the Contractor so elects: (i) any such continuing Work after receipt of the Stop Work Order or termination notice shall be deemed not to be Work pursuant to the Agreement, and (ii) NYSERDA shall have no liability to the Contractor for any costs of the Work continuing after receipt of the Stop Work Order or termination notice.

### Article XIII

#### Independent Contractor

Section 13.01. Independent Contractor. (a) The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants, including the Project Director, shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of NYSERDA nor make any claim, demand or application for any right or privilege applicable to NYSERDA, including, without limitation, vicarious liability, professional liability coverage or indemnification, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit. It is understood and agreed that the personnel furnished by Contractor to perform the Work shall be Contractor's employee(s) or agent(s), and under no circumstances are such employee(s) to be considered NYSERDA's employee(s) or agent(s), and shall remain the employees of Contractor, except to the extent required by section 414(n) of the Internal Revenue Code.

(b) Contractor expressly acknowledges NYSERDA's need to be advised, on an immediate basis, of the existence of any claim or event that might result in a claim or claims against NYSERDA, Contractor and/or Contractor's personnel by virtue of any act or omission on the part of NYSERDA or its employees. Accordingly, Contractor expressly covenants and agrees to notify NYSERDA of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon contractor's discovery of the same, and to fully and honestly cooperate with NYSERDA in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by NYSERDA for disclosure of information concerning such claim or event even in the event that this Agreement should terminate for any reason.

## Article XIV

### Compliance with Certain Laws

Section 14.01. Laws of the State of New York. The Contractor shall comply with all of the requirements set forth in Exhibit C hereto.

Section 14.02. All Legal Provisions Deemed Included. It is the intent and understanding of the Contractor and NYSERDA that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either NYSERDA or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

Section 14.03. Other Legal Requirements. The references to particular laws of the State of New York in this Article, in Exhibit C and elsewhere in this Agreement are not intended to be exclusive and nothing contained in such Article, Exhibit and Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

## Article XV

### Notices, Entire Agreement, Amendment, Counterparts

Section 15.01. Notices.

(a) All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be in writing and shall be transmitted either:

- (i) via certified or registered United States mail, return receipt requested;
- (ii) by facsimile transmission;
- (iii) by personal delivery;
- (iv) by expedited delivery service; or
- (v) by e-mail, return receipt requested.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate as set forth in paragraph (c) below:

**NYSERDA**

Name: Cheryl M. Glanton  
Title: Director of Contract Management  
Address: 17 Columbia Circle, Albany, New York 12203  
Facsimile Number: (518) 862-1091  
E-Mail Address: [Cheryl.Glanton@nyserda.ny.gov](mailto:Cheryl.Glanton@nyserda.ny.gov)  
Personal Delivery: Reception desk at the above address

**[Contractor Name]**

Name:  
Title:  
Address:  
Facsimile Number:  
E-Mail Address:

(b) Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

(c) The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

Section 15.02. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between NYSERDA and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

Section 15.03. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Article XVI

Publicity

Section 16.01. Publicity.

(a) The Contractor shall collaborate with NYSERDA's Director of Communications to prepare any press release and to plan for any news conference concerning the Work. In addition the Contractor shall notify NYSERDA's Director of Communications regarding any media interview in which the Work is referred to or discussed.

(b) It is recognized that during the course of the Work under this Agreement, the Contractor or its employees may from time to time desire to publish information regarding scientific or technical developments made or conceived in the course of or under this Agreement. In any such information, the Contractor shall credit NYSERDA's funding participation in the Project, and shall state that "NYSERDA has not reviewed the information contained herein, and the opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York." Notwithstanding anything to the contrary contained herein, the Contractor shall have the right to use and freely disseminate project results for educational purposes, if applicable, consistent with the Contractor's policies.

(c) Commercial promotional materials or advertisements produced by the Contractor shall credit NYSERDA, as stated above, and shall be submitted to NYSERDA for review and recommendations to improve their effectiveness prior to use. The wording of such credit can be approved in advance by NYSERDA, and, after initial approval, such credit may be used in subsequent promotional materials or advertisements without additional approvals for the credit, provided, however, that all such promotional materials or advertisements shall be submitted to NYSERDA prior to use for review, as stated above. Such approvals shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the promotional materials or advertisement shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days. If NYSERDA and the Contractor do not agree on the wording of such credit in connection with such materials, the Contractor may use such materials, but agrees not to include such credit.

