

Dear Advanced Power Strip Partner:

The New Jersey Board of Public Utilities and its *Clean Energy Program* (NJCEP) would like to extend its sincere thanks for your interest in the NJCEP Advanced Power Strip Program.

The Program is requesting proposals from Manufacturers and Retailers who sell advanced power strip products. Attached please find the Request for Proposal (RFP), as well as the required Promotional Support Workbook, with instructions on how to submit.

The proposals should detail comprehensive promotional plans that maximize cost-effective energy savings for customers, with a focus on increasing the sales and awareness of advanced power strips.

We are excited about the potential to partner with you and NJCEP to promote advanced power strips in 2019 and beyond.

Sincere thanks,

The NJCEP Advanced Power Strip Program Team



REQUEST FOR PROPOSALS

Dated: November 1, 2018

New Jersey's Clean Energy Program

Residential Advanced Power Strips Program

January 1, 2019 – June 30, 2019

PROPOSALS TO BE SUBMITTED BY

November 19, 2018, 5:00 PM EST

Additional Attachments:

Appendix A: Promotion Agreement (PA)

Appendix B: Checklist & Signature Form

Objective:

New Jersey's Clean Energy Program (NJCEP) requests proposals for Negotiated Cooperative Promotions (NCP) with Manufacturers and Retailers selling advanced power strips. The proposals should detail comprehensive promotional plans that allow NJCEP to maximize cost-effective energy (kilowatt/hour) savings to their customers with a focus on increasing the sale and awareness of advanced power strips. This residential program is designed to: (1) reduce customer energy usage and peak demand, which helps customers save on their electricity bills, leading to increased customer satisfaction; and (2) help achieve the program's separate targets to reduce energy consumption to meet the established goals. Proposals should be for residential advanced power strip products and retailers only.

We invite Manufacturer/Retailer teams or individual Retailers to submit proposals for the use of NJCEP's promotional incentives, and we encourage innovative and creative approaches to advanced power strip promotions.

Product Markdowns are the preferred approach and will be given higher weight and priority when evaluating proposals.

Proposal and Promotion Requirements**Eligible Products:**

All advanced power strips are eligible and will be considered for the proposed promotion.

Note: NJCEP reserves the right to exclude specific certified products from this promotion for any reason including results of independent, third-party testing. Manufacturers may offer replacement products; however, NJCEP is under no obligation to accept these replacements.

Eligible Locations: To be eligible for the NJCEP Residential Advanced Power Strips Program, a customer must reside in the state of New Jersey. Any proposed participating retail store location will be checked to confirm its actual location in the state. Proposed retail locations that do not lie within the state of New Jersey will be excluded from participating.

Promotion Duration: The promotion duration is **January 1, 2019** through **June 30, 2019**.

Promotion Contingency:

The 2018-2019 NJCEP Advanced Power Strips Promotions are contingent upon approval of the New Jersey Board of Public Utilities.

Types of Proposals Requested

NJCEP requests proposals for promotions from Advanced Power Strip Manufacturer/Retailer partner teams. In addition to Markdown promotions, respondents should consider a variety of promotion types and are encouraged to submit proposals for other promotion structures that may represent a different or new opportunity that has not yet been implemented. For any proposal submitted that is different than a Markdown, responders must submit a full and complete description of the promotion as well as the full detail of all products being proposed. NJCEP would also like to see proposals that contain creative marketing and product diversity.

Alternatives to the promotion type listed will be given consideration by NJCEP and any proposed promotion may include one or more promotional elements.

Preference will be given to proposals that include strong Manufacturer and Retailer promotional marketing support (see Marketing section). NJCEP encourages Manufacturers and Retailers to be innovative and creative in developing approaches to promoting advanced power strips.

Markdown Promotions

Manufacturer/Retailer may apply for the reduction of regular retail prices on advanced power strip products through Product Markdowns. This option is NJCEP's preferred promotion mechanism and will be given preference over other promotions and may receive higher per product incentives.

- **Promotion Description:** Respondents will apply for a Markdown by proposing each product for consideration and the amount of reimbursement requested for each product (*see "Incentive per Product" info below for guidelines*). Reimbursement for product sales will be made at 100% of the agreed amount upon receipt of an invoice, that is accompanied by store level sales data. Instructions for data submittal will be included in the Promotion Agreement (PA). POS sales data for all promotional products is due by the 15th of every month for the previous month's sales. NJCEP reserves the right to refuse payment for any POS submission that is not received by the 15th of the month following the actual product sale.

