

**BEHIND THE METER BATTERY STORAGE SYSTEM (BTM)
DEMONSTRATION PROGRAM PRELIMINARY AGREEMENT**

This BTM Demonstration Program Preliminary Agreement (“Preliminary Agreement”) made and entered into as of _____ (the “Effective Date”) by and between New York State Electric and Gas Corporation (“NYSEG”) and the following customer (“Customer”) (collectively, “the Parties”):

Name of Customer _____

Address _____ Address of Battery Installation _____

City and State _____ City and State _____

NYSEG Account Number _____

NYSEG Meter Number _____

1. Subject.

Subject to the terms and conditions contained in this Preliminary Agreement, Customer agrees to provide NYSEG or its approved contractor with information and access to the location set forth above (the “Premises”) for the purpose of assessing Customer’s eligibility to participate in NYSEG’s BTM Demonstration Program (hereafter the “Demonstration Program”). If NYSEG determines the Customer is eligible to participate, and Customer agrees to enroll in the Demonstration Program, NYSEG shall supply the Customer with a Battery Storage System and associated components (hereafter, such Battery, its components and any and all replacements of the foregoing are together referred to as the “BSS”). NYSEG or its approved contractor(s) shall install the BSS at the Premises at no cost to the Customer.

2. Scope of the Preliminary Agreement and the Customer Agreement.

By signing this Preliminary Agreement, the Customer agrees to provide NYSEG or its approved contractor with information regarding the Customer’s historic electricity usage and reasonable access to the Premises during regular business hours and at a mutually agreeable time for the purpose of assessing, among other things, construction feasibility and potential Customer savings and fees expected to result from the Customer’s participation in the Demonstration Program (“Project Assessment”). If, after conducting the Project Assessment, NYSEG determines the Customer is eligible to enroll in the Demonstration Project, NYSEG shall present the relevant results of the Project Assessment, including the Customer’s estimated monthly savings and fees, in a form identical or closely similar to the Customer Agreement, a template of which attached hereto as **Exhibit “1”**. The Customer Agreement incorporates by reference all terms and conditions contained in the Preliminary Agreement. The Preliminary Agreement and the Customer Agreement, mutually signed and executed by the Parties, will hereafter be referred as “the Agreements.”

Neither Party shall be bound to proceed with the installation of the BSS at the Premises, or to otherwise participate with the other in the Demonstration Program, unless and until both Parties have executed this Preliminary Agreement and a version of the Customer Agreement, or a closely similar document, setting forth the Customer’s estimated monthly savings and fees expected to result from the Customer’s participation in the Demonstration Program. Notwithstanding the terms set forth herein, the Customer’s enrollment and participation in the Demonstration Program, pursuant to the terms of the Agreements, is subject to the approval of the New York State Public Service Commission (“PSC”).

3. Installation.

NYSEG or its approved contractor shall install the BSS at the Premises at no cost to the Customer. Such installation shall include all necessary electrical fencing, wiring and other setup work deemed necessary by NYSEG or its approved contractor to operate the BSS for the purpose of the Demonstration Program. The Customer acknowledges and agrees that any cost to install the BSS that is not provided for in the attached Customer Agreement, shall be the sole responsibility of the Customer (*i.e.* landscaping). Following installation of the BSS at the Premises, and unless otherwise agreed to by NYSEG, the Customer shall bear all responsibility and cost for removing the conduit therefrom. Unless otherwise agreed, NYSEG will abandon the conduit in place and restore the affected property to original grade, if applicable. NYSEG shall install the BSS and conduit wiring associated with the BSS on the Premises in accordance with all local, state and federal guidelines and in compliance with NFPA 70- National Electric Code.

4. Term.

The terms of the Agreements shall commence on their respective Effective Dates and continue until May 1, 2021 (the “Terms”). No less than thirty (30) days before May 1, 2021, Customer shall notify NYSEG either of its intent to keep the BSS at the Premises under a new contractual arrangement, or that Customer wishes to have the BSS removed from the Premises. NYSEG shall maintain the discretion to refuse to enter into a new contractual arrangement with the Customer. If there is no new contractual arrangement, NYSEG will remove the BSS from the Premises at no cost to Customer, upon advance notice and at a mutually agreeable time.