***[If Section 8.03 applies, the following Article XVII is required:]***

## Article XVII

### Business Reorganizations

Section 17.01. Business Reorganizations. In the event the Contractor proposes to consolidate or merge into or with another corporation or entity, or to sell or dispose of all or a majority of the assets of the Contractor, or to otherwise undertake a reorganization which alters or changes the rights of NYSERDA as provided in this Agreement, before any such action shall be taken, the Contractor shall either:

(a) buy out its obligation to make payments to NYSERDA as described in Section 8.03 of this Agreement by paying NYSERDA an amount equal to three (3) times the amount of funds actually paid by NYSERDA to the Contractor under this Agreement, such aggregate buyout amount to be reduced by the amount(s) credited to Contractor pursuant to Section 8.03, if applicable; or

(b) assign or otherwise transfer to a new entity the Contractor's obligations under this Agreement, including, but not limited to, the obligation to make payments to NYSERDA as described in Section 8.03 of this Agreement. Such assignment or transfer shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the assignment or transfer shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to thirty (30) days after the lapse of the original review period.

## EXHIBIT C

REVISED 5/12

### STANDARD TERMS AND CONDITIONS FOR ALL NYSERDA AGREEMENTS

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The parties to the Agreement agree to be bound by the following clauses which are hereby made a part of the Agreement:

1. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. If this is a building service Agreement as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement and forfeiture of all moneys due hereunder for a second subsequent violation.

2. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a

manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by NYSERDA of any NYSERDA-approved sums due and owing for work done upon the project.

3. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to NYSERDA a non-collusive bidding certification on Contractor's behalf.

4. INTERNATIONAL BOYCOTT PROHIBITION. If this Agreement exceeds \$5,000, the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYSERDA within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

5. SET-OFF RIGHTS. NYSERDA shall have all of its common law and statutory rights of set-off. These rights shall include, but not be limited to, NYSERDA's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYSERDA with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to NYSERDA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

6. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, Contractor and NYSERDA acknowledge and agree that all information, in any format, submitted to NYSERDA shall be subject to and treated in accordance with the NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, NYSERDA is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, unless the Agreement specifically requires otherwise, Contractor should submit information to NYSERDA in a non-confidential, non-proprietary format. FOIL does provide that NYSERDA may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial

enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise.” [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information “confidential” or “proprietary” at the time of disclosure. By so marking such information, Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor. Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to NYSERDA without obligation concerning its confidentiality. In the event of a FOIL request, it is NYSERDA’s policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, NYSERDA cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the Committee on Open Government (<http://www.dos.state.ny.us/coog/foil2.html>) and NYSERDA’s Regulations, Part 501 (<http://www.nyserda.ny.gov/en/About/~media/Files/About/Contact/NYSERDARegulations.ashx>).

7. **IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) **FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIAL SECURITY NUMBER.** As a condition to NYSERDA’s obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to NYSERDA its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) **PRIVACY NOTIFICATION.** The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by Contractor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

8. **CONFLICTING TERMS.** In the event of a conflict between the terms of the Agreement (including any and all attachments thereto and amendments thereof) and the terms of this Exhibit C, the terms of this Exhibit C shall control.

9. GOVERNING LAW. This Agreement shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

10. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the NYSERDA's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

11. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law and Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon NYSERDA's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify NYSERDA, in writing, of each and every change of address to which service of process can be made. Service by NYSERDA to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

12. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to NYSERDA, convicted of a felony, under the laws of the United States or Territory of the United States, then NYSERDA may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then NYSERDA may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYSERDA may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

13. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by NYSERDA.

15. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
30 South Pearl St -- 7th Floor  
Albany, New York 12245  
Telephone: 518-292-5220  
Fax: 518-292-5884  
<http://www.esd.ny.gov>

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
30 South Pearl St -- 2nd Floor  
Albany, New York 12245  
Telephone: 518-292-5250  
Fax: 518-292-5803  
<http://www.empire.state.ny.us>

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractors certify that whenever the total amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

16. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

17. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

18. PROCUREMENT LOBBYING. To the extent this Agreement is a “procurement contract” as defined by State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, NYSERDA may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

19. COMPLIANCE WITH TAX LAW SECTION 5-a. The following provisions apply to Contractors that have entered into agreements in an amount exceeding \$100,000 for the purchase of goods and services:

- a) Before such agreement can take effect, the Contractor must have on file with the New York State Department of Taxation and Finance a Contractor Certification form (ST-220-TD).
- b) Prior to entering into such an agreement, the Contractor is required to provide NYSERDA with a completed Contractor Certification to Covered Agency form (Form ST-220-CA).
- c) Prior to any renewal period (if applicable) under the agreement, the Contractor is required to provide NYSERDA with a completed Form ST-220-CA.

Certifications referenced in paragraphs (b) and (c) above will be maintained by NYSERDA and made a part hereof and incorporated herein by reference.

NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with Tax Law Section 5-a was false when made.