- **Qualifying Partners:** Only retail outlets with electronic point of sale (POS) systems may participate.

- **Documentation Required:** Proposals MUST include sample POS reports in order to be considered. This report will include sales data by SKU, store location, and date range. Additionally, documentation of delivery to store locations may also be required. Once product mix, packaging and quantities are established and agreed upon, they cannot be changed without prior written approval.

- **Incentive per Product:**

 - Tier 1: \$15

 - Tier 2: \$25

General Proposal Guidelines

Marketing

Advanced Power Strip Manufacturers/Retailers are encouraged to consider adding the following marketing activities in their proposals:

- Planned promotional themes
- Reinforce brand recognition in the marketplace by making use of Point of Purchase (POP) Templates or when developing unique materials.
- Support NJCEP's efforts to educate consumers about the benefits of advanced power strip products and how to buy them, e.g. matching particular products to particular applications.
- Support can be in the form of special POP materials and displays, advertising, flyers, inclusion in weekly circulars, retailer website, bag stuffers, window clings, consumer education activities, wholesale or retail discounting, and/or special packaging, etc.
- Preferred product placement (end caps, wing stacks, pallet displays, etc.).

Marketing Requirements

- NJCEP will provide all program POP
 - NJCEP field representatives will be allowed to place program POP at retail
- If a Manufacturer or Retailer would like to produce additional POP, it must follow the following guidelines:

- All Creative Materials (POP, advertising, collateral) will feature the NJCEP logo or other acknowledgement that the discount is provided by NJCEP.
- Creative Materials (POP, advertising, collateral) will be submitted for approval prior to printing or production.
- All Creative Materials (POP, advertising, collateral) will adhere to all NJCEP Identity Guidelines.

Selection Criteria:

Selection and funding of any submitted proposal will be based on:

- Ability to provide an accurate and thoroughly complete Promotional Support Workbook and Proposal Checklist and Signature Form (Appendix C).
- Ability to provide accurate, complete and verifiable store-level sales data – derived directly from the Retailer’s computerized Point of Sales (POS) system.
- Creative marketing plans, special events and/or consumer education plans that support the Sponsor marketing outlined in this RFP.
- Frequency of in-store and general media promotions and promotional product placement.
- Manufacturer’s and/or Retailer’s overall previous performance history in past NJCEP programs or other similar NCP programs. This history includes, but is not limited to, the ability to provide SKU level sales data for the proposed promotional period one year prior to the proposed promotion (thus enabling better program impact analyses).
- Manufacturer and Retailer recognition that NJCEP supplied Point of Purchase materials and displays will be used to enhance NJCEP’s promotions at retail.
- Ability to keep incentivized products stocked and located properly on the shelves and/or any display locations.
- Ability to keep incentivized products displayed with the proper incentivized pricing, pricing signage and POP signage.
- Ability to monitor program allocation budgets accurately and notify CLEAResult of any budgetary issues in a timely manner.

Preference will be given for partners who are able to provide bi-monthly sales data.

NJCEP reserves the right to refuse any and all proposals for any or no reason or to negotiate the specifics of any submitted promotion, including funding levels. Incentive funds will be available only upon written confirmation via an executed Promotion Agreement from NJCEP. Bidders should understand that actual incentive amounts will be based on compliance with the PA and performance of the Bidders and are not guaranteed. NJCEP reserves the right to subsequently reallocate or deny funding of promotions throughout the term of the Promotion Agreement. Any proposal received without both the Manufacturer and Retailer signatures will not be accepted.

Preparing a Proposal

Proposals must include a separate, completed *Request for Promotional Support Workbook* (see attached MS Excel file). The markdown workbook has a *Summary Worksheet* which is password protected and automatically tallies total proposed promotional activities when the *Promotional Detail Worksheets* are filled in. Manufacturers partnering with more than one Retailer, as well as Retailers partnering with more than one Manufacturer, must include ALL promotions in a single *Request for Promotional Support Workbook*. Promotion types may vary for any promotions included in a submitted *Summary Worksheet*. ***Incomplete Workbooks will not be considered. Proposals in any other format than the Request for Promotional Support Workbook, as provided by the Sponsor, will not be accepted.***

Request for promotions outside of a markdown should be submitted via email to the email address supplied below.

