

# Statewide Heat Pump Program Participating Agreement

This National Grid NYS Clean Heat Statewide Heat Pump Program (“Heat Pump Program”) Participation Agreement (“Agreement”) for Air-Source Heat Pump (“ASHP”) Installers and Ground Source Heat Pump (“GSHP”) Installers, Designers or Drillers (“Heat Pump Contractors”), and the National Grid NYS Clean Heat Statewide Heat Pump Program Manual (“Manual”), as they may be revised from time to time, is entered into by and between Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”), having its principal place of business at 300 Erie Boulevard W, Syracuse, NY 13202 and the Participating Contractor (“Contractor”) as identified in the National Grid NYS Clean Heat Statewide Heat Pump Program Participating Contractor Application (“Contractor Application”) and as referenced in this Agreement, which hereinafter may be referred to each as a “Party” to this Agreement or collectively as the “Parties” to this Agreement. This Agreement governs the rights and responsibilities of National Grid, and the Contractor with respect to the Contractor Application and the procurement and installation of heat pump systems approved under and through the Heat Pump Program, and to otherwise, effectuate the purposes of the Heat Pump Program. The additional terms, conditions, and provisions of the Heat Pump Program as identified in the most recent version of the Manual are incorporated herein by reference.

WHEREAS, National Grid has agreed to be one of the utilities that administer (“Administrator”) the Heat Pump Program for furthering the State’s objective of advancing the use and supporting the development of the heat pump industry in New York State and by providing financial Incentives (“Incentives”) for the installation of heat pump systems that meet the requirements of the Heat Pump Program. The Parties hereunder agree to be bound, for purposes of the Heat Pump Program, by the following terms and conditions; and

WHEREAS, the success and future of this Heat Pump Program depends on the performance and integrity of the Contractors in their dealings with the public and their quality installation of heat pump systems; and

WHEREAS, this Agreement has been designed to foster and protect the integrity of the Heat Pump Program, and will be enforced;

WHEREAS, ASHP Installers and GSHP Installers and Designers are Contractors, eligible to receive incentive payments under this Agreement and the Heat Pump Program, however, Drillers may participate as Contractors, but are ineligible to receive incentive payments under this agreement;

WHEREAS, in its role as an Administrator of the Heat Pump Program, National Grid reserves the right to deny Contractor status to any applicant and to revoke such status where in its judgment such action is in the best interests of the Heat Pump Program; and

NOW, the Parties agree that all the terms and conditions contained in this Agreement shall be binding upon the Parties.

## Article 1: Participation in the National Grid NYS Clean Heat Statewide Heat Pump Program

**Section 1:** The Contractor agrees that by the act of signing this Agreement and submitting a Contractor Application to the Heat Pump Program, the Contractor confirms and agrees: (1) that the Contractor has read and understands this Agreement and accepts and agrees to abide by the terms and conditions contained herein; (2) that the Contractor acknowledges and agrees that the act of submitting an Incentive Application(s) signals such agreement that the terms and conditions herein and on the Incentive Application(s) are binding on the Contractor; (3) that all of the information provided in a Contractor Application and site owner invoice submitted by the Contractor, including any attachments, is true and accurate, to the best of its knowledge; (4) that any project for which an Incentive Application is submitted by the Contractor under the Heat Pump Program shall comply with the requirements of the Heat Pump Program, the applicable Manual, the terms and conditions of this Agreement and the Contractor Application, and with all applicable codes, accepted industry standards, and best practices. This Agreement does not obligate National Grid to make any payment to the Contractor.

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**Section 2:** The Contractor acknowledges that failure to adhere to the terms and conditions of participation in the Heat Pump Program or to otherwise fail to follow the Heat Pump Program requirements and procedures may result in termination of the Contractor's further participation in the Heat Pump Program. The obligation of the Contractor with respect to all terms and conditions of this Agreement shall survive any expiration or termination of this Agreement.

**Section 3:** Contractors applying to the Heat Pump Program as ASHP Installers, ASHP Designers, GSHP Installer, GSHP Designers, and GSHP drillers shall provide all required certifications and documentation as set forth in the Participating Contractor Requirements section of the most recent version of the Manual.