NYSEG shall restore the Premises to at least as good a condition as they were in prior to BSS installation. If Customer has failed to give NYSEG notice of its intention with respect to the BSS within thirty (30) days before May 1, 2021, NYSEG reserves the right to (i) automatically re-enroll the Customer in an energy project on similar terms as set forth in the Agreements; or (ii) enter the Premises and remove the BSS at a commercially reasonable and mutually agreeable time. In order to re-enroll the Customer in a new term, NYSEG shall provide Customer with notice of this thirty (30) day deadline at least fifteen (15) and not more than thirty (30) days before the deadline.

Savings will only be guaranteed during the initial Term of the Customer Agreement.

5. Termination.

The Agreements may be terminated by NYSEG: (i) upon a breach by Customer of any other condition of the Agreements to be performed or observed by the Customer, which breach is not cured within ten (10) days of NYSEG's written notice to Customer of the same; (ii) upon the completion of the Demonstration Program, at least thirty (30) days prior written notice of which shall be provided by NYSEG to Customer; or (iii) immediately upon Customer's notification to NYSEG of a sale or transfer of the Premises in accordance with Section 10 hereof.

The Agreements may be terminated by Customer: (i) upon a breach by NYSEG of any condition of the Agreements to be performed or observed by NYSEG, which breach is not cured within ten (10) days of Customer's written notice to NYSEG of the same; or (ii) upon completion of the Demonstration Program, with notice from Customer to NYSEG as provided in this agreement. In addition, Customer may terminate the Agreements without cause upon thirty (30) days prior written notice provided by Customer to NYSEG.

Upon termination of the Agreements as set forth herein, Customer shall provide NYSEG with reasonable access to the Premises during regular business hours at a mutually agreeable time so that NYSEG may take possession of, disconnect and remove the BSS. Customer surrenders any claim or right of action for trespass caused by reason of such entry, disconnection and removal. In the event the Customer elects to terminate the Agreements without cause before May 1, 2021 and have the BSS removed from the Premises or otherwise discontinue participation in the Demonstration Program, Customer shall be subject to an early termination charge, as set forth in the Customer Agreement.

Termination by NYSEG pursuant to this Section shall not constitute a release of Customer from responsibility to pay for damage to the BSS caused by the negligence, recklessness or intentional wrongful acts of Customer or those under its control, nor will it prejudice NYSEG from pursuing any other remedies to which it otherwise might be entitled on account of breach by Customer of the Agreements. Customer shall be liable for all reasonable legal fees and costs incurred by NYSEG in the enforcement of its rights hereunder.

6. Ownership and Operation.

The BSS shall at all times be the sole and exclusive property of NYSEG during the Term. Customer shall have no property interest in the BSS during the Term in accordance with the terms of the Agreements. The BSS shall only be operated in accordance with applicable manufacturer's manual of instructions (the "Instructions"). Without limiting the Customer's other obligations under the Agreements, Customer specifically acknowledges and agrees that:

- Customer shall not operate the BSS for other uses than the purpose of the Demonstration Program during the Term, unless in an emergency or otherwise agreed to in writing by the Parties;
- Customer shall not remove, relocate, tamper with, adjust, make alterations to, or repair the BSS without prior notice to NYSEG;
- Customer shall not damage the BSS or remove or deface the nameplate identifying the BSS as the property of NYSEG;
- Customer shall provide NYSEG or its approved contractor with reasonable access during regular business hours and at a mutually agreeable time to the BSS or any area of the Premises necessary for NYSEG or its approved contractor to read the meter, inspect, repair, maintain or disconnect or remove the BSS, to measure electricity usage by the BSS, or to otherwise enforce its rights under the Agreements;
- NYSEG does not sell lists of its customers, their mail or electronic addresses, or any information that would identify a specific customer. NYSEG will not share such information except as may be required by regulatory or law-enforcement agencies, or as necessary to obtain assistance or direct referrals for customers eligible for special programs such as low-income assistance or energy-efficiency improvements.

Customer hereby acknowledges and agrees that any use of the BSS other than as permitted herein or in contravention of the terms and conditions of use as set forth herein constitutes a misuse of the BSS and a breach of the Agreements.

7. Repairs.

Customer shall provide timely notice to NYSEG in the event that Customer becomes aware the BSS requires any repairs, and NYSEG or its approved representative shall, at its cost and expense, make such required repairs, to the extent repair is necessary; provided, however, that repair costs resulting from Customer's misuse of the BSS shall be Customer's sole and exclusive responsibility. Notwithstanding the foregoing, NYSEG shall have no obligation whatsoever with respect to maintenance and repair of the wiring and conduit installed or connected to the BSS by the Customer or a third-party without NYSEG's express authorization; maintenance and repair of such wiring shall be Customer's sole and exclusive responsibility.