Submission Schedule and Requirement

1. All questions should be submitted by email to: NJCEPLighting@NJCleanEnergy.com **by 5:00 PM on November 9th.**
2. Responses to questions will be provided to all potential partners by Wednesday November 14th.
3. **The deadline for submission of proposals is November 19th, 2018 5:00 PM EST.** Completed proposals must include:
 - a. Completed NJCEP Advanced Power Strips Program Negotiated Cooperative Promotion RFP Checklist and Signature Form. Please submit separate signature pages for each proposed promotion.
 - b. All sample documentation (i.e. store-level shipping/receiving and/or sales data reports) pertinent to the promotion proposed.
 - c. Any special event details and proposed POP samples or other marketing materials.
 - d. Completed *Request for Promotional Support Workbook*.
4. Please submit proposal by email to NJCEPLighting@NJCleanEnergy.com. Only proposals submitted to this email will be considered. These materials must also be received by November 19th, 2018 5:00 PM EST.

Questions regarding this RFP, developing a Negotiated Cooperative Promotion proposal, or other aspects of NJCEP's Advanced Power Strips campaign should be directed to NJCEPLighting@NJCleanEnergy.com.

Appendix A: Program Promotion Agreement

SAMPLE

PROGRAM PROMOTION AGREEMENT

THIS PROGRAM PROMOTION AGREEMENT (this “Agreement”) is entered into by and between [legal entity name] TAB OUT OF THIS FIELD, a [state of formation] corporation (“Manufacturer”), [legal entity name] TAB OUT OF THIS FIELD, a [state of formation] corporation (“Retailer”), and CLEAResult Consulting Inc., a Texas corporation (“CLEAResult”). For purposes of this Agreement, Manufacturer, Retailer, and CLEAResult may be referred to collectively as the “Parties” or individually as a “Party.”

1. Purpose. This Agreement is intended to memorialize the terms and conditions under which the Parties will engage one another for the operation of New Jersey's Clean Energy Program's (“Sponsor”) energy efficiency program (the “Program”) to promote the sale of Manufacturer's [insert product to be sold (advanced power strips.)] set forth in a Schedule (defined below) (each, a “Product”) through Retailer.
2. Term. The Term of this Agreement is from January [day], [year], through January [day], [year], unless otherwise terminated as provided in this Agreement (the “Term”).
3. Schedules. The following schedules and each schedule issued subsequent to the execution of this Agreement (each, a “Schedule”) are incorporated into this Agreement by this reference:

Schedule A. Product, Location & Budget Schedule: [Manufacturer - Retailer - Year - Version]

- The Parties acknowledge that from time to time it may be necessary to revise the Schedule(s). CLEAResult may amend the Schedule(s) to modify products, pricing, incentive budget, marketing plans (if applicable), and store listing upon notice to Manufacturer and Retailer. The amount of this MOU can only be increased through an amendment in writing duly executed by the parties hereto. For the avoidance of doubt, that amount cannot be increased through an oral statement or mere email from the Program Manager or other representative of NJCEP. CLEAResult may also make changes to ensure compliance with Sponsor's Program requirements by notifying Manufacturer and Retailer in writing. The Parties may request amendments to the Schedule(s) by submitting a request in writing to CLEAResult. Such requests will be subject to the approval of the non-requesting Parties. Nothing in the Schedule(s) may conflict with or supersede the terms and conditions of this Agreement. Manufacturer and Retailer must comply with any amended Schedule within thirty (30) days of the date of such Schedule. Any Product sold out of compliance with an amended Schedule after that date will be disqualified, and Manufacturer will not receive payment for sales of such Product or any associated fees
4. Manufacturer and Retailer Obligations.
 - a. Manufacturer agrees that all Products sold to Retailer for consideration of the mark-down: (i) comply with the current Advanced Power Strips requirements, as applicable.
 - b. Manufacturer will ensure that the Products listed in the Schedule(s) are available for sale in all of Retailer's stores listed in the Schedule(s) in adequate supply during the Term. Manufacturer will notify CLEAResult immediately in the event that Manufacturer is unable to fulfill such supply requirements. If Manufacturer is unable to fulfill supply requirements, then CLEAResult may select another manufacturer to provide the Products to Retailer. Manufacturer's continued failure to supply or failure to notify CLEAResult of an anticipated supply deficiency may result in Manufacturer being removed from the Program.

