

Advanced Transportation Innovations
Program Opportunity Notice (PON) No. 3198
Approximately \$2,700,000 Available

PROPOSALS DUE: April 26, 2016 by 5:00 pm Eastern Daylight Time*

This New York State Energy Research and Development Authority (NYSERDA) Program Opportunity Notice (PON) 3198 seeks proposals to support the development, demonstration, and commercialization of innovative transportation products, systems, and services. Project focus areas will be limited to: electric vehicles, public transportation, smart mobility, transportation demand management, and freight. Proposals will be evaluated on the basis of their energy, environmental, and economic development benefits. Up to \$2,700,000 of NYSERDA funding is available. All, some, or none, of the available funds may be awarded.

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.nyserderda.ny.gov/Funding-Opportunities/Current-Funding-Opportunities.aspx>).

Instructions for submitting electronically are located in Attachment G to this PON. If mailing or hand-delivering, proposers must submit two (2) paper copies of their proposal with a completed and signed Proposal Checklist, along with a CD or DVD containing both a PDF and a 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 3198
New York State Energy Research and Development Authority
17 Columbia Circle, Albany, NY 12203-6399

If you have technical questions concerning this solicitation, contact Robyn Marquis, (518) 862-1090 ext. 3112 (robyn.marquis@nyserderda.ny.gov). If you have contractual questions concerning this solicitation, contact Nancy Marucci, (518) 862-1090 ext. 3335 (nancy.marucci@nyserderda.ny.gov). Questions regarding Attachments C2, C3, and C4 should be directed to Nick Querques, (518) 862-1090 ext. 3086 (nicholas.querques@nyserderda.ny.gov).

No communication intended to influence this procurement is permitted except by contacting Robyn Marquis (Designated Contact) at (518) 862-1090, ext. 3112 or robyn.marquis@nyserderda.ny.gov. 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 will be returned. Incomplete proposals may be subject to disqualification. It is the bidder's responsibility to ensure that all pages have been included in the proposal. Faxed or e-mailed proposals will not be accepted. Proposals will not be accepted at any other NYSERDA location other than the address above. If changes are made to this solicitation, notification will be posted on NYSERDA's web site at <http://www.nyserderda.ny.gov/>.

I. INTRODUCTION

Transportation consumes more non-renewable fuel and produces more greenhouse gases (GHG) – roughly 40% of the New York State (NYS) total – than any other market sector in NYS, and is a leading contributor to air pollution. Actions at the federal and state level are spurring the demand for new transportation innovations. At the federal level, increasingly strict fuel economy and emissions standards are being imposed, and within NYS, the State Energy Plan has targeted a 40% reduction in GHG emissions from 1990 levels by 2030. In addition to technologies, there are shared services models coming to maturity that can lower vehicle miles traveled and subsequently reduce emissions.

These regulations and target goals have refined the focus of the NYSEDA Clean Transportation Program, categorized into five main areas: (1) electric vehicles; (2) public transportation; (3) smart mobility; (4) transportation demand management; and (5) freight.

The five Focus Areas are further described in the following section, but project objectives common to all five include:

- Contributing to GHG emissions reduction goals in NYS.
- Promoting integrated strategies across organizations and transportation modes.
- Providing more intelligent communications between transportation networks and their users.
- Focusing on travel enhancements that support transportation sustainability, energy efficiency, economic productivity, and livability.
- Supporting research, planning, and development of solutions that solve pressing transportation needs; meet traveler expectations and desires; and enhance the reliability, efficiency, and safety of New York's transportation system.
- Enabling agencies, communities, organizations, and others to replicate project concepts.

II. PROGRAM REQUIREMENTS

All proposals MUST address one of the following five focus areas.

Focus Area 1: Electric Vehicles (EVs)

NYS has been a leader in the increased adoption of electric vehicles (EVs), as evidenced by the launch of the ChargeNY initiative in 2013 and implementation of the multi-state Zero Emissions Vehicle (ZEV) Action Plan in 2014. The fundamental tenets of ChargeNY are to help the EV market become self-sustaining and enable growth in the number of EVs in NYS to 40,000 and the network of public and workplace EV charging stations to 3,000 by 2018. The objective of this focus area is to facilitate the expansion of EV adoption by reducing upfront costs and removing other market barriers.

Proposals in this area **must** focus on one of the following concepts:

- Advanced electrification technologies for medium- and heavy-duty vehicles;
- Cost reductions and usability improvements to EV charging stations and station installation procedures;
- Business models and partnerships that improve the value proposition of EV battery packs through innovative second-life uses.

Focus Area 2: Public Transportation

The transit system in the New York City metropolitan area consumes more than 2 billion kWh annually, and the potential for greater efficiencies through new technologies is large. Collaboration between public authorities and private sector partners will be necessary to expedite the development and implementation of energy-saving products. NYS transit bus operations could benefit from improvements

in transit bus efficiency and new electric drive-train capabilities. The objective of this focus area is to increase the efficiency of public transportation systems to reduce energy use and GHG emissions, and increase convenience and ridership.

Proposals in this area **must** focus on one of the following concepts:

- Innovative light-weighting of rail cars;
- Advances in wayside energy storage for capturing and dispensing energy generated from regenerative braking of rail cars;
- Advanced bus efficiency and electrification technologies;
- Approaches to standardize and aggregate energy-saving technology purchases across multiple transit agencies.

Focus Area 3: Smart Mobility

The implementation of technologies that connect vehicles to their surroundings is increasing rapidly, with tools that range from smart parking applications up through self-driving vehicles. The data generated and analyzed by these mobility connections enables municipalities to improve traffic operations, leading to better travel conditions and lower emissions. The objective of this focus area is to develop and increase the adoption of advanced transportation information and communication technologies that will improve travel conditions leading to a decrease in GHG emissions and fuel use.

Proposals in this area **must** focus on one of the following concepts:

- Smart infrastructure sensing and communication technologies that enable the economically viable implementation of advanced parking or improved traffic flow;
- Connected vehicle technologies that improve traffic efficiency through communication with other vehicles, roadside infrastructure, and/or mobile devices used by pedestrians and bicyclists;
- Hardware/software combinations for connected infrastructure that enable functionality across different open source platforms and operating systems.

Focus Area 4: Transportation Demand Management (TDM)

Transportation Demand Management (TDM) techniques are a means to use existing systems more efficiently, with a focus on the movement of both people and goods. To alleviate the strain on the roadway network, TDM strategies encourage and enable people to walk, ride a bicycle, share rides, or use public transportation. The success and growth of these programs relies, in part, on innovative business models and the availability of real-time information. The objective of this focus area is to increase the viability of alternative modes of transportation to reduce single-occupant vehicle trips, and subsequently reduce congestion and GHG emissions.

Proposals in this area **must** focus on one of the following concepts:

- Technologies enabling the improved operability of shared mobility services and the provision of real-time public transportation information;
- Small-scale TDM services, such as car- and bike-sharing provided by a single employer, a multi-family housing complex, or a business improvement district.

Focus Area 5: Freight Transportation

In NYS, nearly 90% of freight tonnage is moved by trucks, and forecasts indicate that, as the density of cities continues to increase, urban freight transport will continue to grow to unprecedented levels. With these networks already burdened by current demand, there are opportunities to implement new congestion management techniques, such as off-hour deliveries, which may benefit from technologies that facilitate operational shifts. The objective of this focus area is to improve the efficiency of last-leg freight operations to reduce GHG emissions and the costs incurred by businesses and consumers.

Proposals in this area **must** focus on one of the following concepts:

- Methods for reducing the impacts of last-mile deliveries that consider consolidation and distribution collaborations, or vehicle alternatives to trucks;
- Technologies that mitigate the noise pollution of deliveries to enable off-hour operations.

Funding Categories. Four categories will be considered for funding:

1. Feasibility studies, including, but not limited to preliminary evaluations such as conceptual design, technology and market assessments, and similar early-stage studies that are necessary precursors to ultimate product development and commercialization. NYSERDA's share of funding for any project of this type will be limited to a maximum of **\$75,000**.
2. Bench scale research and development efforts that are crucial to the development of a marketable product, system, or service, but **will not result in a working prototype within 36 months**. NYSERDA's share of funding for any project of this type will be limited to a maximum of **\$150,000**.
3. Research and development projects that will **produce a working prototype of a transportation product, system, or service in 36 months or less**. NYSERDA's share of funding for any project of this type will be limited to a maximum of **\$500,000**.
4. Demonstration, testing, or validation of a **new product that is not already commercially available** in an application with high impact. NYSERDA's share of funding for any project of this type will be limited to a maximum of **\$500,000**.

Proposers must select one, **and only one**, funding category, which must be indicated in the proposal. **Proposers should allocate 10-25% of the project budget for commercialization-related tasks, such as customer discovery, IP protection, business plan development, and design for manufacturing.**

Regardless of technical topic area, any proposer may choose to define a proposed project as one phase of a multi-phase effort (see the discussion of multiphase projects below). Also, NYSERDA reserves the right to modify a project's Statement of Work and may offer to fund any of the proposals or phases therein at a level lower than that requested, such as by offering to fund a feasibility study rather than a proposed prototype development effort. **In addition, any proposal requesting more than \$250,000 of NYSERDA funds must be structured in at least two phases, with each phase not exceeding \$250,000 of NYSERDA funding.**

Project Scope. To be selected for funding, proposals must:

- Show a potential to reduce GHG emissions from the transportation sector in New York State.
- Address transportation and energy-related challenges in New York State.
- Emphasize development of marketable products rather than basic research.
- Provide quantifiable benefits to New York State with respect to GHG emissions reductions, energy savings, and job creation and retention.
- For projects dealing with transportation systems and infrastructure, be consistent with regional transportation plans in New York State, and with transportation-related laws and regulations.
- Provide a summary discussion of the commercialization path appropriate to the stage of development of the proposed technology. Note that even in early-stage projects, initial activities focusing on commercialization (or technology deployment) paths and challenges are essential to assessing benefits, risks, and future resource requirements.
- Provide cost-sharing by the proposer or third parties:

- In the form of cash or in-kind labor, materials, equipment, facilities, and other resources, subject to reasonable a verifiable valuation. Co-funding may be from the proposer or other private or government sources. NYSERDA's funds cannot be used to reimburse or replace normal expenses or other government organizations.
- Preferably in the amount of 50% or more of total project cost. The quality and quantity of the proposer's co-funding is examined during proposal evaluation. Cash, labor, and materials are considered superior to other types of co-funding. The level of co-funding is considered an indicator of the proposer's commitment to the success of the project and ability to secure support. The type and amount of co-funding offered should be appropriate for the proposer's financial condition and the product's stage of development. **See Section V, Proposal Evaluation.**

Project Schedule, Phasing, and Teaming. The following guidelines should be considered when developing proposals:

- Projects are expected to begin within nine months of the proposal due date. The project schedule should not exceed 36 months, except to indicate the approximate duration of future phases (beyond the proposed phase) of a multi-phase project.
- **A proposal requesting more than \$250,000 of NYSERDA funding must be separated into at least two phases, with each phase not exceeding \$250,000 of NYSERDA funding.** For a proposal requesting \$250,000 or less of NYSERDA funding, the proposer may opt to separate it into multiple phases, e.g., to display flexibility in funding options. For a multiphase project the proposer must:
 - Briefly describe all phases along with significant milestones, and provide an estimate of the total cost and schedule for all phases.
 - Only request funding under PON 3198 in an amount that adheres to the per-project funding limits as described under "Project Funding" above, regardless of how many phases are included in the proposal. Any contract awarded to fund one or more phases of a multiphase project does not in any way obligate NYSERDA to fund later phases. Funding requests from NYSERDA for additional phases will need to be submitted under future PONs and undergo competitive evaluation.
- Teaming arrangements are encouraged, where appropriate, to enhance the likelihood of project success. Teams may include commercial firms, industry associations, research organizations, universities, government agencies, end-users, and other stakeholders. **Include letters of commitment or interest from each identified team member in an appendix to the proposal.**

Letters of Commitment or Interest. 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 its 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 commitment or interest may be interpreted as meaning that the proposer does not have support from the subject parties. Letters should not be solicited from NYSERDA personnel.

