

ONTARIO POWER AUTHORITY

VENDOR APPLICATION LIST WEBSITE

APPLICATION AGREEMENT

As part of the Government of Ontario's renewable energy technology ("RET") stimulus spending program, the Ontario Power Authority (the "**OPA**"), through the guidance of the Ministry of Energy, has established a website through which prospective vendors ("**Applicants**") of certain categories of RET (solar photovoltaic, solar water heating, solar air heating, geothermal and small wind) may apply to be included on a list of vendors (along with information relating to such vendors, the "**Vendor List**") that will be made available to Ontario school boards and social housing municipal service managers (each, a "**Project Owner**") that have received infrastructure stimulus funding from the Ministry of Education or the Ministry of Municipal Affairs and Housing, as applicable (the "**Host Ministries**") to install RET in schools and social housing to reduce energy costs.

The terms and conditions set out below (the "**Application Agreement**") govern each Applicant's access to and use of the website through which Applicants apply to be listed on the Vendor List (the "**Vendor List Application Website**"). In order to obtain a user name and password that will provide Applicants with access to the Vendor List Application Website, Applicants must read this Application Agreement in full and agree to be bound by all terms and conditions of this Application Agreement by clicking on the "**I AGREE**" button at the end of this Application Agreement. By clicking on "**I AGREE**", you represent and warrant that you have the authority to bind the Applicant.

Once an Applicant agrees to this Application Agreement, the OPA will send the Applicant an email with instructions on the steps to be taken by the Applicant to complete its registration and obtain access to the Vendor List Application Website. Applicants may then follow the instructions to access the Vendor List Application Website and complete an application to be listed on the Vendor List (each application, including all attachments required to be submitted as part of such application, an "**Application**").

Following completion of an Application, in order to submit the Application, Applicants will be presented with and will be required to read and agree to an additional set of terms and conditions (the "**Listing Agreement**") that will govern the participation by each Applicant that successfully applies to be listed on the Vendor List (each such successful Applicant that accepts the Listing Agreement, a "**Listed Vendor**") as part of the Vendor List. The terms and conditions of the Listing Agreement apply in addition to, and do not replace, the terms and conditions of this Application Agreement. Should any potential conflict arise between the terms of this Application Agreement and the Listing Agreement, both agreements will be interpreted in such a way as to avoid conflict as much as reasonably possible. Should any such conflict be unable to be resolved, the terms of the Listing Agreement will prevail.

In this Application Agreement: (a) the terms "**you**" and "**your**" means both registered users of the Vendor List Application Website on behalf of an Applicant and the Applicant, as the context requires; (b) "**Vendor List Agreements**" means either or both of this Application Agreement and the Listing Agreement, as the context requires; (c) "**Vendor List Catalogue**" means the website administered by the OPA through which the Vendor List is made available to Project Owners; and (d) "**Vendor List Websites**" means either or both of the Vendor List Application Website and the Vendor List Catalogue, as the context requires.

APPLICATION PROCESS

Applications for inclusion on the Vendor List must be made through the Vendor List Application Website. Applications submitted through other means will not be accepted. Applicants will be able to complete and submit Applications commencing October 26, 2010 and ending November 23, 2010 at 11:59:59 PM EST

(the “**Application Period**”). All components of the Application, including all required attachments, must be submitted before the end of the Application Period.

Once an Application is submitted, the Applicant will not be able to make changes to its Application. Following the submission of an Application, the OPA may, in its discretion, notify an Applicant of errors in its Application and may provide the Applicant with an opportunity to correct such errors within a prescribed period of time. The OPA has no obligation to notify an Applicant of any such errors and will have no liability to any Applicant for its failure to do so.

The Application Period and any other dates set forth on the Vendor List Application Website are subject to change by the OPA, in its discretion.

The OPA may, in its discretion, establish subsequent periods of time during which Applicants may apply to be added to the Vendor List after it is made available to Project Owners.

The OPA is not responsible for any missed deadlines.