8. Fees & Savings.

Except as provided in the Customer Agreement, attached hereto, the Customer shall be exempted from NYSEG's standard installation and equipment fees with respect to the BSS during the Term. Following NYSEG's completion of the Project Assessment, NYSEG will present an updated version of the attached Customer Agreement detailing the Customer's estimated fees and savings resulting from its participation in the Demonstration Program.

8(a). Subscription Fees – Customer will be charged a Subscription Fee on its monthly bill in connection with its participation in the Demonstration Program. As detailed in the attached Customer Agreement, this monthly Subscription Fee will be more than offset by the decrease in the Customer's monthly "demand charge" as a direct result of the Customer's use of the BSS. NYSEG guarantees that the Customer's monthly demand charge savings will exceed the Customer's monthly Subscription Fee.

8(b). Utility Bills – As part of the Customer's enrollment in the Demonstration Program, NYSEG guarantees the Customer will benefit from lower monthly demand charges. Such guarantee is expressly conditioned on the **Customer providing NYSEG with (30) day written notice** whenever the Customer plans on reducing or increasing its electric load by more than 10% of its maximum demand, which is [REDACTED]. Customers will be given access to a web portal enabling the Customer to compare its monthly demand charge savings from the Demonstration Program with what the Customer's bill would have been had the BSS not been installed.

9. Liability for Damage.

Subject to Section 6, Customer shall be liable for all damage to the BSS caused by Customer's negligence, recklessness or intentional wrongful acts, including but not limited to all damage and injury resulting from Customer's misuse of the BSS, during the term of this Agreement and while it is on the Premises, and shall pay to NYSEG the reasonable value of the BSS or any part thereof that has been so damaged, ordinary wear and tear excepted, within thirty (30) days after NYSEG's written demand therefor.

10. Indemnification.

Each Party shall defend, indemnify and hold the other, and its respective officers, directors, elected officials, employees, agents, affiliates and representatives, harmless from and against all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages or expenses (i) are caused by the Party's own negligent acts, errors or omissions or (ii) arise out of the Party's own breach or non-performance of this Agreement. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of the parties, they shall be borne by each party in proportion to such party's negligence.

11. Notices.

Any notices required to be in writing under this Agreement shall be delivered personally, by mail postage prepaid or by overnight courier to the addresses of the parties set forth herein. Any notice so given shall be deemed given on the date delivered. In addition to the foregoing, Customer agrees to notify NYSEG in writing at least thirty (30) days prior to any sale or transfer of the Premises and to notify any prospective purchaser or tenant of the Premises that NYSEG shall retain title to the BSS.

12. Miscellaneous.

The terms of the Preliminary and Customer Agreements embodies the entire agreements and conditions relating to the subject matter hereof. The Agreements may only be amended or modified by an instrument in writing duly executed by the parties hereto. The Agreements shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The waiver by NYSEG or Customer of a breach or provision of the Agreements shall not operate or be construed as a waiver of any subsequent breach by any of the parties hereto. The Agreements shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns. Customer understands that the Customer's electric service is provided under NYSEG's Terms and Conditions. NYSEG's Terms and Conditions may be amended from time to time by the PSC, and such amendments will become applicable to the Agreements on the effective date of the amendments. In addition to the foregoing, this Agreement and the Demonstration Program are subject to any and all decisions, orders, rulings, directives or determinations made by the PSC as the PSC may issue from time to time (including but not limited to modifications to or termination of this Agreement and/or the Demonstration Program).

NOTICE TO CUSTOMER: THIS IS A DEMONSTRATION PROGRAM. YOU ARE NOT BUYING THE BSS PURSUANT TO THIS AGREEMENT. DO NOT SIGN THIS AGREEMENT BEFORE YOU READ IT. YOU ARE ENTITLED TO A COMPLETE COPY OF THIS AGREEMENT WHEN YOU SIGN IT.

CUSTOMER

New York State Electric and Gas Corporation

Customer's Signature

NYSEG Representative

I have read and understand the terms and conditions of this BTM Battery Storage Demonstration Program Preliminary Agreement. I hereby consent to the use of my historic electricity usage and shall grant NYSEG access to the Premises as described in this Agreement for the purpose of determining my eligibility to participate in the Demonstration Program. I understand that NYSEG maintains sole discretion to determine eligibility for the Demonstration Program based on the results of the Project Assessment, described above.

Owner's Signature