Other considerations. In addition, note that:

- A proposal may be considered **non-responsive** if it fails to comply with the requirements above, the Proposal Requirements of Section III, or the General Conditions of Section VI.
- Prior to an award being made, potential awardees 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.

III. PROPOSAL REQUIREMENTS

The proposer's goal should be to concisely present the information needed to fully address the evaluation criteria (see Section V). Proposals that grossly exceed the word limits or fail to follow the format guidelines may be rejected as non-responsive. If you believe proprietary information must be submitted to provide an adequate proposal, you must comply with the Section VI instructions for submitting proprietary material.

Unnecessary attachments beyond those sufficient to present a complete, comprehensive, and effective proposal may reduce, rather than increase, a proposal's standing per the evaluation criteria. 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, with items in the sequence shown.

1. Proposal Checklist. Complete the specific Proposal Checklist attached as part of this PON (Attachment A), and include it as the front cover of the original and each copy of the proposal. Note the following:

- Indicate whether you accept the standard terms and conditions as contained in the Sample Agreement (Attachment E). If you **do not accept** the standard terms and conditions, **provide alternate terms** with justification based on the risk and benefit to New York State. NYSERDA reserves the right to consider only exceptions to terms that are specifically included with the proposal. Any negotiation of terms will be at NYSERDA's sole discretion.
- Do not leave any blanks. If a specific question is not applicable, indicate N/A.
- Be sure the individual signing the Proposal Checklist is authorized to commit the proposer's organization to the proposal as submitted.

2. Procurement Lobbying Requirements - State Finance Law sections 139-j and 139-k.

In compliance with §139-j and §139-k of the State Finance Law (see Section V, General Conditions below for additional information), 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 may disqualify your proposal.

3. Proposal Narrative. Complete the Proposal Narrative form-fillable document as part of the PON (Attachment C). The Focus Area and Funding Category (FC) must be clearly indicated. The Proposal Narrative contains the following sections:

- Executive Summary
- Problem Statement and Proposed Solution
 - Attachment C2: Business Model Canvas (FC 2, 3, and 4)
- State of Research and Technology Targets
 - Attachment C3: TRL/CRL Calculator
- Commercialization Potential of Proposed Product
 - Attachment C4: Three-Year Financial Projects Worksheet (FC 2 and 3)
- Demonstration Project Information (FC 4 Only)
- Feasibility Study Information (FC 1 Only)
- Statement of Work (Attachment C1) and Schedule
- Project Benefits

- Budget
- Proposer Qualifications
- Letters of Support
- Attachments

Proposers must carefully review the Proposal Narrative to ensure that all required sections are completed. Failure to do so may result in the proposal being rejected as non-responsive.

IV. RECOUPMENT AND METRICS

Recoupment. For any new projects **exceeding \$75,000** that involve product development, including business development (see definition below), **NYSERDA will require a royalty based on sales and/or licensing of the new product developed** (Please see Attachment E, Sample Agreement for specific recoupment obligations).

Product Development: the method of bringing a new or improved product, system, or service to market, including technical feasibility, business case feasibility, market analysis, proof of concept, product design, engineering, scaleup, and field testing. Field testing is the stage in which a technology, not yet commercially available with a warranty, is operated in real world conditions with results used for product iteration, market validation, or customer engagement.

Projects where NYSERDA’s share of funding is \$75,000 or less will generally not require recoupment. However, should subsequent funds be awarded for further product development of the same or a substantially similar product, any funds previously received under the \$75,000 threshold will be added to the future recoupment obligation.

Please note: NYSERDA may decline to contract with awardees that are delinquent with respect to recoupment payments or sales reporting for any previous NYSERDA agreement.

Annual Metrics Reports. If awarded, the proposer will be required to submit to NYSERDA'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 years’ activities (i.e. reporting period).

Please see Attachment F: Product Development Sample Metrics Reporting Guide for the metrics that you will be expected to provide and the reporting duration. NYSERDA may decline to contract with awardees that are delinquent with respect to metrics reporting for any previous or active NYSERDA agreement.

V. PROPOSAL EVALUATION

Proposals will be reviewed by an Investment Evaluation Panel (IEP) and will be scored and ranked according to the following criteria, **listed in order of importance**. 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 will be required to submit a detailed Statement of Work, budget, and schedule, and may also be asked to address specific questions or recommendations of the IEP before contract award.

Requirements. A negative response to any one of the questions below may eliminate the proposal from further consideration. Does the proposal:

- ✓ Show a potential to reduce GHG emissions from the transportation sector in New York State?

- ✓ Address transportation and energy-related challenges in New York State?
- ✓ Emphasize development of marketable products rather than basic research?
- ✓ Provide direct, quantifiable energy, environmental, and economic benefits in New York State?
- ✓ If applicable, align with regional transportation plans or State/federal regulations?
- ✓ Provide summary of the commercialization pathway?
- ✓ Provide cost-sharing?

Evaluation Criteria in Order of Importance.

- **Proposed Solution/Scope.** Does the proposed project specifically address a problem or opportunity identified in a Focus Area and sub-category in the PON and does it show potential to make significant progress in support of the Focus Area? How significant is the identified problem or opportunity and how pertinent is it to New York State? Is the proposed project likely to solve the problem or exploit the opportunity? Is the proposed work technically feasible, innovative, and superior to alternatives? Is the work strategy sound? Can the strategy be tested, measured, and adjusted with ease?
- **Project Benefits.** How significant are the potential reductions in GHG emissions or energy use resulting from the project? Will there be economic benefits in New York State in the form of subsequent manufacturing or technical service activity, or job creation? Are there additional significant benefits, such as improvement in the transportation sector's resiliency to disasters? Will a significant part of the work on the project take place in New York State?
- **Market Potential.** Does the proposed project address a current challenge or opportunity that is not being addressed by others? Is the implementation or commercialization strategy well-conceived and appropriate for the stage of development? Has the proposer adequately and correctly described the target customer, defined their value proposition, and identified a real demand for the proposed solution? Does the proposed solution have the potential for wide-scale replication? Is there a process or strategy in place to measure progress and success?
- **Project Team and Support.** To what degree does the team have relevant and necessary technical and business background and experience? Has the proposer previously commercialized any products? How firm are the commitments and support from essential participants, co-funders, and other organizations? Has the proposer demonstrated support from necessary market actors and potential customers?
- **Project Value.** Is the overall project cost justified based on the expected benefits? Relative to the project cost, how significant is the potential market or deployment opportunity? How appropriate are the proposer's co-funding contributions (sources and amounts) in view of the proposer's overall financial resources, degree of risk exposure, and potential to benefit from the work? Does the proposer have a reasonable plan for pursuing any additional funding necessary for full commercialization?

Other Considerations. Proposals will be reviewed to determine if they fit well within the selected Focus Area and that they have been submitted to the proper Funding Category. The proposal's fit with NYSERDA's overall objectives will also be considered, including: risk/reward relationships, similar ongoing or completed projects, and the general distribution of transportation research projects among industries, organizations, and locations in New York State.

VI. GENERAL CONDITIONS

Proprietary Information. Careful consideration should be given before confidential information is submitted to NYSERDA 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 except it from disclosure, including a written statement of the reasons why the information should be excepted. 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-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 NY 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
625 Broadway, Albany, NY 12207

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

Empire State Development / Minority and Women's Business Development Division
625 Broadway, Albany, NY 12207

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).

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). 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 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 (see Attachment A: Proposal Checklist). Proposers should keep in mind that acceptance of all standard terms and conditions will generally result in a more

expedited contracting process. NYSERDA expects to notify proposers in approximately ten weeks from the proposal due date, whether your proposal has been selected to receive an award. NYSERDA may decline to contract with awardees that are delinquent with respect to any obligation under any previous or active NYSERDA agreement.

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 ten percent (10%) 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 thirty percent (30%) 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).

Limitation. This solicitation does not commit NYSERDA to award a contract, pay any costs incurred in preparing a proposal, or to procure or contract for services or supplies. NYSERDA 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 NYSERDA's best interest. 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.

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 NYSERDA after the award of a contract, NYSERDA 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 NY State Department of Labor.

Annual Metrics Reports. If awarded, the proposer will be required to submit to NYSERDA'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 F (Metrics Reporting Guide) for the metrics that you will be expected to provide and the reporting duration. NYSERDA may decline to contract with awardees that are delinquent with respect to metrics reporting for any previous or active NYSERDA agreement.

VII. ATTACHMENTS

Attachment A - Proposal Checklist

Attachment B - Disclosure of Prior Findings of Non-Responsibility Form

Attachment C - Proposal Narrative

Attachment C1 - Statement of Work

Attachment C2 - Business Model Canvas

Attachment C3 - TRL/CRL Calculator

Attachment C4 - Three-Year Financial Projections Worksheet

Attachment D - Contract Pricing Proposal Form and Instructions

Attachment E - Sample Agreement

Attachment F - Product Development Sample Metrics Reporting Guide

Attachment G - Instructions for Electronic Proposal Submission



**ATTACHMENT A
PROPOSAL CHECKLIST (MANDATORY)**

Proposal Title		Due Date	
Primary Contact (Prime Contractor)		Title	
Company		Phone	Fax
		e-mail	
<input type="checkbox"/> By checking this box I certify that the TIN number submitted is not a social security number. If your tax id number is your social security number please leave information blank and contact NYSERDA.		Federal Tax Identification Number:	
Address	City	State or Province	Zip
Secondary Contact		Title	
Company		Phone	Fax
		e-mail	
Address	City	State or Province	Zip
THE PRIME CONTRACTOR MUST SIGN THIS FORM BELOW and ANSWER THE FOLLOWING QUESTIONS:			
Do you accept all Terms & Conditions in the Sample Agreement? (If no, explain on separate page) (NYSERDA may or may not accept any of the listed exceptions; NYSERDA reserves the right to limit any negotiations to exceptions specifically identified herein.)			
			___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) NYSERDA 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 NYSERDA'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.