- c. Retailer will prominently place point of purchase (“POP”) materials that include the Sponsor’s names and logos adjacent to the Products at all times during the Term. CLEAResult, Sponsor, and Retailer will work together as necessary to adjust POP materials in order to fit branding and content requirements for all Parties. Sponsor’s names and logos must be added to all materials and advertising approved for use pursuant to this Agreement (except for pre-printed, stock product packages) and will only be used in a form and format as designated by Sponsor. Manufacturer and Retailer acknowledge and agree that NJCEP is the lawful owner of all right, title and interest in and to NJCEP’s respective names and logos, and that neither Manufacturer nor Retailer will at any time dispute or contest, directly or indirectly, NJCEP’s exclusive right and title to, and validity of, its respective name and logo. Manufacturer and Retailer agree to take no action inconsistent with NJCEP’s ownership of its respective name and logo or that is likely to subject NJCEP to claims by third Parties or potential loss of any rights in such logos, and agrees and acknowledges that its use of the NJCEP name and logo inures to the benefit of NJCEP. NJCEP grants Manufacturer and Retailer the right to use NJCEP’s name and logo in connection with the Program pursuant to the terms and conditions contained in this Agreement. The right to use such names and logos as set forth in this Agreement shall be concurrent with the term of this Agreement and any and all such rights shall terminate upon termination of this Agreement for any reason. Manufacturer and Retailer acknowledge that maintaining a high standard of quality for the Program materials bearing the NJCEP name and logo and maintaining the goodwill associated with such names and logos are of substantial importance to NJCEP. Manufacturer and Retailer therefore agree that all materials to be used in connection with the Program shall be submitted to CLEAResult who will submit them for NJCEP’s review and approval. The Parties agree and acknowledge that NJCEP is an intended beneficiary of this Section c.
- d. Retailer and Manufacturer will ensure that the pricing listed in the Schedules matches the actual in-store pricing. In no case will the in-store pricing exceed the retail price minus the incentive discount. Retailer must ensure that customers receive one hundred percent (100%) of the incentive discount.
- e. Retailer agrees that Products must be sold only through Retailer’s locations listed in the Schedule and only at the pricing listed in the Schedule. CLEAResult will not provide incentives for any Product that is transferred to stores that are not listed in the Schedule.
- f. Manufacturer will submit to CLEAResult detailed sales data reports and reimbursement requests no later than the fifteenth (15th) of each month for the previous month’s sales. Where feasible, Manufacturer is requested to also submit sales data by the 25th of the month for sales through the 15th of the month. Sales data reports must include an itemization of incentives, including Product model numbers and descriptions that match those listed in the Schedule, quantities of each Product sold, identifying store location, the itemized cost per stock keeping unit (“SKU”) incentive levels for each Product, and total charges. Sales data reports must be in electronic Microsoft Excel compatible files and in accordance with CLEAResult’s requirements. Invoices must include a copy of the accompanying sales data report as described in this Section. Each invoice submitted by Manufacturer will contain the following certification signed by an authorized representative of Manufacturer: “I hereby certify that, to the best of my knowledge and belief, all payments requested are correct, accurate, and complete, that payment therefore has not been received and that all amounts requested are for the appropriate purposes and in accordance with the Program Promotion Agreement.”
- g. Retailer’s sales data report must accompany all submitted mark-down invoices, if any. No other source of sales data report will be accepted for reimbursement. The sales data report must be

generated by Retailer's computerized sales order and inventory management system and list unit sales by Product model number, store location, and date range. Each invoice submitted by Retailer must contain the following certification signed by an authorized representative of Retailer: "I hereby certify that, to the best of my knowledge and belief, all payments requested are correct, accurate, and complete, that payment therefore has not been received and that all amounts requested are for the appropriate purposes and in accordance with the Program Promotion Agreement."