20. IRANIAN ENERGY SECTOR DIVESTMENT. In accordance with Section 2879-c of the Public Authorities Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of [section 165-a of the State Finance Law](#) (See [www.ogs.ny.gov/about/regs/ida.asp](http://www.ogs.ny.gov/about/regs/ida.asp)).

## EXHIBIT D

### NYSERDA PROMPT PAYMENT POLICY STATEMENT

**504.1. Purpose and Applicability.** (a) The purpose of this Exhibit is to provide a description of Part 504 of NYSERDA's regulations, which consists of NYSERDA's policy for making payment promptly on amounts properly due and owing by NYSERDA under this Agreement. The section numbers used in this document correspond to the section numbers appearing in Part 504 of the regulations.<sup>2</sup>

(b) This Exhibit applies generally to payments due and owing by the NYSERDA to the Contractor pursuant to this Agreement. However, this Exhibit does not apply to Payments due and owing when NYSERDA is exercising a Set-Off against all or part of the Payment, or if a State or Federal law, rule or regulation specifically requires otherwise.

**504.2. Definitions.** Capitalized terms not otherwise defined in this Exhibit shall have the same meaning as set forth earlier in this Agreement. In addition to said terms, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Date of Payment" means the date on which NYSERDA requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a Payment.

(b) "Designated Payment Office" means the Office of NYSERDA's Controller, located at 17 Columbia Circle, Albany, New York 12203.

(c) "Payment" means payment properly due and owing to Contractor pursuant to Article IV, Exhibit B of this Agreement.

(d) "Prompt Payment" means a Payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Exhibit in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(e) "Payment Due Date" means the date by which the Date of Payment must occur, in accordance with the provisions of Sections 504.3 through 504.5 of this Exhibit, in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(f) "Proper Invoice" means a written request for Payment that is submitted by a Contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as NYSERDA may reasonably require, including but not limited to any requirements set forth in Exhibits A or B to this Agreement; and addressed to

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<sup>2</sup> This is only a summary; the full text of Part 504 can be accessed at:  
<http://www.nyserda.ny.gov/en/About/~media/Files/About/Contact/NYSERDARegulations.ashx>

NYSERDA's Controller, marked "Attention: Accounts Payable," at the Designated Payment Office.

(g)(1) "Receipt of an Invoice" means:

(i) if the Payment is one for which an invoice is required, the later of:

(a) the date on which a Proper Invoice is actually received in the Designated Payment Office during normal business hours; or

(b) the date by which, during normal business hours, NYSERDA has actually received all the purchased goods, property or services covered by a Proper Invoice previously received in the Designated Payment Office.

(ii) if the Agreement provides that a Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

(2) For purposes of this subdivision, if the Agreement requires a multifaceted, completed or working system, or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced NYSERDA for the portion working, completed or delivered, NYSERDA will not be in Receipt of an Invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(g) "Set-off" means the reduction by NYSERDA of a payment due a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to NYSERDA.

**504.3. Prompt Payment Schedule.** Except as otherwise provided by law or regulation or in Sections 504.4 and 504.5 of this Exhibit, the Date of Payment by NYSERDA of an amount properly due and owing under this Agreement shall be no later than thirty (30) calendar days, excluding legal holidays, after Receipt of a Proper Invoice.

**504.4. Payment Procedures.**

(a) Unless otherwise specified in this Agreement, a Proper Invoice submitted by the Contractor to the Designated Payment Office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the Designated Payment Office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by NYSERDA.

(b) NYSERDA shall notify the Contractor within fifteen (15) calendar days after

Receipt of an Invoice of:

- (1) any defects in the delivered goods, property or services;
- (2) any defects in the invoice; or
- (3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

(d) If NYSERDA fails to notify a Contractor of a defect or impropriety within the fifteen (15) calendar day period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for Payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the Contractor. If NYSERDA fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the Payment Due Date shall be calculated using the original date of Receipt of an Invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, NYSERDA shall make Payment, consistent with any such correction or resolution and the provisions of this Exhibit.

**504.5. Exceptions and Extension of Payment Due Date.** NYSERDA has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Exhibit, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the Payment Due Date:

(a) If this Agreement provides Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by this Agreement or other State or Federal mandate has not been submitted to NYSERDA on a timely basis, then the Payment Due Date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to NYSERDA and the date when NYSERDA has actually received such matter.

(b) If an inspection or testing period, performance verification, audit or other review or documentation independent of the Contractor is specifically required by this Agreement or by other State or Federal mandate, whether to be performed by or on behalf of NYSERDA or another entity, or is specifically permitted by this Agreement or by other State or Federal provision and NYSERDA or other entity with the right to do so elects to have such activity or documentation undertaken, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when any such activity or documentation has been completed, NYSERDA

has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the Contract, prior to Payment, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when the State or Federal agency, or other contributing party to the Contract, has completed the inspection, advised NYSERDA of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

(d) If appropriated funds from which Payment is to be made have not yet been appropriated or, if appropriated, not yet been made available to NYSERDA, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when such funds are made available to NYSERDA.