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?		Yes
		No
Was the basis for the finding of non-responsibility due to a violation of §139-j of the State Finance Law?		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?		Yes
		No
If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility:		
Government Agency or Authority:		
Date of Finding of Non-responsibility:		



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?		Yes
		No

If you answered yes, please provide details:

Government Agency or Authority:

Date of Termination or Withholding of Contract:

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

Signature: _____

Date: _____

Print Name: _____

Title: _____



NYSERDA PON 3198

Advanced Transportation Innovations

Form Fillable Proposal Form for: (select one for each)

Focus Area: [Click here](#)

Funding Category: [Click here](#)

PROPOSAL TITLE: [Click or tap here to enter text.](#)

Date of Submission: [Click or tap to enter a date.](#)

Submitted [with required attachments](#) to:

New York State Energy Research & Development Authority

17 Columbia Circle

Albany, NY 12203

Attn: Roseanne Viscusi

Submitted by:

COMPANY NAME

Company Principal Investigator

Principal Investigator Phone #

Principal Investigator Email

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The instructions below are intended to guide the proposer through the submission, addressing pertinent information for a successful submission. The format provided allows for the evaluation of the relevance and importance of the problem targeted and the probability that the project will meet its technical and commercialization objectives to ultimately solve the stated problem. All questions should be completed, unless they are indicated for a specific project type. Provide concise, clear, detailed, and direct responses to assist in the review of the proposal.

For each funding category, the following sections (denoted by roman numerals) and questions (Qs) are REQUIRED:

Funding Category	Section												
	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII	XIII
Category 1	✓	Q1-3	✓	Q1-2			✓	✓	✓	✓	✓	✓	✓
Category 2	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓
Category 3	✓	✓	✓	✓				✓	✓	✓	✓	✓	✓
Category 4	✓	✓	✓	Q1-2	✓	✓		✓	✓	✓	✓	✓	✓

I. EXECUTIVE SUMMARY

Provide a non-proprietary summary of your proposal including:

1. Team Members: Identify all significant participants and their primary relevant qualifications. [Do not exceed 250 words]

[Click or tap here to enter text.](#)

2. Background: Describe the transportation-related problem or opportunity being addressed, and its significance to New York State. [Do not exceed 250 words]

[Click or tap here to enter text.](#)

3. Objective: Describe the technical concept and how it will address the identified problem or opportunity. Tell how the concept will be marketed and explain why customers will buy it. [Do not exceed 250 words]

[Click or tap here to enter text.](#)

4. Scope: Outline the technical and commercialization tasks that will be performed within the proposed Statement of Work and indicate how much additional time and money will be needed before market entry and sales can begin. [Do not exceed 250 words]

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Click or tap here to enter text.

5. Benefits: Provide an estimate of the ultimate impact the product or service may have in terms of energy savings and other benefits sought by this solicitation. [Do not exceed 250 words]

Click or tap here to enter text.

II. PROBLEM STATEMENT & PROPOSED SOLUTION

1. What is the problem and who is the customer? Describe the problem or opportunity, and its significance to New York State. Describe the customers for your product or service in as specific terms as possible. Describe, in detail, your interactions with these customers so far. Describe your understanding of your customers' pain point(s), problem, or need that your product or service will solve and indicate whether or how you have validated the customer "pain point(s)" or need(s). How are they addressing (or failing to address) the problem now?

[Do not exceed 600 words]

Click or tap here to enter text.

2. What is your solution? Describe your proposed solution (*i.e.* the product or service to be developed and the technology behind it) and how it addresses the problem or opportunity. Describe the solution in sufficient detail to support performance, cost, other claims, and include any innovative characteristics inherent to the proposed product or service. [Do not exceed 800 words]

Click or tap here to enter text.

3. How well does your solution solve the customer's problem?

- a. Describe how your solution helps New Yorkers solve their energy problems. Describe your customer's motivation to purchase/use your solution (*i.e.* the value proposition to the customer). [Do not exceed 200 words]

Click or tap here to enter text.

- b. Describe alternative products or services to your proposed solution, and describe your solution's market superiority in terms of advantages/disadvantages over these competitors. When you do this, consider similar solutions, solutions that can be substituted, alternative methods of solving the problem, and the "do nothing" option. [Do not exceed 200 words]

Click or tap here to enter text.

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- c. If similar ideas or technologies have failed to become commercially successful, explain why your solution is likely to be more successful. [Do not exceed 200 words]

[Click or tap here to enter text.](#)

4. Business Model Canvas (Funding Categories 2, 3, and 4 ONLY): The Business Model Canvas is a strategic management and entrepreneurial tool. It will help you to describe, design, challenge, improve, and pivot your business model for the proposed product or service, regardless of whether you are in the feasibility/concept stage or ready to demonstrate it. Complete the Business Model Canvas for your product or service by going to the link below. Once it is fully completed, please save a copy of the Business Model Canvas in PDF format and include it as an attachment to this submission.

[BUSINESS MODEL CANVAS](#)

III. STATE OF RESEARCH AND TECHNOLOGY TARGETS

1. Technology and Commercialization Readiness Level Calculator: Access the Technology Readiness Level (TRL) and Commercialization Readiness Level (CRL) Calculator by going to the link below. Complete the “Instructions & Calculator” worksheet. Once this worksheet is fully completed, please save a copy of the entire workbook in PDF format to include as an attachment to this submission, and indicate the resulting TRL and CRL values below.

[TRL/CRL CALCULATOR](#)

- Based on the “Summary & Results” worksheet from the link above, indicate the technology’s current TRL:
- Based on the “Summary & Results” worksheet from the link above, indicate the technology’s expected TRL at the end of the project:
- Based on the “Summary & Results” worksheet from the link above, indicate the technology’s current CRL:
- Based on the “Summary & Results” worksheet from the link above, indicate the technology’s expected CRL at the end of the project:
- The TRL/CRL Calculator workbook should be attached. Is it?

2. Describe the current state of research and development of the technology as it relates to your proposal and how your proposal will enable follow-on from this existing research knowledge. Include test data and other information that supports the technology’s current performance, cost, and other claims (include any graphics, images, or data needed for support after the text). Indicate whether the data,

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performance, cost, and other claims have been independently tested/validated. [Do not exceed 600 words]

Click or tap here to enter text.

3. Provide the estimated goals (technical, performance, and cost) of the proposed solution: 1) at the end of this project (or at the prototype stage if there will be no prototype by project conclusion) and 2) when fully commercialized. Provide support for your estimates. Note that end-of-project goals should match those in your proposed Statement of Work. [Do not exceed 400 words]

Click or tap here to enter text.

4. Intellectual Property: Describe any relevant intellectual property (IP), patents or licenses involved with your proposed solution. If appropriate, address patents (pending, filed or granted), patent searches performed, freedom to operate, ownership of the IP, reliance on other IP or agreements, the status of licensing your technology to others or your need to license others' technology, etc. If your solution would require access to platform IP or an enabling technology in the private domain, describe your plans for securing access. [Do not exceed 300 words]

Click or tap here to enter text.

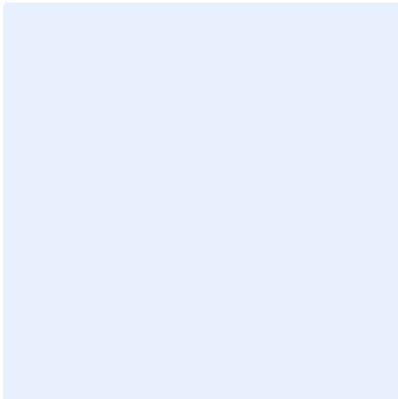
IV. COMMERCIALIZATION POTENTIAL OF PROPOSED PRODUCT

1. Past and Future Efforts:

- a. Indicate how much time and funding have been spent to bring the technology to the current state of development. Indicate the amount and source of funding to bring this technology to its current state of development (e.g. self-funded, investor-funded, any previous NYSERDA-funded projects, federally-funded efforts, etc.) Indicate whether you have participated in the NYSERDA entrepreneurs-in-residence program and if you are a current or past participant in a NYSERDA-sponsored incubator or proof-of-concept center. Also, indicate when significant milestones were achieved. [Do not exceed 300 words]

Click or tap here to enter text.

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- b. Indicate how much time and funding will be needed to commercialize the product or service and bring it to market **after completion of the proposed project**. Indicate anticipated sources of funding (i.e. private capital, federal funding, other research organizations, corporate partners, etc.) methods to acquire this funding. Identify any potential target strategic partners that could reduce the time to market of your product or service by providing access to marketing/sales channels, manufacturing facilities or other resources. Indicate when you expect to achieve significant milestones. You are encouraged to provide this information using a multi-year timeline graphic, starting at project commencement and going through product commercialization. As an example, please refer to the sample Gantt chart provided below. [Do not exceed 300 words]

Development Plan

	Cost	2016				2017				2018				2019			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Technical Development																	
Task 1	\$	[Orange bar]															
Task 2	\$			[Orange bar]													
Task 3	\$					[Orange bar]	[Dark blue bar]										
Commercialization																	
Task 1	\$					[Orange bar]	[Dark blue bar]										
Task 2	\$					[Orange bar]	[Dark blue bar]										
Task 3	\$					[Orange bar]	[Dark blue bar]										
Task 4	\$			[Orange bar]													
Task 5	\$																
Task 6	\$																
Task 7	\$																

Click or tap here to enter text.

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2. Marketing and Sales:

- a. Identify target markets and their relative characteristics, including: size, competition, regulatory constraints, and technological trends. (A bottom-up market description of your specific target markets is preferred, where you demonstrate an understanding of who your customers are and their needs, as opposed to a “generic” top-down approach. This should be directly tied to your Business Model Canvas.) [Do not exceed 350 words]

Click or tap here to enter text.

- b. Describe your proposed marketing strategies and why they will be successful. Describe how you will reach, engage, and distribute your product or service to the target market(s). Provide realistic sales/revenue estimates. Describe market entry barriers you will encounter and how you would expect to overcome them. [Do not exceed 350 words]

Click or tap here to enter text.