**Section 4:** Upon National Grid's acceptance of a Contractor into the Heat Pump Program, Contractors are then authorized to submit "Incentive Application(s)", based on the Contractor's status (see the Manual for a full description of Participation Status and Status Review Process). Contractors may be approved to submit Incentive Applications for ASHP systems, GSHP systems <300,000 Btu/h, custom GSHP systems >300,000 Btu/h, or all systems, based on credentials submitted with the Contractor Application package(s). The Contractor will be responsible for all heat pump system installations for which an Incentive Application is submitted under this Agreement, regardless of whether the installation was performed partially or completely by others.

**Section 5:** Heat pump system installations must comply with the Manual in effect at the time of National Grid's acceptance of the Incentive Application and must conform to the corresponding terms of the National Grid -approved Incentive Application as part of this Agreement. The Manual identifies the current incentives, rules for participation, submission requirements, heat pump system requirements, and the procedures for securing incentive payments. This includes, by signing this Agreement, the Contractor acknowledging and agreeing to have read and to use the "NEEP Guide to Sizing and Selecting Air-Source Heat Pumps in Cold Climates" to assist in sizing and selecting ccASHP equipment as stated in the Manual. The Manual may be changed by the Administrators at any time, and changes will be applicable to all heat pump systems not yet approved by National Grid at the time of such change. Notice of all such changes will be provided to the Contractor via the e-mail address identified in the Contractor Application.

**Section 6:** The Contractor, its employees, and subcontractors shall treat customers fairly and in good faith, and shall deliver promised services in a timely, responsible, professional, and competent manner. The Contractor shall fairly represent the Heat Pump Program and the relationship of the Contractor with National Grid to customers and the public. If it is determined that the Contractor is not fairly or accurately representing the Heat Pump Program and/or its relationship with National Grid, the Contractor will be subject to administrative review and its status within the Heat Pump Program may be affected. All installations completed through this Heat Pump Program are subject to random field inspections by National Grid or the New York State Energy and Research Development Agency ("NYSERDA") (as applicable), their representatives or agents. The selection of installations for inspection will be determined by National Grid or NYSEDA (as applicable) according to a standard protocol and the status of the Contractor. Written complaints received from customers will be documented and investigated by National Grid or its representatives. Complaints from customers will be shared with the Contractor unless determined by National Grid to be frivolous and/or have no merit.

**Section 7:** The Contractor shall not, without prior written permission from National Grid, knowingly subcontract with, employ, or hire any individual or company to perform work related to an Incentive Application if said individual or company is currently in a probation or suspended status, or whose participation in the Heat Pump Program has been suspended or terminated. A list of eligible Contractors in the Heat Pump Program is accessible on the following website: <https://www.riseengineering.com/nyscleanheat-nationalgrid>

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**Section 8:** The Contractor agrees to provide to National Grid, NYSEDA and National Grid representatives or agents, throughout the Term of this Agreement, access to a project site(s), facility, equipment, and personnel as necessary to facilitate quality assurance of the heat pump system installation. National Grid, NYSEDA or its technical contractor(s) may conduct a site inspection at a project site at any time. National Grid, NYSEDA or its agents may choose to visit a project site to verify that the information provided in any of the required documentation is accurate. Should National Grid or NYSEDA decide to inspect a project site, National Grid, NYSEDA or its agents may, or may not, contact the Contractor to schedule the inspection; inspections may occur without notice to the Contractor. If the inspection reveals activities different from that represented in any of the required documentation, National Grid may refuse to make payment. The Contractor hereby agrees that National Grid or NYSEDA may independently communicate with any site owner with respect to any project, without prior notice to the Contractor.

## Article 2: Heat Pump Program Incentives and Payments

**Section 1:** The amounts, limitations, and availability of Incentives as defined in the Manual are those that are in effect at the time that National Grid accepts the Incentive Application.

**Section 2:** National Grid reserves the right to change the Heat Pump Program Incentives as needed. Notice of all such changes will be provided to the Contractor via the e-mail address as identified on the Contractor Application.

**Section 3:** Incentive payments that result from Incentive Applications will be paid to the Contractor listed on the corresponding Incentive Application. Acceptance by the Contractor of final payment shall release National Grid from all claims and liability of the Contractor, representatives and assigns to this Agreement.

**Section 4:** National Grid reserves the right to withhold approval of Incentive Applications at any time, for any reason. National Grid will not process an Incentive Application submitted by the Contractor if their Agreement has been terminated, or where the Contractor is a party on customer contract(s) that are the subject of unresolved application, installation, or performance issues.

