

## ADDENDUM TO AGREEMENT

### NY-Sun Incentive Program



Please check appropriate box below.

       This Agreement is related to a PV project receiving incentive funding under the NY Sun Residential/Small Commercial (<200 kW) Incentive Program

       This Agreement is related to a PV project receiving incentive funding under the NY Sun Initiative Commercial/Industrial (>200 kW) Incentive Program

**All Participating Contractors must incorporate this Addendum into the agreement between the Contractor and Customer (Agreement) for each PV project receiving incentives.**

**The following terms will apply to all NY-Sun supported PV projects (Residential/Small Commercial (<200 kW) AND/OR Commercial/Industrial (>200 kW)):**

**Attorney Consultation:** The Agreement to which this Addendum is attached and made part is a legally binding document; you may wish to consult with an attorney before signing.

**Conflicting Terms:** In the event of a conflict between the terms in any other contractual instrument between the Contractor and Customer and the terms of this Addendum, the terms of this Addendum shall control.

**Assumption of Responsibilities:** Should the Contractor or owner of the PV System sell or transfer ownership of the PV System during the term of the Agreement, the Contractor/owner agrees that it will alert Customer in advance of such transfer or sale, and that, during the duration of the term of the Agreement, either: (1) the Contractor will remain responsible to the Customer for all obligations and responsibilities stated herein, or (2) under the agreement of sale the buyer will assume all responsibilities to Customer stated herein, if applicable.

**Incentives:** The Contractor is required to disclose the full amount of the NYSERDA incentive to the end-use customer.

**Renewable Energy Certificates:** NYSERDA will register all PV Systems that receive NY-Sun incentives in the New York Generation Tracking System (NYGATS) and will route any certificates created by the NYGATS for the PV Systems into a NYSERDA account. The renewable energy certificate retirement rules associated with the operation of the New York Generation Attribute Tracking System are based on the Public Service Commission's reporting requirements under the Renewable Portfolio Standard (03-E-0188) and CEF programs (14-M-0094) for PV Systems that have received a financial incentive by participating in the NY-Sun Program.

**Inspection/Reporting/Commissioning:** For quality control purposes, all parties including the Customers must provide NYSERDA or its representative with reasonable access to the PV System in order to conduct site inspections or remote monitoring services. Final incentive payment may be contingent on NYSERDA inspection of the installed PV System.

**Publicity and Site Events:** Customers and Contractors are required to collaborate with NYSERDA's Director of Communications should they prepare any press release or plan any news conference related

## ADDENDUM TO AGREEMENT

### NY-Sun Incentive Program



to the PV System. NYSERDA is authorized to use PV System photographs in brochures, on its website, and in other print materials.

**Tax Incentives:** Customers are encouraged to consult the Internal Revenue Service (See [www.irs.gov](http://www.irs.gov)), the NYS Department of Taxation and Finance (See [www.tax.ny.gov](http://www.tax.ny.gov)) and with an accountant/tax adviser for details on eligibility for the credit provided in the law, regardless of whether the Builder/Contractor has provided information regarding the expected tax benefits (real property, federal or state tax incentives, or sales and use tax exemptions).

**Net Metering:** Customers are encouraged to consult with their local utility regarding eligibility for net metering.

**Consumer Information:** New York consumers and customers are encouraged to consult the New York State Office of the Attorney General web site for consumer information: [http://www.ag.ny.gov/bureaus/consumer\\_frauds/tips/home\\_improvements.html](http://www.ag.ny.gov/bureaus/consumer_frauds/tips/home_improvements.html)

The NYS Consumer Protection Board offers additional information with the following publications: <https://www.dos.ny.gov/consumerprotection/publications.html>

**Communication with Customer:** Contractor and Customer agree that NYSERDA may, at NYSERDA's discretion, communicate by voice and/or written format with any PV System Customer with respect to any matter relevant to a proposed or installed PV System. Such communications may be in reply to an inquiry from a Customer or at NYSERDA's initiation.

**Disclaimer:** The Customer understands that neither NYSERDA nor the State of New York: (1) endorse any Contractor; or (2) guarantee, warranty, or in any way represent or assume liability for any work proposed or carried out by a Contractor or Installer. Additionally, NYSERDA is not responsible for assuring that the design, engineering and construction of the project or installation of any solar electric generation system is proper or complies with any particular laws, regulations, codes, licensing, certification and permit requirements, or industry standards. NYSERDA does not make any representations of any kind regarding the results to be achieved by the solar generation systems or the adequacy or safety of such measures.