- c. Does the success of the proposed activity rely on a specific environment to achieve scale and function (i.e. it requires a certain brand of equipment or a particular setting or location)? [Do not exceed 350 words]

Click or tap here to enter text.

- d. Describe any partnerships and/or licensing agreements you have secured or will need to secure to undertake the project work that you propose. Describe the relationships and critical partnerships that will be required for the deployment and commercial success of your product or service. You should include letters of commitment from key partners that reinforce these relationships. [Do not exceed 350 words]

Click or tap here to enter text.

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3. Financial Projections (Funding Categories 2 and 3 ONLY): Provide a three-year, high-level financial forecast (sample below) for the product or service starting in the first year that it is commercially available. Include expected revenue, costs, and profits. To complete the Three-Year Financial Projections, please go to the link below and complete the entire worksheet. Once this worksheet is fully completed, please save a copy of it in PDF format and include the worksheet as an attachment to this submission.

[THREE-YEAR FINANCIAL PROJECTIONS](#)

The Three-Year Financial Projections worksheet should be attached. Is it? Yes/No

4. Manufacturing Plan (Funding Categories 2 and 3 ONLY): Discuss your product manufacturing plan, describing whether one of the team members will manufacture the product, if there will be a manufacturing partner, if a license will be sold for the technology, or if you have another strategy in mind. If you plan on manufacturing the product, describe your plans for initiating setup and expanding existing facilities. Discuss any key issues that will need to be addressed (i.e. any specialized equipment, strategic alliances, long lead time buying decisions, cost/volume issues, and plans for any service support functions to enhance the production). If you plan on licensing the technology, describe your licensing strategy, including your strategy to find licensing partners. [Do not exceed 500 words]

[Click or tap here to enter text.](#)

**THIS SECTION SHOULD BE COMPLETED FOR FUNDING CATEGORY 4
PROJECTS ONLY**

V. DEMONSTRATION SITE AND PRODUCT

1. Demonstration Site or Fleet: Provide the following information about the demonstration site(s) or fleet(s) that will host the product or service. This includes site contact, physical address, facility or fleet type and application, facility or fleet size, primary use, and other relevant information. Include a discussion explaining why the demonstration site is a good candidate for the technology or service to be demonstrated. [Do not exceed 600 words]

[Click or tap here to enter text.](#)



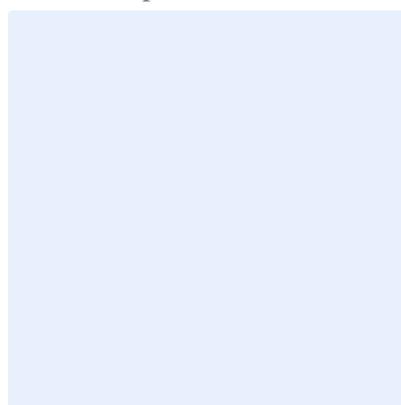
2. Letter of Commitment: Have you secured a commitment of interest from the proposed product or service demonstration site(s) or fleet(s) decision makers? If so, include the letter of interest for each site as an attachment. If not, describe the plan for identifying and securing commitments. [Do not exceed 600 words]

[Click or tap here to enter text.](#)

The letter of site commitment should be attached. Is it? Yes/No

3. Description of Product or Service Being Demonstrated: Describe the specific product or service that will be demonstrated. Include information on any system components, key specifications, and a description of any site- or fleet-specific design issues. [Do not exceed 600 words]

[Click or tap here to enter text.](#)



3. Provide the estimated cost and goals (technical, performance, cost, and other goals) of the specific product or service that you will be demonstrating. Describe technical and performance goals for the proposed demonstration project and provide support as to why they are achievable. Provide an economic analysis of the proposed technology, including an estimated cost/benefit ratio. [Do not exceed 600 words]

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Click or tap here to enter text.

4. Independent Evaluation: Demonstration projects must include an independent evaluation. Identify the independent evaluator who will evaluate the energy performance and customer satisfaction of the proposed installation. Please provide a justification for using the evaluator named to conduct the evaluation. [Do not exceed 600 words]

Click or tap here to enter text.

**THIS SECTION SHOULD BE COMPLETED FOR FUNDING CATEGORY 4
PROJECTS ONLY**

VI. REPLICATION POTENTIAL OF PROPOSED DEMONSTRATION

1. What barrier or challenge does your proposed demonstration project seek to overcome, how will your project overcome this challenge, and why will your approach be successful? Describe the reason(s) that the product or service that you are demonstrating has not had traction in the New York State market, or might have difficulty achieving such traction. Describe what new knowledge or insights you expect to gain as a result of this project. Describe how this proposed demonstration project will help to overcome these challenges and facilitate market adoption in New York State. Describe the proposed outcome of this project as it relates to changing the market (*i.e.* influential results from the demonstration). [Do not exceed 800 words]

Click or tap here to enter text.

2. Replication Potential: Is the demonstration site(s) or fleet(s) representative of other facilities or fleets in New York State that could potentially benefit from using this product or service? What is the current market penetration in New York State? Describe the potential New York State market (including market size) for the product or service that you expect to open up by overcoming the barriers addressed in this proposal. [Do not exceed 600 words]

Click or tap here to enter text.

3. Replication Strategy: What is your strategy (both during the proposed project and after the project is complete) to promote market acceptance and replication in New York State, and to stimulate more New York State installations of the demonstrated product or service? Identify key partners and stakeholders that will be involved in the project and describe how they will be involved. Describe how the results from the demonstration evaluation will be made public to a wider audience. [Do not exceed 600 words]

Click or tap here to enter text.

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4. Evaluation of Results: Describe the evaluation plan for validating the observations conducted during this project demonstration. You must include the following in describing the plan:

- Statement of the equipment installation, completion/implementation, and system commissioning.
- Adherence to all applicable local, state, and federal building, fire, electrical, and interconnection codes.
- Describe in detail: the data acquisition system, its sampling schedule, supporting instrumentation, remote monitoring and report generating capabilities.
- Identify who will be responsible for all data collection, operator and maintenance interfacing, and tracking system performance.
- Identify how you will track system performance, pre- and post-installation/implementation of the proposed product or service at the demonstration site or fleet, and how these relate to the performance goals that you specified.
- Describe your plan to measure and validate this actual cost/benefit ratio during the demonstration.

[Do not exceed 600 words]

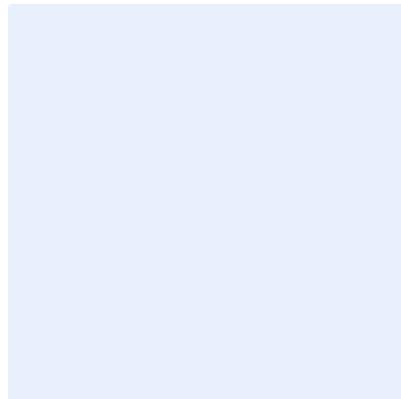
Click or tap here to enter text.

**THIS SECTION SHOULD BE COMPLETED FOR FUNDING CATEGORY 1
PROJECTS ONLY**

VII. FEASIBILITY STUDIES

1. Provide statistics or other data for quantifying how prevalent the described problem you are seeking to solve is in New York State and how significant the problem's impact is in terms of fuel or energy use or GHG emissions, as appropriate. [Do not exceed 300 words]

Click or tap here to enter text.



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2. Describe in detail the current or pending circumstance preventing the technology or service from being used in the described situation.

Examples of such circumstance include, but are not limited to, outdated codes or standards, lack of information to form effective government regulations or policies, and unintended market disincentives. [Do not exceed 300 words]

Click or tap here to enter text.

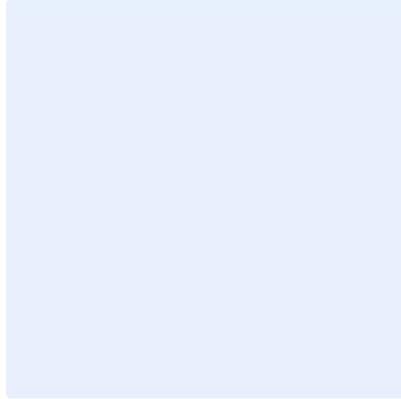
3. Describe the strategies for removing barriers that prevent or limit wider use of the proposed technology or service. [Do not exceed 300 words]

Click or tap here to enter text.

4. Describe the technology transfer strategies that would be performed to educate relevant partners and stakeholders that the proposed technology's or service's barriers have been removed. [Do not exceed 300 words]

Click or tap here to enter text.

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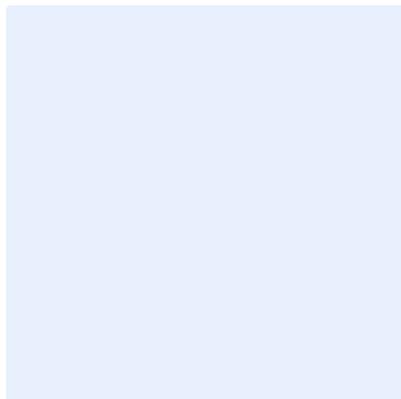
VIII. STATEMENT OF WORK & SCHEDULE

1. Statement of Work: The Statement of Work (SOW) is the primary contractual document that outlines work activities and quantifies deliverables. Complete the Statement of Work Format in [Attachment C1](#) and include it in your proposal.

Your Statement of Work should be attached. Is it? Yes/No

2. Schedule: Provide an overall schedule of the project and timing of major tasks and deliverables. Note that project tasks in the schedule should match the project tasks in the Statement of Work. The schedule should be in a bar chart starting with "Month 1", Month 2", etc.

Click or tap here to enter text.



IX. PROJECT BENEFITS

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1. Discuss how the proposed project will reduce GHG emissions and transportation energy use in New York State. This is an important evaluation criterion. [Do not exceed 300 words]

Click or tap here to enter text.

2. Quantify any additional project benefits to the extent possible: mobility and reliability benefits (e.g., congestion reduction, mode shifting, reduced travel variability, etc.), environmental benefits (e.g., emission reductions, minimizing hazardous materials, etc.), economic benefits (e.g., jobs created or retained, reduced life-cycle costs, enhanced economic viability, etc.), safety and security benefits (e.g., reduction in deaths, injuries and real property losses, etc.), and other benefits (e.g., cost of compliance with State or Federal regulations, enhanced quality of life issues, etc.). [Do not exceed 300 words]

Click or tap here to enter text.

3. Describe the methodology that will be used to collect the necessary data and quantify the project benefits. [Do not exceed 300 words]

Click or tap here to enter text.