- h. Product mark-downs will run for the Term or until the allocated Program funding has been exhausted. Sales data reports supporting invoice payment requests must clearly indicate the sales data report start and end dates, and these dates will correspond with, or fall within, the Term.
 - i. If Manufacturer or Retailer fail to submit an accurate sales data report or invoice within the timeframes set forth in this Agreement, then CLEAResult or Sponsor may delay or deny payment for any sales data report or invoice received after the fifteenth (15th) of the month following the sale of the Product(s). Schedules may change from time to time; therefore, Manufacturer is responsible for ensuring sales data reports are based on the most up-to-date Schedule.
 - j. Manufacturer must provide written notification to CLEAResult within ten (10) business days when seventy-five percent (75%) of Manufacturer's total incentive budget has been reached.
 - k. CLEAResult reserves the right to request point of sale documentation in the form of Product reports by SKU from Retailer at any time.
 - l. Sponsor reserves the right to, at any time, audit the Program's Product sales to determine the effectiveness of this Agreement as well as the effectiveness of Retailer's and Manufacturer's efforts pursuant to this Agreement.
 - m. The final date for submission of all sales data to verify Products sold through Sponsor's Program is December 31, [year].
5. CLEAResult Obligations.
- a. CLEAResult will pay Manufacturer within one hundred and twenty (120) days from invoice approval date, provided the corresponding sales data report is attached to the invoice, Manufacturer is in compliance with all requirements contained in this Agreement, and CLEAResult has received payment from Sponsor.
 - b. CLEAResult will work with Sponsor and Retailer to create and ensure POP materials intended for placement in Retailer's stores are acceptable to Retailer with regard to design and placement. Sponsor, with input from all Parties, will design and produce POP materials. CLEAResult will deliver and merchandise POP materials to all participating Retailer locations.
 - c. CLEAResult will provide field representatives to support to Retailer, including sales training and assistance with placement of POP materials in Retailer's locations as listed in the Schedule. In addition, CLEAResult field representatives will conduct price audits and determine inventory status to ensure Manufacturer's and Retailer's compliance with their responsibilities under this Agreement and the Program. For the avoidance of doubt, such audits and determinations do not reduce or remove Retailer or Manufacturer's responsibility to comply with their responsibilities.
6. Termination. Any Party may terminate this Agreement by providing thirty (30) days prior written notice to all Parties, except that CLEAResult may terminate upon fourteen (14) days' prior written

notice to the Parties at the direction of Sponsor, unless Sponsor terminates its agreement with CLEAResult with less than fourteen (14) days' notice, in which case CLEAResult may terminate this Agreement immediately.