**Section 5:** National Grid or NYSEDA will charge the Contractor for any costs incurred by National Grid or NYSEDA for additional field inspections required due to the failure by the Contractor to submit a complete Incentive Application, repetitive errors in design or installation or to make corrections or modifications as requested by National Grid or NYSEDA.

**Section 6:** Notwithstanding any other provision of this Agreement, National Grid reserves the right to deny or alter payment of an Incentive, or a portion thereof, or to seek reimbursement of Incentives paid if, at any time, it learns that the approved heat pump system was not actually installed or was not installed as required under the Heat Pump Program or this Agreement. National Grid may: (a) elect to not pay the Incentive; (b) require changes before making any payments; (c) require reimbursement of Incentives already paid unless the requested changes are made; (d) withhold approval of Incentive Applications for other ASHP Systems; or (e) exercise its right to withhold payment of an incentive, or a portion thereof as described herein.

**Section 7:** Incentive payments payable under this Agreement will be made pursuant to National Grid's incentive processing procedure, which may change at any time.

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## Article 3: Obligations between the Contractor and Eligible Customers

**Section 1:** The Contractor is solely responsible to, and shall execute a written agreement with, the customer for each heat pump system the Contractor installs. Each such agreement, including the disclosure of all subcontractors, shall meet the requirements identified in the applicable Manual. In addition, at the completion of each heat pump installation, the Contractor must train site owners on system operation and maintenance.

**Section 2:** The Parties agree that National Grid may, at National Grid's discretion, communicate by voice and/or written format with any customer with respect to any matter relevant to a proposed or installed heat pump system. Such communications may be in reply to an inquiry from a customer or at National Grid's initiation.

**Section 3:** The Contractor further attests that the customer signature appearing on any document (including the Incentive Application and site owner invoice) submitted by the Contractor below shall be the true and genuine signature of the customer and that it was affixed to the document on the date indicated.

## Article 4: Insurance Requirements

**Section 1:** From the commencement of this Agreement, through acceptance or longer where specified below, the Contractor shall provide and maintain, at its own expense, an insurance policy(ies) meant to be primary and non-contributory (with no right of contribution by any other coverage available to the Company, the Company's affiliates and their respective agents, employees, directors and other parties that the Company may identify) and issued by reputable insurance companies, acceptable to National Grid with an A.M. Best rating of A- or better which meet or exceeds the requirements as specified in this Article.

All such insurance shall be evidenced by insurance policies, each of which shall: (1) reference this Agreement, including all work to be performed under the Heat Pump Program; specifically name the Contractor as a named insured and Niagara Mohawk Power Corporation d/b/a National Grid, its direct and indirect parents, subsidiaries and affiliates, NYSERDA and the State of New York as additional insureds on such policies; (2) include under all required policies a Waiver of Subrogation, in favor of such Additional Insureds for any loss or damage covered under those policies referenced herein; (3) and by endorsement, state that such policies may not be cancelled or modified until at least 30 days after receipt by National Grid of written notice thereof; and be reasonably satisfactory to National Grid in all other respects.

In the event Contractor uses subcontractor(s) in connection with providing any services specified or related to this Agreement, the Contractor shall require all such subcontractor(s) to provide the same insurance coverages and protections as outlined within and as applicable to their portion of Work or services. The Contractor shall remain liable for the performance of each Subcontractor, and such contract relationship shall not relieve the Contractor of its obligations under this Agreement. In addition, each Subcontractor shall be required to provide a waiver of subrogation under all policies required and name Niagara Mohawk Power Corporation d/b/a National Grid, its direct and indirect parents, subsidiaries and affiliates, NYSERDA, the State of New York and the Contractor as Additional Insureds under its Commercial General Liability policy(ies). National Grid reserves the right to request insurance documentation and copies of subcontractor agreements for any subcontractor, and to request the identity of all individuals participating in the Heat Pump System installation

**Section 2:** The types and amounts of insurance required to be maintained under this Section are as follows: (1) 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, 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 (2) Workers Compensation/Employers Liability coverage as required by New York State.

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**Section 3:** Immediately upon execution of this Agreement and on an annual basis, no less than 15 days prior to a policy(ies) renewal date, for the life of the Agreement, the Contractor shall deliver to National Grid a certificate(s) of insurance evidencing the renewal of such policy(s), and the Contractor shall promptly pay all premiums thereon due. No work shall be performed under this Agreement without current insurance. National Grid will not accept Incentive Applications or make payments under this Agreement without current insurance certificates.