**The following term will apply ONLY to NY-Sun supported PV projects under the Commercial/Industrial (>200 kW) Incentive Program**

**Non-Residential Energy Assessment:** For the Commercial/Industrial (>200 kW) Program, the energy assessment is an ASHRAE level 1 walk through analysis, unless the customer is located in load zone J in which case the Contractor must submit the electric customer's Energy Star score as required under PlanNYC.

Customers will not be required to benchmark or implement energy efficiency measures as a pre-requisite for receiving a PV incentive, except as required for projects receiving the Affordable Solar residential added incentive.

## ADDENDUM TO AGREEMENT

### NY-Sun Incentive Program



**The following terms will apply ONLY to NY-Sun supported PV projects under the Residential/Small Commercial (<200 kW) program:**

**Incentives** are only available for the installation of new equipment and PV Systems that have not been installed (partially or completely) prior to the *Project Application* achieving a status of "Submitted via Internet." Incentives will not be provided directly to Customers but are paid to the Contractor, who must apply the entire approved amount to the Customer's cost via a corresponding reduction in Customer's Total System Cost or total payments. The Incentive Payment Request Form must be signed by the Contractor and Customer.

**Cost Estimate/Total System Price:** The Customer has relied upon the Contractor to include any and all costs associated with the complete installation of the proposed PV system in the Agreement. If additional costs are sought from the Customer, the Agreement may be cancelled without penalty and the customer may seek a full refund of any deposit paid to Contractor or costs the Customer incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

**Incentive Estimate:** If the Contractor does not submit a completed Project Application to NYSERDA, or if the Project Application (a) is not approved by NYSERDA or (b) if NYSERDA approves a lower incentive, the Customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the Contractor.

**Incentives:** the Contractor is not permitted to collect the value of the incentive upfront and reimburse the customer upon completion of the project, or upon receipt of the NYSERDA incentive.

**Review of System Design:** NYSERDA may review the design of the PV System considering issues including, but not limited to, system layout, orientation, shading, expected output, etc. NYSERDA approval of the Project Application is contingent on adherence to the proposed system design. Contractors/Builders must receive approval from NYSERDA for any material modification of the proposed system or its components, or the incentive may be revoked.

**Losses:** All potential system output losses (after all equipment losses are applied) associated with shading, system orientation, tilt angle, etc. may not exceed 20% of optimal system output to receive the full incentive. Such losses must be detailed in each application package using industry accepted shading and orientation tools, verifiable assumptions and calculations. Systems with losses greater than 20% of optimal output due to shading and orientation issues may be considered on a case-by-case basis. However, any available incentives for these systems will be prorated by output loss. In cases where trees or any other obstruction must be removed or moved in order to meet the program rules, incentive payments will not be made until a new shading analysis and photos, verifying that the obstruction(s) have been removed are reviewed and approved by NYSERDA. Any trees or obstructions must be clearly labeled in the site map.

**Warranty for Purchase Agreements:** The Contractor shall offer a full/transferable warranty to the purchaser of the PV System installed under this Customer Purchase Agreement for a period of five (5) years after the Contractor has completed the installation and NYSERDA's final approval has been provided. This warranty covers all components of the system against breakdown or degradation in electrical output of more than ten percent from their original rated electrical output. This warranty covers the full cost, including labor and repair or replacement of defective components or systems. If a battery back-up is

## ADDENDUM TO AGREEMENT NY-Sun Incentive Program



installed under this Agreement, the Eligible Installer and the Contractor shall offer a full warranty to the purchaser for the battery system for a period of 2 years after installation. This warranty covers the battery system against breakdown and covers the full costs, including labor and repair or replacement of the battery.

**Warranty for PPA/Leases:** At a minimum, the Contractor shall offer a production guarantee to the Customer for the initial term of this Agreement. This production guarantee will provide the customer with compensation if the system produces less than the guaranteed output as specified in the PPA or lease agreement. Guaranteed output may not allow cumulative degradation in electrical output of more than one percent per year from the original rated electrical output for the initial term of this agreement. Under no circumstance will Customers be responsible for any labor and repair or replacement costs of defective components or systems over the initial term of this Agreement. Should the customer sell the residence at which this solar facility is located, the production guarantee is fully transferrable to a new lessee.