**504.6. Interest Eligibility and Computation.** If NYSERDA fails to make Prompt Payment, NYSERDA shall pay interest to the Contractor on the Payment when such interest computed as provided herein is equal to or more than ten dollars (\$10.00). Interest shall be computed and accrue at the daily rate in effect on the Date of Payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a Payment shall be computed for the period beginning on the day after the Payment Due Date and ending on the Date of Payment.

**504.7. Sources of Funds to Pay Interest.** Any interest payable by NYSERDA pursuant to Exhibit shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related Payment.

**504.8. Incorporation of Prompt Payment Policy Statement into Contracts.** The provisions of this Exhibit shall apply to all Payments as they become due and owing pursuant to the terms and conditions of this Agreement, notwithstanding that NYSERDA may subsequently amend its Prompt Payment Policy by further rulemaking.

**504.9. Notice of Objection.** Contractor may object to any action taken by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to NYSERDA. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the notice address set forth in Exhibit B to this Agreement. The Vice President of NYSERDA, or his or her designee, shall review the objection for purposes of affirming or modifying NYSERDA's action. Within fifteen (15) working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the Contractor either that NYSERDA's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period

exceed thirty (30) working days.

**504.10. Judicial Review.** Any determination made by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Exhibit or any other review procedure that may be specified in this Agreement or by other law, rule, or regulation.

**504.11. Court Action or Other Legal Processes.**

(a) Notwithstanding any other law to the contrary, the liability of NYSERDA to make an interest payment to a Contractor pursuant to this Exhibit shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by NYSERDA after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

**Exhibit E**

**NYSERDA Report Format and Style Guide**

# **Purpose**

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This document explains how to prepare a technical report for the New York State Energy Research and Development Authority (NYSERDA), including typesetting and formatting procedures, and provides electronic data-transfer information.

The finished report deliverable will be published by NYSERDA. Please direct questions about format and style to Diane Welch of NYSERDA's Marketing Services unit at: (518) 862-1090, ext. 3276, or via e-mail: dlw@nyserda.org.

## **Americans with Disabilities Act (ADA) Accessibility Compliance**

As a State Authority, NYSERDA is obligated, under Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998, to ensure that all documents published on NYSERDA's website are accessible.

To meet the needs of persons with visual disabilities, reports must be in a format that allows for conversion of written words of an electronic document into speech, thus allowing the person with a visual disability to hear the text. The formatting of these documents is critical to the success of the conversion from text to speech. Reports submitted to NYSERDA must meet the following requirements:

- Format documents using Microsoft Word Styles
- Use headings in the document
- Use Alternate Text (Alt Text) for images and objects
- Provide captions for all tables, images, and figures
- Use contextual links, do not use long URLs or "click here"

For more information about how to make a document accessible, please refer to <http://www.nyserda.org/resources/>

## **Page Format**

Proper page setup is essential to ensure that your report is published accurately and efficiently. Textual material should be created in Microsoft Word. While other word-processing programs may be able to be converted, file corruption may occur during the process. Reports that are to be published on the web must be submitted as either a Microsoft Word document, or a fully accessible PDF in NYSERDA's approved format, which contains all of NYSERDA's Marketing Department editorial changes.

- Left and Right margins should be set at 1.25 inches; Top and Bottom margins should be set at 1-inch
- Use left-hand justification only
- Spacing should be 1.5 lines
- Block-style paragraphs should be used, with no indentation (except for fifth-level headings, which should be blocked on the left; see Heading Styles on page 6 of this guide)
- There should be 10pt of space between a paragraph and the heading that follows. (Note: the spacing above and below a paragraph or heading should be controlled by the use of Styles, and not through the use of hard or soft returns)

# Report Format and Pagination

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## Required Components

The following items are required in all technical reports and should be paginated in the following sequence:

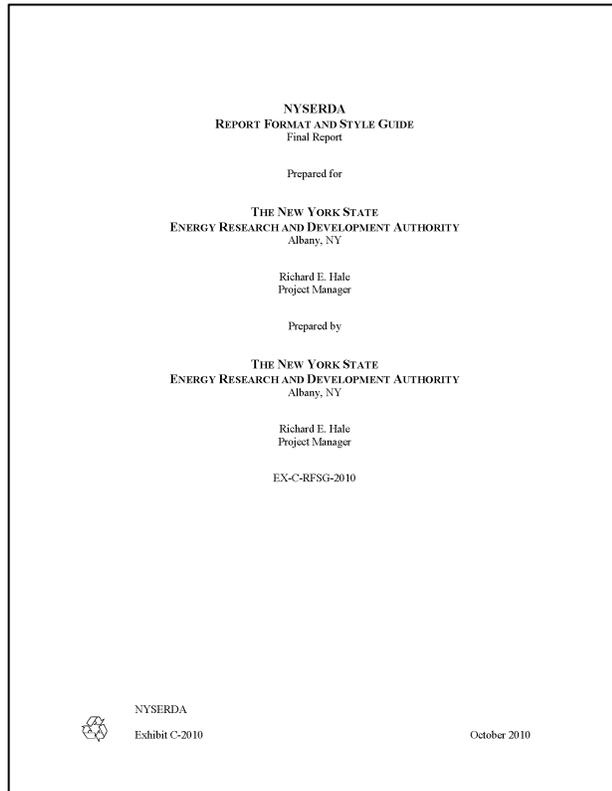
- Title page (no page number)
- Notice (no page number)
- Abstract and Keywords (iii)
- Acknowledgments (optional) (iv)
- Table of Contents, including listings of figures and tables (v)
- Summary (S-1)
- Main Text listed by section number (1-1; 2-1)
- Appendices (A-1; B-1)

Note: Each subsequent section or chapter must begin on a new page, but it is not necessary to start each new section on a right hand (recto) page.

## Title Page

The following information is required:

- Report title and type of report (i.e., final, interim, or summary)
- Name of NYSERDA project manager(s)
- Corporate name, city, and state of contractor(s), including contact person(s) or project manager(s)
- Project co-sponsors, including contact person(s) or project manager(s)
- NYSERDA Agreement number (e.g., NYSERDA 10902)



## **Notice**

All technical reports are required to contain one of the following legal notices or disclaimers:

When NYSERDA is the project's sole sponsor, this notice must be used:

### **NOTICE**

This report was prepared by Insert Preparer's Name in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (hereafter NYSERDA). The opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, NYSERDA, the State of New York, and the contractor make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. NYSERDA, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

When there are project co-sponsors in addition to NYSERDA, use the following notice instead:

### **NOTICE**

This report was prepared by Insert Preparer's Name in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority and the Insert Co-Sponsor (hereafter the "Sponsors"). The opinions expressed in this report do not necessarily reflect those of the Sponsors or the State of New York, and reference to any specific product, service, process, or method does not constitute an implied or expressed recommendation or endorsement of it. Further, the Sponsors and the State of New York make no warranties or representations, expressed or implied, as to the fitness for particular purpose or merchantability of any product, apparatus, or service, or the usefulness, completeness, or accuracy of any processes, methods, or other information contained, described, disclosed, or referred to in this report. The Sponsors, the State of New York, and the contractor make no representation that the use of any product, apparatus, process, method, or other information will not infringe privately owned rights and will assume no liability for any loss, injury, or damage resulting from, or occurring in connection with, the use of information contained, described, disclosed, or referred to in this report.

## **Abstract and Keywords**

The Abstract is a brief, approximately 200-word description of project objectives, investigative methods used, and research conclusions or applications. This information will be used when NYSERDA registers the report with the [New York State Library](#) (NYSL), and the [Library of Congress](#) (LOC). A list of keywords that describe the project and identify the major research concept should be submitted with the report. Four to six precise descriptors are generally sufficient and will be used for indexing, registering, and distributing the report through NTIS.

## Acknowledgments

The Acknowledgments must precede the Table of Contents and is generally no longer than two paragraphs in length.

## Table of Contents

The Table of Contents should list section numbers, titles, second-level headings, and their page numbers. Third-level headings also may be listed. If the report contains five or more figures or tables, they should be listed using the style of the Table of Contents. (Reference the "Table of Contents" style in the styles menu of the NYSERDA report Template).

<b>Table of Contents</b>	
<u>Section</u>	<u>Page</u>
Summary .....	S-1
Getting Started .....	1
Purpose .....	1
Page Format .....	1
ADA Accessibility Requirements .....	2
Background .....	2
What is an Accessible Document? .....	2
What is NYSERDA's Responsibility? .....	3
Terminology .....	3
Report Format and Pagination .....	4
Pagination .....	4
Title Page .....	4
Notice .....	4
Abstract and Keywords .....	5
Acknowledgments .....	6
Table of Contents .....	6
Headers and Footers .....	6
Footnotes .....	6
Hyperlinks .....	6
Illustrations .....	7
Images (Photograph) .....	7
Graphics (Logo or Figure) .....	7
Charts or Diagrams .....	7
Captions .....	7
Styles .....	9
Font Styles and Formatting .....	9
Using Styles to Add Structure .....	9
Common Styles .....	9
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v



## Headers and Footers

In addition to using paragraph styles to organize and define the structure of a document, elements such as page numbers, notes, and citations should be placed within a header or footer. These should not be inserted manually because they will not be included within the marked-up structure of the document (for example typing out the number 1, 2, 3, etc. at the top or bottom of every page to insert as page numbers). To add a header or footer to a document, select “Header,” “Footer,” or “Page Number” from the “Header and Footer” groups on the “Insert” tab.