All costs and expenses incurred by an Applicant in connection with the preparation and submission of an Application will be borne by the Applicant. The OPA will not be liable for any such costs or expenses under any circumstances. In particular, the OPA will not reimburse an Applicant if it is not successful in its Application to be included as part of the Vendor List, or if the Vendor List Application Website is shut down or unavailable.

ACCOUNT, PASSWORDS AND SECURITY

Applicants are required to open an account in order to use any part of the Vendor List Application Website. Each Applicant may open only one account.

Applicants must provide accurate, current and complete information as prompted through the registration process. Applicants will also be required to choose: (a) a user name for the account, and (b) a password which conforms to the password strength requirements of the account page.

You must maintain the confidentiality of your password. You are entirely responsible for all activities that occur on your account. You agree to notify the OPA immediately of any misuse of your account or any security breach of which you become aware.

Each Applicant must provide the OPA with a valid email address for the purposes of correspondence related to its Application and the Vendor List, which address the Applicant may amend from time to time by providing written notice pursuant to the “OPA Contact” section below.

USE OF VENDOR LIST APPLICATION WEBSITE

Applicants may use the Vendor List Application Website, including all information and materials contained therein, only in accordance with this Application Agreement. Unauthorized or inappropriate use of or access to the Vendor List Application Website or systems, including but not limited to unauthorized entry into the OPA’s systems, misuse of passwords, or misuse of the Vendor List Application Website or of any information posted on the Vendor List Application Website, is strictly prohibited.

DENIAL OF ACCESS TO VENDOR LIST APPLICATION WEBSITE

The OPA may, in its discretion, deny or terminate an Applicant's access to or use of the Vendor List Application Website at any time and without notice. The OPA, in its discretion, may move, alter, sell, assign, transfer, shut down or disable access to any or all parts of the Vendor List Application Website.

VENDOR INFORMATION

As part of your Application, you will be required to provide information to the OPA ("**Vendor Information**"). You acknowledge and agree that you are solely responsible for the accuracy and content of the Vendor Information. You represent, warrant and covenant that all Vendor Information is complete and accurate. You understand and acknowledge that the OPA will not assume responsibility to any person, including, without limitation, Project Owners, for any inaccuracy, error or incompleteness in your Vendor Information, and you agree to defend, indemnify and hold harmless the OPA, the Crown in Right of Ontario, and their respective officers, directors, representatives, ministers, employees, contractors and agents from and against any claim, suit, action, or proceeding, threatened or actual, arising out of or relating to your Vendor Information.

The OPA reserves the right to refuse to post or to remove any Vendor Information, in whole or in part, that, in its discretion, is unlawful, misleading, unacceptable, undesirable, inappropriate or otherwise objectionable.

USE AND DISCLOSURE OF VENDOR INFORMATION

You understand and agree that, with the exception of Vendor Information that is expressly identified as confidential on the Vendor List Application Website, your Vendor Information may be made available to any and all visitors to and users of the Vendor List Catalogue, including, without limitation, Project Owners and other Listed Vendors. You further understand and agree that the OPA may use, copy and disclose all Vendor Information (including, without limitation, Vendor Information that is expressly identified as confidential on the Vendor List Application Website) as required in connection with the processing of Applications and the operation of the Vendor List Application Website, which use and disclosure may include, without limitation, disclosure to the Host Ministries or the Ministry of Energy.

You also understand and agree that the Host Ministries and the Ministry of Energy may use the Vendor Information in connection with the performance of research and analysis relating to green energy industry and other economic development initiatives.

All Vendor Information is subject to the access provisions under the *Freedom of Information and Protection of Privacy Act* (Ontario) ("**FOIPPA**"), which provides all persons with legal rights of access to information subject to a limited set of exemptions. You acknowledge and agree that your Vendor Information may be made available to third parties pursuant to FOIPPA, and that the identification of any Vendor Information provided as proprietary or confidential does not guarantee that the OPA will not be required to make such information available under FOIPPA.