**Green Jobs Green New York (GJGNY) Financing:** Should an eligible residential customer who chooses to access GJGNY financing for their PV system project be unable to proceed with installation of the PV system, due to either the system not meeting the Program's eligibility requirements, or the customer is denied low-interest financing through GJGNY, the customer may terminate the Agreement without penalty and seek a full refund of any deposit paid to /Contractor or costs he or she incurred under the Agreement, less any reasonable site visit fees charged by the /Contractor.

**PV system completion/commissioning:** The Contractor agrees to complete the installation of the PV system, and request all necessary inspections, within 210 days of NYSERDA's approval of the Project Application. Unless written approval of an extension has been issued by NYSERDA, the Contractor will be required to return any and all incentive payments to NYSERDA if this milestone has not been met.

**Residential Applications - Clipboard Audit:** The Contractor agrees to complete a Clipboard Audit consisting of two main components: an interview of the home/building owners to ascertain energy use habits, and identify potential energy efficiency measures, especially low- and no-cost measures that could reduce the electricity load of the residence. The Participating Contractor shall conclude the Clipboard Audit with a homeowner debriefing and provide the homeowner with a copy of the Clipboard Audit report. Customers will not be required to implement the energy efficiency measures identified in the Clipboard Audit as a pre-requisite to receiving the standard NY-Sun incentive.

For projects receiving the Affordable Solar additional incentive, the Contractor and the customer are required to attest on the application that lighting and water efficiency measures are installed at the residence, meeting the requirements outlined for the Affordable Solar incentive in the NY-Sun Program Manual.

**Non-Residential Energy Assessment:** The Contractor will provide non-residential building owners with information on Energy Star's Portfolio Manager Benchmarking Tool or other equivalent tool and, if requested by the building owner, assist them to enter utility bill information into the Tool in order to produce an EUI (Energy use index)<sup>6</sup> and, where applicable, an Energy Star score. Customers will not be required to benchmark or implement energy efficiency measures as a pre-requisite for receiving a PV incentive.

**Affordable Solar Incentive - Contract Requirements:** Contracts for PPA/lease projects receiving the Affordable Solar additional incentive shall not contain price escalators over the life of the agreement, and all projects receiving this incentive shall provide a cost savings to the customer over the life of the

# ADDENDUM TO AGREEMENT

## NY-Sun Incentive Program



agreement, as documented by the Affordable Solar Residential Project Screening Tool included in the incentive application.

Contracts for PPA/lease projects participating in the TPO Pilot must reflect that the following requirements are met:

- The project is financed through a fully prepaid lease or PPA, with no outstanding financial obligation to the customer beyond the GJGNY loan.
- The project must provide annual customer cost savings of at least 50% per kWh for the lifetime of the GJGNY loan, as documented in the GJGNY pro-forma tool submitted with the incentive application.
- TPO Pilot projects must not exceed a GJGNY loan size of \$6,000.

**General Business Law:** If this Agreement is deemed to be a Home Improvement Contract under the NYS General Business Law §770, et seq., Customer is entitled to various notices. A description and explanation of this law can be accessed at <http://www.dec.ny.gov/lands/5341.html> This Agreement may also be subject to the federal Consumer Leasing Act (15 USC 1667 et. seq). <http://www.federalreserve.gov/boarddocs/supmanual/cch/leasing.pdf>

**Statement of Acknowledgement:** By signing, all parties acknowledge that they have read and understand all of the above information and requirements and agree to abide by them.

**Contractor:** By signing below, the Contractor confirms that there is a fully-executed Agreement to install the PV project that has been signed by both Contractor and Customer and that the costs and incentives stated on the NYSERDA approved application for incentive funding are complete and accurate. The Contractor is responsible for keeping this document on file. NYSERDA may request, at any time, that a signed copy of this addendum be provided. Contractor further attests that the customer signature appearing below is the true and genuine signature of the customer and that it was affixed to this document on the date indicated.

Print Customer Name \_\_\_\_\_

**Customer Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

Contractor Company Name \_\_\_\_\_

Contractor Name (Print) \_\_\_\_\_

**Contractor Signature** \_\_\_\_\_ **Date** \_\_\_\_\_