## Footnotes

If possible, please substitute parenthetical in-line text for footnotes in Word to generate a tagged PDF. Any footnoted text will be read out loud by a screen reader immediately after its reference, as if it were inserted inline rather than positioned at the bottom of the page. If inserting parenthetical in-line text is not conducive to your report type, and you are not using Microsoft Word 2007 or higher, the footnotes will not be properly linked to the referenced text when read by the screen reader.

## Hyperlinks

Make sure that all hyperlinks are clearly described in the text surrounding the link. Do not use “Link” or “Click here.” Ensure that the text in the link tells the readers what they are going to find if they click on the link. Listing the URL to a website as a link, for example <http://www.nyserda.org>, is preferred.

## Illustrations

This section explains how to insert an image, photograph, logo, figure, chart or diagram.

- Select the “Insert” tab
- Choose “Picture”
- Browse to the image or graphic
- Click “Insert”

### ***Images (Photograph)***



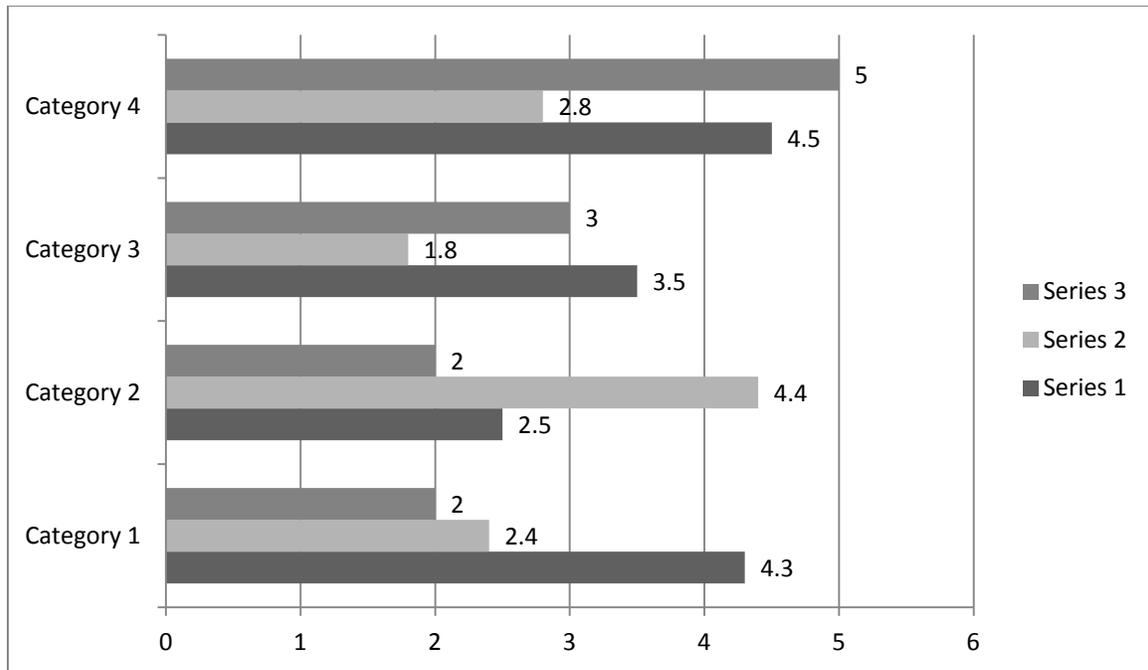
## Graphics (Logo or Figure)



Note 1: Images without substantive content should not have any Alternate Text.

Note 2: Background images or watermarks do not have to be tagged. When the document is converted to a PDF file, these images will not be detected by the screen reader.

## Charts or Diagrams



## Captions

Ensure that the caption text is descriptive, not just a label. Please consider the following examples:

Do not use: “This is a photo of a steam plant.”

Use: “The photo shows the location of the filtering system mounted to the primary stack that collects particulates and unburned gases, which are then rerouted through the secondary burner.”

Do not use: “This is Figure 12.”

Use: “Figure 12 shows that 17% of the targeted age group in the Astoria neighborhood of Queens has participated in this program, versus 43% of the targeted age group in the Park Slope neighborhood of Brooklyn who first participated in an energy-savings competition.”