7. Indemnification. Manufacturer and CLEAResult ("Indemnifying Party") will each indemnify, hold harmless, and defend (collectively "Indemnify") Sponsor, the other Parties, and any of their officers, employees, agents, representatives, and affiliates (each an "Indemnified Party") against any and all losses, liabilities, damages, claims, suits, proceedings, judgments, assessments, costs, and expenses (including interest and penalties), and including reasonable and documented attorney fees and expenses, incurred by an Indemnified Party as a result of a third-party claim or allegation to the extent resulting from: (a) negligent or wrongful acts or omissions in connection with this Agreement, including but not limited to the offer or sale of an infringing or defective Product, of the Indemnifying Party or of its officers, employees, agents, representatives, subcontractors, or affiliates; or (b) breach by the Indemnifying Party or of its officers, employees, agents, representatives, subcontractors, or affiliates of this Agreement. If a claim is asserted against an Indemnified Party for which it may be entitled to indemnification under this Agreement, the Indemnified Party shall notify the Indemnifying Party promptly of the claim and permit the Indemnifying Party to defend or settle the claim and to select counsel for such defense. The Indemnifying Party shall pay the costs of such defense and any judgment or settlement resulting therefrom, except that the Indemnifying Party shall have no liability for claims not timely turned over to it for defense, settled without its prior written consent, or to the extent claims result from an Indemnified Party's negligence or misconduct. The Indemnified Party shall provide all reasonable assistance to the Indemnifying Party for the defense or settlement of all such claims. The Parties each acknowledge and agree that Sponsor is an intended third-party beneficiary of this Section. Manufacturer and Retailer expressly acknowledge that NJ-CEP is an intended beneficiary of this Section 7.
8. LIMIT ON LIABILITY. NONE OF THE PARTIES WILL BE LIABLE TO ANOTHER PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOSS OF ANTICIPATED REVENUE, PROFITS, OR GOODWILL, WHETHER ARISING IN NEGLIGENCE, BREACH OF CONTRACT, OR UNDER STATUTE OR RULE. EXCEPT FOR THE MANUFACTURER'S AND RETAILER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, MANUFACTURER'S AND RETAILER'S MAXIMUM AGGREGATE LIABILITY IN CONNECTION WITH THIS AGREEMENT, UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL NOT EXCEED AN AMOUNT EQUAL TO \$2,000,000.00 (USD).
9. Intellectual Property. Manufacturer and Retailer each acknowledge and agree that Sponsor is the lawful owner of all right, title, and interest in and to Sponsor's respective names and logos, and that it will not at any time dispute or contest, directly or indirectly, Sponsor's exclusive right and title to, and validity of, its respective names and logos. Manufacturer and Retailer each agree to take no action inconsistent with Sponsor's ownership of its respective names and logos or that is likely to subject Sponsor to claims by third parties or potential loss of any rights in such names or logos, and agrees and acknowledges that its use of Sponsor's names and logos inures to the benefit of Sponsor. Sponsor grants Manufacturer and Retailer the right to use Sponsor's names and logos in connection with the Program pursuant to the terms and conditions contained in this Agreement. The right to use such names and logos as set forth in this Agreement will be concurrent with the Term of this Agreement and any and all such rights will terminate upon the termination of this Agreement. Manufacturer and Retailer each acknowledge that maintaining a high standard of quality for the Program materials bearing the Sponsor's names and logos and maintaining the goodwill associated with such names and logos are of substantial importance to Sponsor. Manufacturer and Retailer each therefore agree that

all materials to be used in connection with the Program during the Term will be submitted to CLEAResult which will submit them to Sponsor for its review and approval. The Parties each acknowledge and agree that Sponsor is an intended third-party beneficiary of this Section.

10. Confidential Information. The Parties will not use any Confidential Information (as defined below) for any purpose other than as needed to perform their respective obligations under this Agreement. Each Party agrees to hold all Confidential Information in strict confidence and not disclose any Confidential Information to any person other than to Sponsor or to that Party's employees and independent contractors who: (i) have a "need to know;" (ii) have been advised of the confidential and proprietary nature of the Confidential Information; and (iii) have signed a written agreement that is as protective of the Confidential Information as that set forth in this Section. At any other time upon request from the Party disclosing the Confidential Information, the Party receiving the Confidential Information will return or destroy all Confidential Information in tangible form that is in their possession. The term "Confidential Information" means all sensitive Program information and all information and materials relating to a Party's business that would reasonably be understood to be of a confidential nature, including but not limited to all of a Party's non-public proprietary information, in whatever form or medium, disclosed to or received by the receiving Party, whether visually, by perception, orally, or in writing, whether disclosed before, during, or within three (3) months after the Term of this Agreement commences, and whether or not specifically marked or otherwise identified as "Confidential" or "Proprietary," including all summaries and notes prepared by or on behalf of the other Party, except that "Confidential Information" does not include any information that the receiving Party demonstrates: (w) was disclosed pursuant to a legally enforceable requirement, provided that the receiving Party discloses no more of the Confidential Information than is required by such requirement, notifies the disclosing Party of such obligation as soon as reasonably practicable, and cooperates with the disclosing Party in seeking any available protections for the Confidential Information; (x) has become generally available to the public without breach of this Agreement; (y) was later received from another person who did not violate any duty of confidentiality; or (z) that was developed without use of any Confidential Information by persons who were not exposed to the Confidential Information. Confidential Information also includes any customer personal information that is acquired during program activities. The obligations of the Parties under this Section shall survive the expiration or termination of this Agreement for a period of three (3) years.