X. BUDGET

1. Complete the [Contract Pricing Proposal Form \(CPPF\) - Attachment D](#). Indicate requested NYSERDA funding in the column labeled "Funding & Co-funding via NYSERDA." Proposers should allocate 10-25% of the project budget for commercialization-related tasks, such as customer discovery, IP protection, business plan development, and design for manufacturing. Include non-NYSERDA cash and in-kind contributions in the column labeled "Cost-sharing and Other Co-funding." Phased projects should include a CPPF for each phase, as well as one for the total project.

Proposers should also include a CPPF for each sub-contractor that comprises greater than 20% of the total budget or more than \$50,000.

The Cost Pricing Proposal Form should be attached. Is it? Yes/No

2. Cost Sharing: All proposals must provide additional funding as cost share; this is an important evaluation criterion.

- It is preferred that the proposal contain non-NYSERDA funding of at least 50% 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.
- The proposal should show the non-NYSERDA funding relative to cost share described directly above in BUDGET section. 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.

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- NYSERDA will not fund efforts that have already been undertaken. The proposing team cannot claim as cost-share any expenses that have already been incurred.
- **Using the following table as an example, show your cost sharing plan below. Make sure that this table agrees with your Contract Pricing Proposal Form (CPPF).**

PROPOSAL COST SHARING TABLE (expand as needed)						
Proposed Funding By Task (Cash and In-Kind)					Project Total	
Funding Source	Task 1 (\$)	Task 2 (\$)	Task 3 (\$)	...	Cash (\$)	In-Kind (\$)
NY State						
Proposer						
Co-Funder (identify)						
Co-Funder (identify)						
Task Total (\$)						

If you include indirect costs in your budget, you MUST attach supporting documentation to support indirect cost (overhead) rate in your proposal as follows:

- 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).
- If rate(s) is/are approved by an independent organization, such as the federal government; provide a copy of such approval.

NYSERDA reserves the right to audit indirect rates presented in the proposal and adjust for differences. Requests for financial statements or other financial information may be made if deemed necessary.

For any new projects **exceeding \$75,000** that involve product development, including business development, **NYSERDA will require a royalty based on sales and/or licensing of the new product developed** (Please see Attachment E, Sample Agreement for specific recoupment obligations).

The basis for your indirect costs should be attached. Is it? Yes/No

XI. PROPOSER QUALIFICATIONS

In this section, you will be describing your team, organization's strengths, key individuals and past performances.

1. Proposing Organization(s), Organizational Chart, and Location of Personnel: Briefly describe your organization and the section/department/group proposing to carry out the work. Include date founded, the total number of employees, product portfolio, any previous examples of successful product commercialization, and geographic location. Include any sub-contractors and other sponsors with significant involvement. **Note that** if any sub-contractor not named in the proposal is to be paid in excess of \$50,000, a competitive bid must follow. (Sample agreement will exemplify.) [Do not exceed 500 words]

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Click or tap here to enter text.

2. 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 and provide their physical location. Submit resumes (as appendices) of all key project team members. [Do not exceed 500 words]

Click or tap here to enter text.

Resumes of key individuals should be attached. Are they? Yes/No

3. Prior NYSERDA Experience: List NYSERDA contracts awarded, if any, in the past five years. [Do not exceed 300 words]

Click or tap here to enter text.

XII. LETTERS OF SUPPORT

If other organizations or businesses are doing some of the work, providing services or equipment, or share in the non-NYSERDA cost, include a signed letter on that organization's letterhead describing their commitment and cash/in-kind dollar commitment. Include letters of interest from potential customers for the product to be developed and/or to support claims made in your proposal.

XIII. ATTACHMENTS

Please check the box to indicate which additional, attachments are included in your proposal submission. Appendices should be limited to documents directly supporting the narrative such as resumes, letters of support, calculations, business literature, and detailed schedules.

[Statement of Work – Attachment C1](#) (required)

[Business Model Canvas – Attachment C2](#) (required for funding categories 2, 3, and 4)

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Attachment C

- [TRL/CRL Calculator – Attachment C3](#) (required)
- [Three-year financial projections worksheet – Attachment C4](#) (required for funding categories 2 and 3)
- [Contract Pricing Proposal Form \(CPPF\) - Attachment D](#) (note: instructions on how to fill out CPPF are here: [CPPF instructions](#)) (required)
- Indirect Cost Rate Support
- Letters of Support
- Letters of Site Commitment
- Resumes
- References

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EXHIBIT A: STATEMENT OF WORK

Project Title

NYSERDA Agreement No. _____

BACKGROUND/OBJECTIVES

(PROVIDE A BRIEF DESCRIPTION OF THE PROJECT. THIS SHOULD BE NO MORE THAN A TWO PARAGRAPH DESCRIPTION THAT PROVIDES A BACKGROUND OF THE PROBLEM, AS WELL AS HOW THE CONTRACTOR INTENDS TO SOLVE THE PROBLEM. KEEP IN MIND THAT THE CONTRACT SHOULD "STAND ON ITS OWN", I.E. ANYONE SHOULD BE ABLE TO PICK IT UP AND FIGURE OUT WHAT IS GOING ON.)

DEFINITIONS

SOW: Statement of Work

(Define any acronyms or uncommon words/phrases/technical terms to be used in the SOW)

The Contractor is defined as:

Company Name
PI Name
Street Address, City, State Zip code
Phone/Fax
E-mail

Subcontractor(s) is/are defined as:

Subcontractor name
Street Address, City, State Zip code
Phone/Fax
E-mail

The Project Site(s) is/are defined as:

Site Name
Street Address, City, State Zip code

TASK 0 - PROJECT MANAGEMENT AND PROGRESS REPORTING

Responsibility

Regardless of subcontracting arrangements, the Contractor shall be responsible for the timely completion of all the tasks in the SOW per the Project Schedule included herein. The Contractor shall provide all project management activities necessary for the performance of this SOW, as per attached *milestone schedule/budget*, which shall include the following activities:

- Coordinate the work of the Contractor's employees and those of subcontractors and equipment vendors that are undertaking tasks described in this SOW;
- Ensure control over the Project Budget and adherence to the Project Schedule; and
- Provide all project reporting to NYSERDA as specified in this SOW.

Subcontract(s)

The Contractor shall enter into an agreement with (*name subcontractor*) to perform work in the area of (*include subcontractor area of responsibility*).

(Repeat identification of additional subcontractor agreements as needed under this contract.)

At NYSERDA's request, the Contractor shall submit a copy of the above agreement(s) to NYSERDA's Project Manager.

Progress Reporting

The Contractor shall submit **periodic** progress reports, no less frequently than quarterly, to NYSERDA's Project Manager no later than the 15th of the month following each reporting period. The Progress Reports shall include information on the following subjects in the order indicated, with appropriate explanation and discussion:

- a. Name of contractor
- b. Title of the project.
- c. Agreement number.
- d. Reporting period.
- e. Project progress including a summary of progress, findings, data, analyses, results and field-test results from all tasks carried out in the covered period.
- f. Planned work for the next reporting period.
- g. Identification of problems.
- h. Planned or proposed solutions to identify problems described in (f) above.
- i. Ability to meet schedule, reasons for slippage in schedule.
- j. Schedule - percentage completed and projected percentage of completion of performance by calendar quarter - may be presented as a bar chart or milestone chart.
- k. Budget- analysis of actual costs incurred in relation to the budget.

Project Kick-off Meeting

The Contractor shall hold a project kick-off meeting within thirty days from the contract execution date. The Contractor shall coordinate with NYSERDA's Project Manager to arrange the meeting at a mutually convenient time and place. The Contractor is encouraged to invite representatives of subcontractors and equipment vendors. The purpose of this meeting shall be to finalize the strategies for accomplishing the objectives of this work. In a timely manner, the Contractor shall submit to NYSERDA's Project Manager a brief report summarizing the issues discussed and decisions made, if any, during this meeting.

Project Completion Meeting

The Contractor shall conduct a project completion meeting, it shall occur within time period covering 15 days prior to and 15 days following the submission of the draft Final Report. The Contractor shall coordinate with NYSERDA's Project Manager to arrange the meeting at a mutually convenient time and place.

Annual Metrics Reports

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 year's activities (i.e. reporting period). The Contractor shall provide metrics in accordance with the attached Metrics Reporting Guide.

Task 0 Deliverables:

- (1) Written periodic Progress Reports.
- (2) Brief report summarizing the Kick-off Meeting and Minutes.
- (3) Brief report summarizing the Completion Meeting and Minutes.
- (4) Annual Metrics Reports.

Task 1-Title

Identify Task and Expected Deliverable for said task. The tasks should:

- *Be worded using action phrases, and should always start with "The Contractor shall..."*
- *Tasks should be worded so it is clear what the Contractor is required to do.*
- *If the Contractor is working with a subcontractor, it should say which one, specifically (unless there is only one, or all of them, in which case 'Subcontractor' or Subcontractor's, respectively, is acceptable.)*
- *Avoid using phrases like 'etc,' or 'including, but not limited to;' these phrase are ambiguous and hard to enforce.*
- *Tasks should be linear, so later tasks build on earlier tasks, and earlier tasks inform work being completed later on, as much as possible.*
- *When referring to previous tasks, it should be worded as "...the work/report/system/method approved in Task X."*

Task 1 Deliverable- This should be directly tied to the work completed in the Task. Most, if not all Tasks, should have a deliverable, except in special circumstances.

- *Deliverables should be a tangible item: a report, a presentation, pictures, purchase orders or bills of lading.*
- *Deliverables should not be something not asked for the in the Task, and work completed in the Task should be reported on in the deliverable.*

Task 1 Schedule- Every Task should have a timeframe from the Effective Date that the work is expected to be completed in. This can be divided up task by task or included as a separate attachment.

(Repeat Identification of task and deliverable as often as needed under this contract.)

Task X - Final Report

Upon completion of the contract period, the Contractor shall prepare a non-proprietary/non-confidential Final Report covering all aspects of the work performed under this Agreement; the report shall include information on the following subjects:

- Discussions of the observations and findings and recommendations, if any, from all tasks, and avenues for further improvements, as appropriate;
- Discussions of the project results and lessons learned regarding configuration, capabilities, and benefits of the project; and
- Environmental, and economic benefits, and implementation scenarios associated with such.

Draft Version and Final Version of Final Report: A draft version of the Final Report shall be submitted to NYSERDA's Project Manager no later than the date specified in the Milestone Schedule of the NYSERDA Agreement for this task. NYSERDA will comment on the draft version within 30 working days after receipt of such draft. Within 30 working days after receipt of NYSERDA's comments, the Contractor shall prepare a final version of the report reflecting therein careful consideration of NYSERDA's comments to the satisfaction of NYSERDA, and submit two (2) bound, color hard copies and one (1) electronic copy of the final version of the Final Report.