Photographs, figures, charts, and graphs must be explained in Alt Text for the visually impaired reader.

In some circumstances, it may be necessary to import tables as images. When this is the case, Alt Text must also be included (refer to [NYSERDA’s ADA Accessibility Requirements](#) document located at:

<http://www.nyserdera.org/Resources/ADA-Accessibility-Requirements.pdf> on NYSERDA’s website for assistance with Alt Text).

To insert a caption, right click on the object and select "Insert Caption."

Captions for tables are traditionally inserted above the table

Captions for images and figures are traditionally inserted below the image

## **Tables and Figures**

Tables and figures must be numbered sequentially and titled individually

Place tables and figures as close as possible to the text in which they are mentioned

Distinguish tables from the text by using a table style

Cite a source if the tabular material or figure content has not been generated by the contractor

Figure captions should be complete sentences when appropriate

Use "Figure 1," not "Fig. 1," or "Table 1." in the text, as well as for captions. Examples:

“Table 1 details demand-side management options”

“As shown in Figure 1, the demand-side management program offers numerous options”

Figure captions should use the style “Strong”:

**Figure 1. Demand-Side Management Options in New York State.**

Unless generated by the contractor, a source should always be cited. The figure source should appear after the caption:

Source: Lawrence Berkeley Laboratory)

Photographs and drawings should only be inserted if they are meaningful to the report. The following styles are typically used:

Black-and-white line drawings

Clear halftones (black-and-white photographs)

Color artwork and photos

# Styles

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## Font Styles and Formatting

All text elements should be set in 10-point Times New Roman; all caption, tables, and figures elements should be in 10-point Arial or Helvetica.

The format of selected text in the document text can be easily changed by choosing a look for the selected text from the “Quick Styles” gallery on the Home tab. One also can format text directly by using the other controls on the “Home” tab. Most controls offer a choice of using the look from the current theme or using a format that is specified directly.

## Using Styles to Add Structure

Microsoft Word does a good job of encouraging the proper use of Styles. The “Styles” group is found on the “Home” Tab. To change a section of text, simply select the text and click on the appropriate style. In addition to making the document look better, “Styles” also allows for the creation of automatic PDF bookmarks, TOC links, and PDF tags.

## Common Styles

### *Headings*

Microsoft Word has nine built-in “Heading” styles. They are called Heading 1, Heading 2, etc. A person would use the “Heading” styles to indicate major headings in a document. Use Heading 1 to indicate a top-level heading. If there is a sub-heading for Heading 1, use Heading 2. If there is a sub-heading for Heading 2, use Heading 3, and so on. Again, it is adding structure to the document and, structurally, the headings should be used in order. For example, do not use Heading 1, then Heading 3 simply because the writer likes the way Heading 3 is formatted. Instead, modify Heading 2 to the writer's liking and use Heading 2 before using Heading 3.

### *Numbered Lists*

The “List Number” style can be used when there is a numbered list. Do not use the buttons on the toolbar to indicate a numbered list. The “List Number” style is more stable and will be easier to maintain.

### *Bulleted Lists*

The “List Bullet” style can be used when there is a list of items, and order does not matter. If the order of the list items is important, use the “List Number” style instead. Do not use the buttons on the toolbar to indicate a bulleted list.

## **Emphasis**

The “Emphasis” style can be used to indicate that a word(s) are important. The default format for the “Emphasis” style is italic. Visually, using the “Emphasis” style on a word or words looks the same as if the writer simply clicked the italic button on the formatting toolbar. However, for someone using a screen reader, it can tell the individual that the writer thinks that word or words are important. A screen reader user will not know if a word is simply italicized, but with the “Emphasis” style, a screen reader user could “learn” that the writer has emphasized that particular text.

## **Strong**

The “Strong” style is similar to the “Emphasis” style except that the default format is bold. It gives structure to words, rather than simply changing the way a word or words look.

## **Title**

The “Title” style is used to indicate the title of the document. There should be only one “Title” style in use in a given document.

## **Body Text or Normal**

The “Body Text” style can be used to indicate the text in the body of the document. The “Normal” style is very similar and can be used instead of the “Body Text” style.

## **Creating New Styles**

If [NYSERDA's Report template](#) does not encompass every style required in your report, you can create additional styles for formatting. There are two ways to do this: “New Styles” or “New Quick Styles.” To create a new style:

- Click the “Styles” dialog box
- Click the “New Style” button
- Complete the “New Style” dialog box

At the bottom of that dialog box, one can choose to add this to the “Quick Style” list or to make it available only in this document. Please note that you should not be changing NYSERDA's template styles, as these are the approved formatting for NYSERDA published documents.