PRIVACY

You acknowledge that some of the Vendor Information may include personal information. While name, title and business contact information of individuals entering into a business relationship with the OPA do not constitute personal information, certain other information about individuals may be personal information as defined in FOIPPA. The OPA's Privacy Policy is available at www.powerauthority.on.ca/Page.asp?PageID=325 and its terms are incorporated in this Application Agreement. You acknowledge the notice to you of the collection, use and disclosure of such personal information by the OPA and agree that the purposes for such collection, use and disclosure are

reasonable. You consent to the collection, use and disclosure of any personal information by the OPA: (a) in accordance with the terms of the OPA Privacy Policy; and (b) as set forth above under the heading "Use and Disclosure of Vendor Information".

GRANT AND RESTRICTIONS ON USE

All information, including, without limitation, all text, design, graphics, drawings, photographs, advertisements, video clips, music and sounds, and all trade-marks, service marks and trade names and the selection and arrangements thereof (collectively the "**Content**") forming part of the Vendor List Application Website, is, unless otherwise noted, subject to intellectual property rights including copyrights and trade-marks held by or licensed by the OPA. No licence to use, copy, distribute, republish, transmit or otherwise exploit any Content is given to you and all intellectual property rights in and to the Content are expressly reserved to the OPA.

THIRD PARTY LINKS

The Vendor List Application Website may contain links to third party websites that are not owned or controlled by the OPA, including websites of Listed Vendors and Project Owners. The OPA has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, the OPA will not and cannot censor or edit the content of any third-party site.

DISCLAIMER OF WARRANTIES

THE VENDOR LIST APPLICATION WEBSITE (INCLUDING, WITHOUT LIMITATION, ALL MATERIALS, INFORMATION AND SERVICES PROVIDED AS PART OF THE VENDOR APPLICATION LIST WEBSITE) IS PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR OTHER TERMS OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE OPA DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, CONDITIONS AND OTHER TERMS, EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT), INCLUDING THOSE ARISING BY STATUE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE.

Without limiting the generality of the preceding paragraph, the OPA does not provide any representations, warranties or conditions that the Vendor List Application Website will be available or that it will operate without errors. The OPA will not be liable if, for any reason, the Vendor List Application Website is unavailable or operating with errors or in a degraded fashion at any time or for any period. In particular, and without limitation, the OPA will not be responsible for any missed deadlines by Applicants or for any loss of priority in the consideration of Applications attributable to any lack of availability, errors or degradation in the Vendor List Application Website.

In addition to the foregoing, the OPA does not represent, warrant or covenant that an Applicant will be accepted as a Listed Vendor, nor that any Listed Vendor will be contacted or have the opportunity to sell RET products or services to any Project Owner that accesses the Vendor List. Further, the OPA does not represent, warrant or covenant that any Listed Vendor's products or services, or that any project using a Listed Vendor's products or services, will qualify for feed-in tariff ("FIT") programs or contracts.

LIMITATION OF LIABILITY

Neither the OPA nor the Crown in Right of Ontario will have any liability, whether in contract, tort, breach of statutory duty, strict liability, negligence, gross negligence or otherwise, arising out of or relating to this

Application Agreement, the processing of Applications or the operation of the Vendor List Application Website. Without limiting the foregoing, neither the OPA nor the Crown in Right of Ontario will have any liability for direct, indirect, consequential, special or punitive damages or for any loss of profit, loss of revenue, loss of business opportunity or loss of data.

INDEMNITY

Without limiting any other terms or conditions of this Application Agreement, you agree to defend, indemnify and hold harmless the OPA, the Crown in Right of Ontario and their respective officers, directors, representatives, ministers, employees, contractors and agents from and against any claim, suit, action, or proceeding, threatened or actual, arising out of or relating to: (a) your breach of any provision of this Application Agreement; (b) your use of the Vendor List Application Website; or (c) your participation as an Applicant.