Task X Deliverables:

- (1) A draft version of the Final Report.
- (2) A final version of the Final Report.

To be included on Demonstration Contracts under Task 0:

Site Agreement

The Contractor shall prepare and execute a site agreement with the Host Site prior to beginning the Work. The site agreement shall include terms for installing and monitoring the (*insert technology to be demonstrated*) at the Host Site and shall clearly specify the commitment and responsibilities of all parties. The site agreement shall include terms to allow, upon reasonable advance notice, NYSERDA's Project Manager and his/her invited guests to visit the Host Site to inspect the (*insert technology to be demonstrated*) and to witness operations. Invited guests may include other NYSERDA personnel, New York State agency representatives, and other stakeholders. The site agreement terms shall also specify, at a minimum: (1) cost share contributions; (2) description and duration of the monitoring; (3) descriptions of any modifications required to the Host Site for monitoring the (*insert technology to be demonstrated*); (4) access to the demonstration site for installing, inspecting, and servicing the (*insert technology to be demonstrated*) by the Contractor and its agents; (5) insurance; (6) equipment removal; (7) 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 technology to be demonstrated*) being installed or operated at the site); (8) site restoration; and (9) publicity (including but not limited to posting of project success information on NYSERDA's website).. The site agreement shall be executed with an entity having the authority to commit the Host Site. A copy of the executed site agreement shall be furnished to NYSERDA for NYSERDA's records.

For projects that will incorporate a Go/No-Go requirement, some suggested language:

Go/No-Go Evaluation: The Contractor shall not proceed with the remaining tasks until the (*provide the deficiency to be addressed i.e. technical data, market study, test plan, economic study, etc*) has been approved by (*name the appropriate project participant(s), customer(s), stakeholder(s), NYSERDA*). The Contractor must document (*name the project participants, customer, stakeholder*) acceptance of the (*name the solution to the deficiency*) and present such documentation to the NYSERDA Project Manager for approval. NYSERDA reserves the option to not proceed beyond this point and terminate the project if NYSERDA's Project Manager determines that the (*name the solution to the deficiency*) is not acceptable to (*name the appropriate project participant(s), customer(s), stakeholder(s), NYSERDA*). If the decision is made to terminate the project, the Contractor shall provide a Final Report, documenting the project results and lessons learned during Task (*###'s*).

If the decision is made to continue with the project, the Contractor shall proceed to Task (*next task #*).

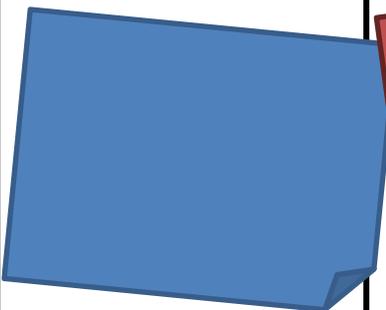
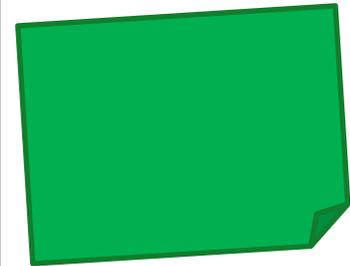
Any project requesting more than \$250,000 must be structured in at least two phases, with each phase not to exceed \$250,000. A review between phases is required; following is suggested language for the phase transition points:

In order to progress to Phase 2, the Contractor must demonstrate substantial progress toward meeting Phase 1 objectives. If substantial progress is not made, the Contractor shall provide the reason(s) for not meeting the objectives and an assessment of achieving success in Phase 2. In order to evaluate progress, the Contractor shall submit to NYSERDA's Project Manager a draft Phase 1 Completion Report, and the Contractor shall hold a Phase 1 Review Meeting with NYSERDA's Project Manager. The Contractor shall not proceed with Phase 2 work until it has received written approval from NYSERDA's Project Manager. The Contractor shall not proceed with Phase 2 work until it has received written approval from the NYSERDA Project Manager. Such approval shall be granted or withheld in NYSERDA's discretion.

BUSINESS MODEL CANVAS – COMPANY/PROJECT NAME

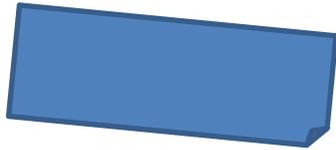
PROBLEM

List your top 1-3 problems.



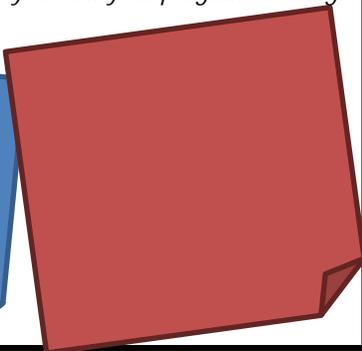
SOLUTION

Outline a possible solution for each problem.



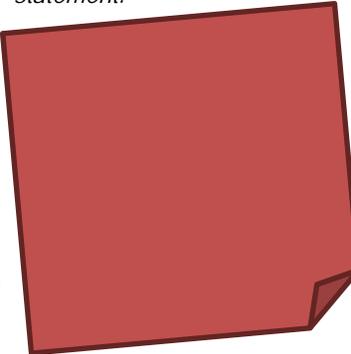
KEY SUCCESS METRICS

List the key numbers that tell you how your program is doing.



UNIQUE VALUE PROPOSITION

Describe why you are different and worth paying attention to in a single, clear, compelling statement.



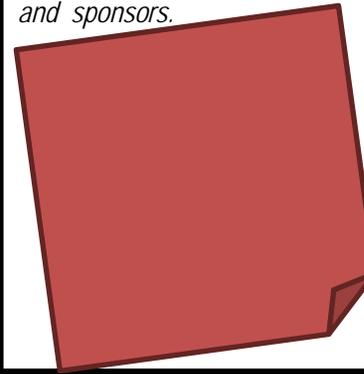
HIGH-LEVEL CONCEPT

List your X for Y analogy (e.g. YouTube = Flickr for videos).



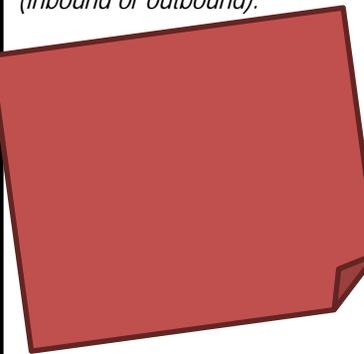
KEY PARTNERS & SPONSORS

List your key program partners and sponsors.



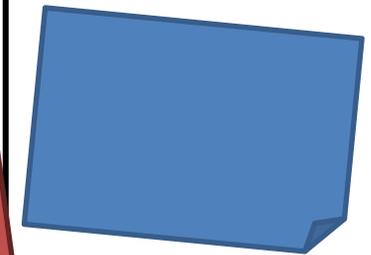
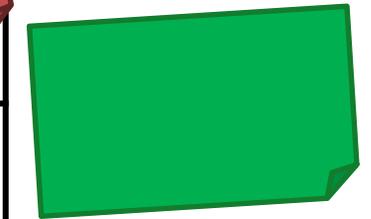
CHANNELS FOR CUSTOMERS

List your path to customers (inbound or outbound).



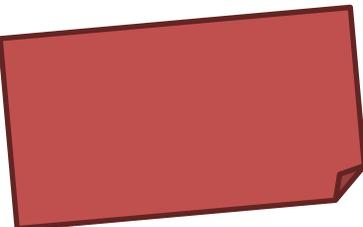
CUSTOMER SEGMENTS

List your customers and users.



COST STRUCTURE

List your fixed and variable costs.



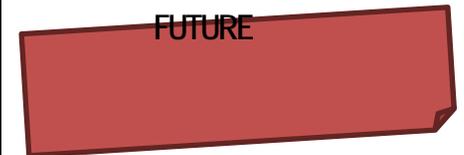
FUNDING STREAMS

List your sources of funding.

CURRENT



FUTURE





Technology & Commercialization Readiness Level Calculator

Instructions

This Excel Workbook has been developed by NYSERDA to help emerging and growing companies determine the level of technical and commercial maturity of their products/innovations through the use of a customized and integrated Technology Readiness Level (TRL) and Commercialization Readiness Level (CRL) Calculator. This TRL/CRL Calculator is based on the systems developed by NASA, DOE, and ARPA-E, and has been designed specifically for ventures in the clean energy industry.

For each category, select the button next to the description that best fits the status of your product/innovation. This calculator will determine the appropriate TRL and CRL levels based on your answers. Once all categories have been completed, click the "See Results" button to view your TRL and CRL scores and answers.

PLEASE NOTE: This TRL/CRL Calculator is provided for informational purposes only, with the understanding that NYSERDA is not rendering any professional opinion or advice. You should consult with a professional advisor before taking any action based on the content of this calculator.

Profile	
Company/Organization Name:	<input type="text"/>
Proposal Title:	<input type="text"/>
Product/Innovation Description:	<input type="text"/>

Technology		
<input type="radio"/>	1	Project work is beyond basic research and technology concept has been defined

<input type="radio"/>	2	Applied research has begun and practical application(s) have been identified
<input type="radio"/>	3	Preliminary testing of technology components has begun, and technical feasibility has been established in a laboratory environment
<input type="radio"/>	4	Initial testing of integrated product/system has been completed in a laboratory environment
<input type="radio"/>	5	Laboratory scale integrated product/system demonstrates performance in the intended application(s)

Answer	No Answer
--------	------------------

Product Development		
<input type="radio"/>	1	Initial product/market fit has been defined
<input type="radio"/>	2	Pilot scale product/system has been tested in the intended application(s)
<input type="radio"/>	3	Demonstration of a full scale product/system prototype has been completed in the intended application(s)
<input type="radio"/>	4	Actual product/system has been proven to work in its near-final form under a representative set of expected conditions and environments
<input type="radio"/>	5	Product/system is in final form and has been operated under the full range of operating conditions and environments

Answer	No Answer
--------	------------------

Product Definition/Design		
<input type="radio"/>	1	One or more initial product hypotheses have been defined
<input type="radio"/>	2	Mapping product/system attributes against customer needs has highlighted a clear value proposition
<input type="radio"/>	3	The product/system has been scaled from laboratory to pilot scale and issues that may affect achieving full scale have been identified

<input type="radio"/>	4	Comprehensive customer value proposition model has been developed, including a detailed understanding of product/system design specifications, required certifications, and trade-offs
<input type="radio"/>	5	Product/system final design optimization has been completed, required certifications have been obtained, and product/system has incorporated detailed customer and product requirements