**Section 4:** In the event of threatened legal action, claims, encumbrances, or liabilities that may affect National Grid hereunder, or if deemed necessary by National Grid due to events rendering a review necessary, the Contractor shall deliver to National Grid a certified copy of each policy upon request.

**Section 5:** Within five working days, or contemporaneously with the requirements of each insurance policy, the Contractor shall notify National Grid in writing of the occurrence of any accident, event or incident involving personal injury or property damage that might reasonably result in any complaint or claim, in law or in equity, against the Contractor, any non-customer party to the applicable customer agreement or National Grid

## Article 5: Indemnification

The Contractor shall protect, indemnify, and hold harmless National Grid, NYSEDA and the State of New York, its directors, officers, employees, agents and affiliates (together the "Indemnified Parties") from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, experts' and/or attorneys' fees and expenses) imposed upon, incurred by, or asserted against, the Indemnified Parties resulting from, arising out of or relating to the Contractor's performance of this Agreement. The obligations of the Contractor under this section shall survive any expiration or termination of this Agreement and shall not be limited by any enumeration herein of required insurance coverage.

## Article 6: Miscellaneous

**Section 1:** National Grid does not endorse, guarantee, or warrant any manufacturer, product, or the Contractor, and National Grid disavows and provides no warranties, expressed or implied, for any product or services that may be rendered hereunder. The Contractor's reliance on warranties is limited to any warranties that may arise from, or be provided by, contractors, vendors, manufacturers, etc.

**Section 2:** The Contractor acknowledges that neither National Grid nor any of its representatives are responsible for assuring that the design, engineering, construction, and/or installation of the heat pump system is proper or in compliance with any particular laws (including patent laws), regulations, codes, or industry standards. National Grid does not make any representations of any kind regarding the results to be achieved by any heat pump system, or the adequacy or safety of such measures. The scope of review by National Grid of the installation of the heat pump systems is limited solely to determining whether such heat pump systems conform to heat pump program terms, conditions, and requirements.

**Section 3:** This Agreement, including all documents incorporated by reference, including the Manual located at <https://saveenergyny.ny.gov/NYScleanheat/>, Contractor Application and any Incentive Applications made part of this Agreement, is the entire Agreement between National Grid and the Contractor and supersedes all other communications and representations. If either National Grid or the Contractor desire to modify this Agreement, the modification must be in writing and signed by an authorized representative of the party against which enforcement of the modification is sought.

**Section 4.** The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent or employee of National Grid or NYSEDA. In accordance with such status, the Contractor and its respective officers, agents, employees, subcontractors, representatives, and servants shall, at all times during the term of this Agreement, conduct themselves in a manner consistent with such status. By reason of this Agreement, the



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Contractor shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives, or servants of National Grid or NYSEERDA nor make any claim, demand, or application for any right or privilege applicable to National Grid or NYSEERDA, including, without limitation, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage, and retirement membership or credit. Nothing in this Agreement shall be construed as creating a partnership, joint venture, employment, agency, legal representation or other relationship between National Grid or NYSEERDA and the Contractor for any reason, including but not limited to unemployment, workers' compensation, employee benefits, vicarious liability, professional liability coverage or indemnification. No party shall have the right, power or authority to obligate or bind the other in any manner not specified in this Agreement. The Contractor expressly acknowledges National Grid and NYSEERDA'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 National Grid and/or NYSEERDA, the Contractor, subcontractors, vendors and/or the Contractor's personnel by virtue of any act or omission on the part of National Grid or its employees. Accordingly, the Contractor expressly covenants and agrees to notify National Grid and/or NYSEERDA of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon the Contractor's discovery of the same, and to fully and honestly cooperate with National Grid and/or NYSEERDA in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by National Grid and/or NYSEERDA for disclosure of information concerning such claim or event even if this Agreement should terminate for any reason.

**Section 5:** The Contractor shall collaborate with National Grid to prepare any press release and to plan for any news conference concerning heat pump systems installed under the Heat Pump Program. In addition, the Contractor shall notify National Grid regarding any media interview involving heat pump systems installed under the Heat Pump Program.