## **Tips**

- Do not fling formatting at text. “Flinging” means creating a style that looks like a heading or subheading, but really is a different font style, size, bold, italicized, etc.
- Screen reading software will read the document as one long series of paragraphs with no differentiation for new topics unless properly formatted with Heading Styles. (Imagine reading a textbook with no difference in text from one paragraph to the next.)
- When documents are converted to other formats (HTML, PDF, PowerPoint, etc.), the heading structure is retained automatically.

# ***Copyrights***

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## **Intellectual Property**

All material borrowed or adapted from other sources should be properly identified (i.e., document, source, date, and page). The contractor must obtain and submit to NYSERDA the copyright owner's written permission to use any illustrations, photographs, tables, figures, or substantial amounts of text from any other publication.

# **Report Submission Guidelines**

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## **Report Submission Guidelines**

No printed drafts of the report are required. An electronic Word version must be submitted to your NYSERDA Project manager. After review by your Project Manager and Marketing Services staff, a final draft will be returned to the contractor for review, additional corrections, and approval. The contractor is responsible for satisfactorily addressing technical comments from NYSERDA and other co-sponsors. When making editorial corrections, the contractor must ensure that technical content is not compromised. After editorial corrections have been made, the contractor must submit a final electronic "Word" version of the final report. Material may be submitted using one of the following methods:

**FTP Site:**

Install a Secure File Transfer Protocol (SFTP) client. (We recommend [Filezilla](http://filezilla-project.org/download.php) (<http://filezilla-project.org/download.php>))

The following are NYSERDA's SFTP credentials:

Host: 66.109.33.102

Port: 49122

Server Type: SFTP

Logon Type: Normal

User: NYSERDA-General

Password: yedg!n

Email: to your project manager, or NYSERDA's Marketing department: [print@nyserda.ny.gov](mailto:print@nyserda.ny.gov)

Compact disc (CD-ROM):

NYSERDA — Marketing Services

Attn: Diane Welch

17 Columbia Circle

Albany, New York 12203-6399

If you are unable to meet these electronic transfer requirements prior to submitting your report, please contact Diane Welch of NYSERDA's Marketing Services unit at: (518) 862-1090, ext. 3276, or via e-mail: [dlw@nyserda.ny.gov](mailto:dlw@nyserda.ny.gov)

## ATTACHMENT G

### **NYSERDA - INSTRUCTIONS FOR SUBMITTING ELECTRONIC PROPOSALS (January 2014)**

Please read the following instructions before submitting a proposal.

1. Locate the Funding Opportunity (PON, RFP, RFQ) on the “**Current Funding Opportunities**” page of NYSERDA’s website at:  
<http://www.nyserda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>
2. While on the “**Current Funding Opportunities**” page, click the link/title of the individual Funding Opportunity.
3. While on the individual Funding Opportunity page, click the “**Submit Proposal Online**” button.
4. Enter your e-mail address and click the “Validate Email” button.
5. You will receive an automatic email containing a link to validate your email address. Click the link to be taken back to the Funding Opportunity to begin the online submission process.
6. Upload as many files as needed, one at a time. The electronic file names should include the proposing entity’s name in the title of the document.
7. After clicking the “Upload File” button, a list of your files will appear on the web page. You can delete files from this list if needed.
8. After all necessary files have been uploaded; review the list of documents to ensure that your proposal is complete and accurate.
9. Click the “Submit Proposal button.”
10. You will then be brought to a confirmation page listing the files received. Please print and save the confirmation page.
11. An auto-generated confirmation e-mail will be sent to the e-mail address you entered. Please save this e-mail.
12. When choosing to submit files electronically, the award/non-award notification letter will be sent to the e-mail address used to submit the proposal.

#### **Important Reminders:**

1. Submit only one proposal for each session
2. You may submit Word, Excel, Zip, or PDF files. PDF files must be searchable and therefore should be converted directly from an electronic document to PDF, rather than scanned.
3. E-mail or facsimile submittals will not be accepted.

#### **If you make an error:**

If after you click “Submit Proposals” you discover that the document(s) you submitted are incomplete or inaccurate follow these instructions:

1. Start the process over again and **resubmit the entire proposal**. You will receive another confirmation e-mail.
2. Immediately forward both confirmation e-mails (original and resubmission) to [proposals@nyserda.ny.gov](mailto:proposals@nyserda.ny.gov) with the subject line of “**Resubmittal**” and the PON/RFP/RFQ number.
3. NYSERDA will accept the second submission as your proposal. The first submission will be disregarded.

**If you need help:** If you need help with this electronic proposal submission process, please contact Rosanne Viscusi at [Roseanne.viscusi@nyserda.ny.gov](mailto:Roseanne.viscusi@nyserda.ny.gov) or 518-862-1090 ext. 3418.