Answer	No Answer
--------	------------------

Competitive Landscape		
<input type="radio"/>	1	Secondary market research has been performed and basic knowledge of potential applications and competitive landscape have been identified
<input type="radio"/>	2	Primary market research to prove the product/system commercial feasibility has been completed and basic understanding of competitive products/systems has been demonstrated
<input type="radio"/>	3	Comprehensive market research to prove the product/system commercial feasibility has been completed and intermediate understanding of competitive products/systems has been demonstrated
<input type="radio"/>	4	Competitive analysis to illustrate unique features and advantages of the product/system compared to competitive products/systems has been completed
<input type="radio"/>	5	Full and complete understanding of the competitive landscape, target application(s), competitive products/systems, and market has been achieved

Answer	No Answer
--------	------------------

Team		
<input type="radio"/>	1	No team or company in place (single individual, no legal entity)
<input type="radio"/>	2	Solely technical or non-technical founder(s) running the company with no outside assistance
<input type="radio"/>	3	Solely technical or non-technical founder(s) running the company with assistance from outside advisors/mentors and/or incubator/accelerator
<input type="radio"/>	4	Balanced team with technical and business development/commercialization experience running the company with assistance from outside advisors/mentors
<input type="radio"/>	5	Balanced team with all capabilities onboard (e.g. sales, marketing, customer service, operations, etc.) running the company with assistance from outside advisors/mentors

Answer	No Answer
--------	------------------

Go-To-Market		
<input type="radio"/>	1	Initial business model and value proposition have been defined
<input type="radio"/>	2	Customers/partners have been interviewed to understand their pain points/needs, and business model and value proposition have been refined based on customer/partner feedback
<input type="radio"/>	3	Market and customer/partner needs and how those translate to product requirements have been defined, and initial relationships have been developed with key stakeholders across the value chain
<input type="radio"/>	4	Partnerships have been formed with key stakeholders across the value chain (e.g. suppliers, partners, service providers, and customers)
<input type="radio"/>	5	Supply agreements with suppliers and partners are in place and initial purchase orders from customers have been received

Answer	No Answer
--------	------------------

Manufacturing/Supply Chain		
<input type="radio"/>	1	Potential suppliers, partners, and customers have been identified and mapped in an initial value chain analysis
<input type="radio"/>	2	Relationships have been established with potential suppliers, partners, service providers, and customers and they have provided input on product and manufacturability requirements
<input type="radio"/>	3	Manufacturing process qualifications (e.g. QC/QA) have been defined and are in progress
<input type="radio"/>	4	Products/systems have been pilot manufactured and sold to initial customers
<input type="radio"/>	5	Full scale manufacturing and widespread deployment of product/system to customers and/or users has been achieved

Answer	No Answer
--------	------------------

	All Years Prior	Calendar Year End or Fiscal Year End (please specify)		
		Year	Year	Year
(in thousands of \$)				
3-Year Financial Projections				
Revenues, excluding private investments:				
Current NYSERDA funding request	\$ -	\$ -	\$ -	\$ -
Other grants	\$ -	\$ -	\$ -	\$ -
Sales		\$ -	\$ -	\$ -
Licensing and sub-licensing		\$ -	\$ -	\$ -
Other revenues (consulting, etc.)		\$ -	\$ -	\$ -
Operating revenue		\$ -	\$ -	\$ -
Revenue growth		N/A	#DIV/0!	#DIV/0!
Costs and expenses:				
Research and product development	\$ -	\$ -	\$ -	\$ -
Manufacturing		\$ -	\$ -	\$ -
Licensing and sub-licensing		\$ -	\$ -	\$ -
Sales and marketing		\$ -	\$ -	\$ -
General and administrative		\$ -	\$ -	\$ -
Other expenses		\$ -	\$ -	\$ -
Operating costs and expenses, excluding depreciation and amortization		\$ -	\$ -	\$ -
Operating profit margin		#DIV/0!	#DIV/0!	#DIV/0!
Earnings before interest, taxes, depreciation, and amortization (EBITDA)		\$ -	\$ -	\$ -
Depreciation		\$ -	\$ -	\$ -
Amortization		\$ -	\$ -	\$ -
Depreciation and amortization		\$ -	\$ -	\$ -
Earnings before interest and taxes (EBIT, or operating income)		\$ -	\$ -	\$ -
Interest		\$ -	\$ -	\$ -
Earnings before taxes (EBT)		\$ -	\$ -	\$ -
Tax rate (25% or X%, if net income is positive)		25%	25%	25%
Taxes		\$ -	\$ -	\$ -
Net income		\$ -	\$ -	\$ -
Net income growth		N/A	#DIV/0!	#DIV/0!
Net profit margin		#DIV/0!	#DIV/0!	#DIV/0!
Capital expenditures		\$ -	\$ -	\$ -
Private investments	\$ -	\$ -	\$ -	\$ -
Net cash		\$ -	\$ -	\$ -

Notes

1. All years prior should include revenues (current NYSERDA funding request, other grants, and private investments) and costs/expenses (research and

product development) that are expected to be required prior to the first year of sales.

3. Specify whether the financial projections are based on calendar year end or fiscal year end.
4. Select the appropriate year from the drop-down list for each year of the financial projections.
5. The dollar values in the worksheet should be in thousands of dollars. For example, \$500,000 would be recorded as \$500, \$2,500,000 would be recorded as \$2,500, and \$15,000,000 would be recorded as \$15,000.
6. Describe other revenues here -
7. Describe other expenses here -
8. Many early-stage start-up companies may not be required to account for depreciation, amortization, interest, and/or taxes in their initial year(s) of operation.
9. The 25% tax rate is used as a nominal tax rate for this worksheet. The effective tax rate that the company inputs could vary from 0% to 40% based on the company's reported income and/or any tax deductions.

Definitions

1. Depreciation - Method of allocating the cost of a tangible asset over its useful life. Companies depreciate long-term assets (buildings, machines, equipment, etc.) for both tax and accounting purposes.
2. Amortization - Method of spreading out capital expenses for intangible assets over a specific period of time (usually over the asset's useful life) for tax and accounting purposes. Amortization roughly matches an asset's expense with the revenue it generates.
3. Capital expenditures - Capital expenditure, or CapEx, are funds used by a company to acquire or upgrade physical assets such as property, industrial buildings, or equipment. It is often used to undertake new projects or investments by the company.

Supporting Schedule - Contract Pricing Proposal Form		
Element No.	Item Description	Amount
	add more rows as necessary	

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.

**ATTACHMENT E
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, 2015 Report Content 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 individual(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 the Exhibits noted thereon, 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.

Responsible: Responsible or Responsibility means the financial ability, legal capacity, integrity and past performance of Contractor and as such terms have been interpreted relative to public procurements. See NYS Finance Law § 163(1)(c).

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. 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:

(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.

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. 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.

(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 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.

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;¹ and

¹<http://www.nyserda.ny.gov/About/Board-Governance.aspx>

(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.

(j) Contractor shall at all times during the Agreement term remain Responsible, and Contractor agrees, if requested by NYSERDA, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

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 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

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.

(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. 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; Non-Responsibility

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.

12.03 Suspension or Termination for Non-Responsibility.

(a) Suspension. NYSERDA, in its sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when it discovers information that calls into question the Responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as NYSERDA issues a written notice authorizing a resumption of performance under the Contract.

(b) Termination. Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate NYSERDA officials or staff, this Agreement may be terminated by NYSERDA at the Contractor's expense where the Contractor is determined by NYSERDA to be non-Responsible. In such event, NYSERDA may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

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

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.

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/About/New-York-State-Regulations.aspx>

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
625 Broadway
Albany, New York 12207
Telephone: 518-292-5200
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
625 Broadway
Albany, New York 12207
Telephone: 518-292-5200
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/regis/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.²

(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

² This is only a summary; the full text of Part 504 can be accessed at: <http://www.nyserda.ny.gov/About/New-York-State-Regulations.aspx>

limited to any requirements set forth in Exhibits A or B to this Agreement; and addressed to 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.

(h) "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

New York State Energy Research and Development Authority (NYSERDA)

2016 Report Content Guide

Revised 12/10/2015

(Replaces the 2015 NYSERDA Report Content Guide)

Table of Contents

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1 Purpose

This document explains how to prepare and submit a report to the New York State Energy Research and Development Authority (NYSERDA). It includes details on the elements of the report, specifications for formatting and accessibility, and information on electronic submission. Please follow these instructions unless your NYSERDA contract specifies otherwise.

NYSERDA will publish the finished report deliverable online and/or in print unless the NYSERDA Project Manager approves special circumstances. Please direct questions about technical content and submission deadlines to your NYSERDA Project Manager. For questions related to formatting and electronic submission of the report, contact Diane Welch in NYSERDA Marketing at 518-862-1090, ext. 3276 or dlw@nysesda.ny.gov.

2 Required Elements

Section 6 includes a checklist of the required elements. This section contains details about the items that are required in all reports (unless noted as optional). Items should appear and be paginated in the following sequence:

- Title page (no page number):
 - Include title of report, draft or final, prepared for NYSERDA, NYSERDA Project Manager (name and title), prepared by name of organization, individuals and affiliation, report number (NYSERDA will provide during editing), contract number and date report submitted.
- Notice (small Roman numerals for page numbers i.e., ii):
 - Option 1—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.

NYSERDA makes every effort to provide accurate information about copyright owners and related matters in the reports we publish. Contractors are responsible for determining and satisfying copyright or other use restrictions regarding the content of reports that they write, in compliance with NYSERDA's policies and federal law. If you are the copyright owner and believe a NYSERDA report has not properly attributed your work to you or has used it without permission, please email print@nyserda.ny.gov.

- Option 2—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's Name**] (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, 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. 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.

NYSERDA makes every effort to provide accurate information about copyright owners and related matters in the reports we publish. Contractors are responsible for determining and satisfying copyright or other use restrictions regarding the content of the reports that they write, in compliance with NYSERDA's policies and federal law. If you are the copyright owner and believe a NYSERDA report has not properly attributed your work to you or has used it without permission, please email print@nyserda.ny.gov.