**Section 6:** Commercial promotional materials, advertisements, informational brochures, and website content produced by the Contractor in relation to the Heat Pump Program shall credit National Grid and shall be submitted to National Grid for review and recommendations to improve their effectiveness prior to use. Such content may be approved in advance by National Grid and after initial approval, such content may be used in subsequent promotional materials or advertisements without additional approvals. In the event that National Grid determines that the Contractor is presenting or publishing incorrect or misleading information regarding the Heat Pump Program or the Contractor's status in the Heat Pump Program, the Contractor agrees to make appropriate modifications promptly upon notification by National Grid. If a website maintained by or for the Contractor includes references to National Grid and/or the Heat Pump Program, the website must include the following link: <https://www.riseengineering.com/nyscleanheat-nationalgrid> or any such link as National Grid may provide.

**Section 7:** This Agreement does not commit National Grid to approve any Incentive or Incentive Application, pay any costs incurred in preparing an Incentive Application, or procure or contract for services or supplies. National Grid reserves the right to accept or reject any or all Incentive Applications received, to negotiate with all qualified sources, or to cancel, in part or in its entirety, the Heat Pump Program when it is in National Grid best interest as determined by National Grid.

**Section 8:** This Agreement may be terminated by National Grid at any time upon notice to the Contractor. If the Contractor wishes to cancel or terminate this Agreement, National Grid may seek reimbursement of any Incentives provided by National Grid regarding Heat Pump Systems that have not been completely installed and commissioned as required in this Agreement. National Grid reserves the right to put the application for incentives on hold at any time for any reason.

**Section 9:** The Contractor agrees and consents to receive notices at the email addresses provided in the Contractor Application.

**Section 10:** The Contractor shall disclose 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. This disclosure requirement extends to the Contractor and its officers, partners, and directors or members of any similarly governing body.

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If a conviction should come to the attention of National Grid after the execution of this Agreement, National Grid may instruct the Contractor to temporarily stop work pending further investigation or terminate the Agreement; the Contractor may be subject to penalties for violation of any law that may apply in the particular circumstances. The Contractor must also disclose if they have ever been debarred or suspended by any agency of the U.S. Government or the New York State Department of Labor.

**Section 11:** National Grid shall have no liability under this Agreement to the Contractor or to anyone else beyond the funds actually paid to National Grid by third parties, which would fund this Agreement.

**Section 12:** The Contractor shall keep, maintain, and preserve at its principal office, throughout the term of the Agreement, and for a period of three years thereafter, 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 the Contractor's performance under this Agreement. National Grid shall have the right from time to time and at all reasonable times during the term of the Agreement and such period thereafter to inspect and audit any and all books, accounts and records pertaining to the Contractor's performance under this Agreement, at the office or offices of the Contractor where they are then being kept, maintained and preserved. If such books, accounts and records are not kept at an office within the State of New York, within a reasonable time of a request by National Grid, the Contractor shall make such books, accounts and records available to National Grid at National Grid's offices or at an agreed upon location within the State of New York. Any payment made under this Agreement shall be subject to retroactive adjustment (reduction or increase) regarding amounts included therein which are found by National Grid on the basis of any audit of the Contractor by an agency of the United States, the State of New York, or National Grid not to constitute a properly invoiced amount.

BY THE ACT OF SUBMITTING AN INCENTIVE APPLICATION, THE CONTRACTOR ACKNOWLEDGES AND CONFIRMS ITS UNDERSTANDING THAT NATIONAL GRID MAKES NO REPRESENTATIONS OF ANY KIND REGARDING THE RESULTS TO BE ACHIEVED OR THE PERFORMANCE, ADEQUACY OR SAFETY OF ANY SYSTEM INSTALLED UNDER THE HEAT PUMP PROGRAM. NATIONAL GRID DOES NOT ENDORSE, GUARANTEE, OR WARRANT ANY CONTRACTOR, PARTICULAR MANUFACTURER, OR PRODUCT, NATIONAL GRID PROVIDES NO WARRANTIES, EXPRESSED OR IMPLIED, FOR ANY PRODUCT OR SERVICE. NATIONAL GRID IS NOT RESPONSIBLE FOR AND WILL NOT CONTRIBUTE TO ANY REMEDY TO AN ACTUAL OR ALLEGED SYSTEM DEFECT, INADEQUACY, MALFUNCTION, OR COMPLAINT.

By signing this Agreement, the Contractor acknowledges and agrees to all of the terms and conditions set forth in this Agreement, the Contractor Application and the Manual as referenced.

Signature of Contractor \_\_\_\_\_

Print Name of Contractor \_\_\_\_\_

Contractor Business Name \_\_\_\_\_

Date \_\_\_\_\_