AMENDMENT

The OPA may amend this Application Agreement at any time by providing you with notice of such amendment, which notice may be given by any means, including but not limited to posting on the Vendor List Application Website or by electronic mail. It is your responsibility to check the Vendor List Application Website on a regular basis to identify any amendments to this Application Agreement. Continued use of the Vendor List Application Website following any such amendments constitutes your agreement to the terms and conditions of this Application Agreement, as amended.

GOVERNING LAW AND ATTORNMENT

This Application Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. ANY LEGAL ACTION OR PROCEEDING RELATING TO YOUR ACCESS TO, OR USE OF, THE VENDOR LIST APPLICATION WEBSITE OR THIS APPLICATION AGREEMENT WILL BE INSTITUTED ONLY IN A PROVINCIAL COURT LOCATED IN ONTARIO, CANADA. YOU AGREE TO SUBMIT TO THE JURISDICTION OF, AND AGREE THAT VENUE IS PROPER IN, THESE COURTS IN ANY SUCH LEGAL ACTION OR PROCEEDING.

ARBITRATION

You agree that all disputes or disagreements between you and the OPA relating to this Application Agreement, your Application, the use of the Vendor List Application Website, or to any related matter will be settled by final and binding arbitration by a single arbitrator pursuant to the provisions of the *Arbitration Act*, 1991, S.O. 1991, c. 17 (Ontario). Judgment upon the award rendered in any such arbitration may be entered in any court having jurisdiction thereof, or application may be made to such court for a judicial acceptance of the award and enforcement, as the law of such jurisdiction may require or allow. The arbitration will take place in the City of Toronto, Ontario, Canada. There will be no discovery. The arbitrator will not limit, expand or modify the terms of this Application Agreement nor award damages in excess of compensatory damages permitted under this Application Agreement, and you waive any claim to such excess damages. The arbitrator will not have any ability to award any equitable remedies against the OPA. The arbitrator will not have the right to award any damages in excess of damages that could lawfully be awarded by a court of competent jurisdiction. The arbitrator will issue a written decision containing findings and conclusions on all significant issues. Each party will bear its own expenses and an equal share of all costs and fees of the arbitration. The content and result of any arbitration will be held in confidence by all participants, each of whom will be bound by an appropriate confidentiality agreement.

VENDOR LIST APPLICATION WEBSITE REPRESENTATIONS; ENTIRE AGREEMENT

The Vendor List Application Website may contain additional guidelines, user guides, help documents or answers to frequently asked questions (“**FAQs**”) to assist Applicants in completing the Application. This information is provided for reference and illustrative purposes only and does not constitute any representation, warranty, covenant or condition on the part of the OPA or form part of this Application Agreement. Until you have accepted and agreed to the terms of the Listing Agreement, this Application Agreement constitutes the entire agreement between you and the OPA with respect to your Application, and supersedes and replaces any prior, contemporaneous or subsequent representations, warranties, covenants or conditions made by or on behalf of the OPA, including any such terms found on the Vendor List Application Website.

GENERAL

If any part of this Application Agreement is unlawful, void, or unenforceable, that part will be deemed severable and will not affect the validity or enforceability of any remaining provisions. The delay or omission by either party to enforce or exercise any terms or rights pursuant to this Application Agreement will not impair any such term or right nor be construed to be a waiver thereof and will in no way affect the other party's right later to enforce it. Any waiver by either party of any covenants, conditions or agreements to be performed by the other party will not be construed to be a waiver of any succeeding breach thereof or any covenant, conditions or agreement herein contained.

OPA CONTACT

For any questions related to your Application or the Vendor List Application Website or to withdraw your Application, please contact the OPA by selecting the “Contact Us” icon on the Vendor List Application Website at: <https://retvendorlist.powerauthority.on.ca/>

The OPA will not respond to any questions or concerns that do not relate to the Vendor List. The OPA is not responsible for and will not respond to complaints, questions, or other issues with respect to activities or procurements of Project Owners.