- Abstract and Keywords (optional; small Roman numerals for page numbers):
 - 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 and the Library of Congress. 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.
- Acknowledgments (optional; small Roman numerals for page numbers):
 - If included, the Acknowledgments page precedes the Table of Contents and is generally no longer than two paragraphs in length.
- Table of Contents (small Roman numerals for page numbers):
 - The Table of Contents should list front matter material (except the Table of Contents) and titles and section numbers for heading levels one through four. Additional levels should not be used in the report. If the heading styles are applied in Word, the list can be automatically generated.
- List of Figures (small Roman numerals for page numbers).
 - If the report contains three or more figures, they should be listed using the style of the Table of Contents. (If the figure titles in text have the caption function applied in Word, the list can be automatically generated.)
- List of Tables (small Roman numerals for page numbers).
 - If the report contains three or more tables, they should be listed using the style of the Table of Contents. (If the figure titles in text have the caption function applied in Word, the list can be automatically generated.)
- Acronyms and Abbreviations List (small Roman numerals for page numbers):

- All acronyms and abbreviations should be spelled out and followed by the acronym or abbreviation in parentheses on first use.
- First reference to NYSERDA in text should be “the New York State Energy Research and Development Authority (NYSERDA).” Subsequent references should read simply “NYSERDA.”
- When referring to New York State, use “New York State” on first use and abbreviate “the State” for subsequent uses.
- Use a one- or two-column layout for the list, but do not use a table.
- Executive Summary or Summary (optional; ES-1 or S-1 etc. for page numbers of Executive Summary and Summary, respectively):
 - An Executive Summary is two pages in length maximum. A Summary is a shorter version of the report and varies in length but less than 10 percent of the main report is a good guideline.
- Main Text (sequentially numbered pages i.e., 1, 2, 3 etc. preferred, but chapter-page numbering is acceptable).
- Figures and tables with sequential numbering (Figure 1, Figure 2, etc. preferred but sequential chapter-number are acceptable), callouts in text (i.e., Figure 1 shows...) and Alternative Text to comply with ADA Accessibility are required. Refer to ADA guidelines for the best way to represent data with reference to colors. Preferences for tables are listed in this document.
 - Figures and tables at the back of the document are preferred for documents that NYSERDA will be formatting; figures and tables placed in-line with text near callout is acceptable. Do not use wrap text.
- References Cited and Bibliography information (as needed; continue sequential page numbering):
 - References Cited vs. Bibliography: References Cited has specific references called out in text to document sources of specific information, and a bibliography is a list of sources used to compile a document but does not have callouts for specific facts in the text.
 - Endnote style for reference citations is preferred but footnotes are acceptable.
 - Format of reference callout in text for footnote or endnote is the author-date callout in text (i.e., Wood and Stone 2010).
 - Full reference citations listed alphabetically by the last name of the first author.
 - Citation format is based on Chapter 15 (Documentation II: Author-Date References) of The Chicago Manual of Style (16th edition).
 - Use the following format to refer to reports published by NYSERDA:

New York State Energy Research and Development Authority (NYSERDA). Year of publication. “Title of Report,” NYSERDA Report Number xx-yy. Prepared by organization, company or individual names and city/state location (optional). nysERDA.ny.gov/publications
- Appendices (optional; A-1 etc for Appendix A, B-1 etc for Appendix B page numbering):

- In NYSERDA reports, Appendices should be called appendices and not Attachments. Attachments are used to append a document to an appendix. (Attachments may have different definitions in emails and legal documents.)
- Alternative text that describes figures and tables to meet Accessibility requirements. (A separate Word file is fine—see Section 2.2 for more details).

2.1 Copyright for 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.

For each figure and table, the contractor must also provide a source line that gives the original source and any language stating permission to reprint that should be published with each respective table or figure.

2.2 Proprietary or Confidential Information

Propriety or confidential information must be clearly labeled in the report submission as “proprietary” or “confidential.” To the extent possible, the information should be contained within one section or appendix that can be easily removed prior to publishing. Consult your NYSERDA Project Manager with any questions.

2.3 Americans with Disabilities Act (ADA) Accessibility Compliance

As a State Authority, NYSERDA is obligated to ensure that all documents published on NYSERDA’s website are accessible, pursuant to 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 meet the needs of persons with visual or mobility 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 disability to hear the text. The formatting of these documents is critical to the success of the conversion from text to speech. 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.)

Reports submitted to NYSERDA must meet the following requirements:

- Use numbered headings in the document up to Level 4 (i.e., 1.1.1.1).
 - Pick one of the formatting options outlined in Section 3 of this document.
 - Provide short titles for all tables, images, and figures.
 - Provide Alternative Text (also known as alt-text) that describes the visual elements of each image and figure—and does not just repeat the title or caption. Include alt text for any tables that are inserted as images.
- Write out links in documents that will be printed. Write the sentence so that the URL is not at the end and followed by a period. See the last bulleted item for an example (“Visit...”).
 - Avoid linking to “click here” or including extremely long URLs. For web-only documents, use contextual links, such as linking NYSERDA’s website to “NYSERDA” instead of putting a long URL in text.
 - Visit nyserdera.ny.gov/Doing-Business-with-NYSERDA for more information about how to make a document accessible.

3 Formatting

Contractors have two options for the format of a submitted document:

Option 1—NYSERDA does the formatting

- Contractor emails to NYSERDA Project Manager a Word file of all report components with all text in Times New Roman 10 pt font.
- File should include outline level numbering with each section head (1 is Level 1 Heading, 1.1 is Level 2 Heading, 1.1.1 is Level 3 Heading, 1.1.1.1 is Level 4 Heading), not to exceed Level 4.
- Each figure and table should have a call-out in the main text (i.e., Figure 1 shows... or According to Figure 1,... or (Figure 1) at the end of a sentence).
- Figures and tables along with their titles and sources (and captions if necessary) should be grouped together at the back of the file or supplied in a separate file. Contractor can request inline or back-of-report placement of figures.
- NYSERDA will format the document according to the 2016 NYSERDA Marketing’s Template for Reports.

Option 2—Contractor does the formatting

- Visit nyserdera.ny.gov/Doing-Business-with-NYSERDA to download:
 - Report template (2016 NYSERDA Marketing’s Template for Reports).
 - Details about report formatting (2016 NYSERDA Report Formatting Guide).
- Apply each of the Word Styles in the template to the elements of the document as appropriate, such as apply Heading 1 to all first-level headings, Body Text to all body text and References to

reference materials. Place figures and captions after each respective call-out OR in order at the back of the report.

4 Submitting a Report to NYSERDA

No print drafts of the report are required. An electronic Word version of the draft report should be emailed to the NYSERDA Project Manager. Contact the Project Manager regarding how to transfer large files. The contractor is responsible for satisfactorily addressing comments from NYSERDA and other stakeholders. When making corrections, the contractor must ensure that technical content is not compromised. After editorial corrections have been made, the contractor must email to the Project Manager a Word version of the final report. NYSERDA will consider high-resolution image submissions for report covers.

5 Contacts

- The NYSERDA Project Manager should be the contractor's primary point of contact.
- For additional questions, contact Diane Welch in NYSERDA Marketing at dlw@nyserda.ny.gov or 518-862-1090 ext. 3276.
- Contractors can also email print@nyserda.ny.gov or call 518-862-1090 and ask for Marketing.

6 Required Elements Checklist

The following elements should be included in reports, unless noted as optional, along with the style of page numbers is listed in parentheses:

- Title page (no page number).
- Notice (small Roman numeral page numbers, i.e., ii).
- Abstract
- Keywords (optional; small Roman numerals).
- Acknowledgments (optional; small Roman numerals).
- Table of Contents (small Roman numerals).
- List of Figures (small Roman numerals).
- List of Tables (small Roman numerals).
- Acronyms and Abbreviations List (small Roman numerals).
- Executive Summary or Summary (optional; ES-1 or S-1 etc).
- Main Text (pages sequentially numbered i.e., 1, 2, 3 etc.).

- Figures and tables with sequential numbering (Figure 1, Figure 2, etc.), callouts in text (i.e., Figure 1 shows...), and Alt Text for ADA Accessibility.
 - Figures and tables at the back of the document are preferred for documents that NYSERDA will be formatting; figures and tables placed in-line with text after first callout are acceptable. Do not wrap text.
- References Cited and Bibliography information.
- Appendices (optional; page numbering is A-1 etc. for Appendix A, B-1 etc. for Appendix B).
- Copyright information for intellectual property (i.e., images, figures, tables or large pieces of text that have been previously published)—include written permission from the copyright holder at the end of the document and use appropriate language in the captions of the images, figures and tables such as “Reprinted with permission from [publisher’s name].”
- Alternative text that describes each image and figure (include Alt text for tables that are included as images) —and does not just repeat the title or caption. (See Section 2.3 for more information.) The text should be listed at the end of the document or provided in a separate file.

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

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

Patent Information

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

Information Dissemination

Name of Presentation or Event	<i>Names of the presentation or event where information was communicated about the product, company or research</i>
Organization that hosted the event	<i>Name of the organization that hosted the event</i>
Type of event	<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	<i>Date information is published (month & year)</i>
Publication Title	<i>Name of publication written as a result of research performed under contract with NYSERDA</i>
Publication Type	<i>Examples: Citation, Final/Technical Report, Newsletter, Trade Publication etc.</i>
Periodical Name	<i>Name of periodical the publication appeared in (if applicable)</i>
Policy Development	<i>State if this publication been cited in government policy development</i>
Names of Authors	<i>Author First & Last Names</i>

Resources Saved per Product Unit

<input data-bbox="53 1146 90 1182" type="button" value="+"/>	<i>Add Metric</i>		
<input data-bbox="53 1199 90 1234" type="button" value="x"/>	General Resource Type	Specific Resource Type	Unit of Measurement
	<input type="text"/>	<input type="text"/>	<input type="text"/>
Basis of Calculations	<input type="text"/>		

NYSERDA - INSTRUCTIONS FOR SUBMITTING ELECTRONIC PROPOSALS

Please read the following instructions before submitting a proposal.

1. Submit one proposal for each session.
2. Enter your e-mail address and click the “Validate Email” button.
3. 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.
4. Upload as many files as needed, one at a time.
5. The electronic file names should include the proposing entity’s name in the title of the document. The character limit is **100** characters.
6. You may submit Word, Excel, Zip, or PDF files. Individual files should be less than **1GB** file size.
7. PDF files must be searchable and therefore should be converted directly from an electronic document to PDF, rather than scanned.
8. 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.
9. After all necessary files have been uploaded; review the list of documents to ensure that your proposal is complete and accurate.
10. Click the “Submit Proposal button.”
11. You will then be brought to a confirmation page listing the files received. Please print and save the confirmation page.
12. An auto-generated confirmation e-mail will be sent to the e-mail address you entered. Please save this e-mail.
13. When choosing to submit files electronically, the award/non-award notification letter will be sent to the e-mail address of the **Primary Contact listed on the Proposal Checklist.**

Important Reminders:

1. **The electronic proposal system closes promptly at 5pm Eastern Time on the due date of the solicitation.** Files in process or attempted for submission after 5pm will be locked out of the system. Please allow at least 15-30 minutes to submit proposals.
2. 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 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 Roseanne Viscusi at rdv@nyserda.ny.gov or 518-862-1090 ext. 3418 and the Program contact listed in the solicitation.