11. Miscellaneous.

- a. Attorney's Fees. In the event an action is brought to enforce any provision of or declare a breach of this Agreement, the prevailing Party will be entitled to recover, in addition to any other amounts awarded, reasonable legal costs including attorney's fees incurred.
- b. Notices. Except as otherwise provided in this Agreement, all notices or other communications under this Agreement must be in writing and delivered to the addresses, including e-mail addresses, as stated in the signature blocks. Such addresses may be changed by notice given by such Party to the other Parties pursuant to this Section or by other form of notice agreed to by the Parties.
- c. Assignment. No Party may assign, voluntarily, by operation of law, or otherwise, any rights or delegate any duties under this Agreement without the prior written consent of all other Parties to this Agreement, which shall not be unreasonably withheld, except that any Party may assign this Agreement or any of its rights hereunder, in whole or in part, without the other Party's consent: (a) to any affiliate; or (b) with at least thirty (30) days' prior written notice to the other Party, or to an acquirer or successor-in-interest to such Party or to a surviving entity in the case of a merger, acquisition, divestiture, consolidation, or corporate reorganization (whether or not such Party is

the surviving entity). Any attempt to do so without such consent will be void.

- d. Entire Agreement; Counterparts. This Agreement contains the entire agreement of the Parties regarding the subject matter described in this Agreement, and all other promises, representations, understandings, arrangements, and prior agreements related to this Agreement are merged and superseded by this Agreement. The terms of this Agreement may not be amended, except by an agreement in writing signed by the Party against whom enforcement of any amendment is sought. This Agreement may be executed in two (2) or more counterparts, all of which will constitute but one and the same instrument.
- e. Governing Law; Jurisdiction and Venue. This Agreement will be interpreted under, and any disputes arising out of this Agreement will be governed by, the laws of the State of [insert state where Program is located], without reference to its conflicts of law principles. The Parties irrevocably consent to the jurisdiction of the state and federal courts located in the State of [insert state where Program is located] in connection with all actions arising out of or in connection with this Agreement.
- f. Severability; Waiver. Should any provision of this Agreement be held by a tribunal of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement will remain in full force and effect. The failure of any Party to enforce strict performance by another Party of any term of this Agreement, or to exercise any right available to a Party under this Agreement, will not be construed as a waiver of such Party's right to enforce strict performance in the same or any other instance.
- g. Force Majeure. Each Party shall be excused from performance under this Agreement and shall have no liability to the other Party for any period it is prevented from performing any of its obligations, in whole or in part, as a result of material delay caused by the other Party or by an act of God, war, terrorism, civil disturbance, court order, or natural disaster or other action beyond the reasonable control of a Party (each, a "Force Majeure Event"). Sponsor's failure to pay CLEAResult shall not be considered a Force Majeure Event.
- h. Independent Contractors. This Agreement shall not render the Parties or any employee of a Party as an employee, partner, or agent of or joint venturer of any other Party for any purpose. The Parties are and will remain independent contractors in connection with the relationship created by this Agreement.

[Signatures follow]

Manufacturer:

[legal entity name] TAB OUT OF THIS FIELD

By: _____

Name: _____

Title: _____

Notice Address:

[legal entity name] TAB OUT OF THIS FIELD

Attn: _____

Email: _____

Phone: _____

CLEARResult:

CLEARResult Consulting Inc.

By: _____

Name: [insert name]

Title: [director level or above per CR signature authority policy]

Notice Address:

CLEARResult Consulting Inc.

Attn: Legal Department

100 SW Main Street, Suite 1500

Portland, OR 97204

Email: legal@clearResult.com

Phone: 503.248.4636

Retailer:

[legal entity name] TAB OUT OF THIS FIELD

By: _____

Name: _____

Title: _____

Notice Address:

[legal entity name] TAB OUT OF THIS FIELD

Attn: _____

Email: _____

Phone: _____

Table I: Add product and allocation, effective January 1, 2019 to June 30, 2019

Itemized quantities of packages and lamps are estimates only. Due to market fluctuations, it is understood that Target Retail Pricing may vary. As applicable, Manufacturer will notify CLEAResult of changes. Promotion sales may include a mix of quantities of the various eligible products, as long as total markdown incentives do not exceed the total funding of \$XXXX -

SAMPLE

Appendix B – Required with Submission

Residential Advanced Power Strips Program - Negotiated Cooperative Promotion

PROPOSAL CHECKLIST AND SIGNATURE FORM

The following information must be submitted to participate in the NJCEP Residential Advanced Power Strips Initiative Negotiated Cooperative Promotion (please complete one for each retail partner):

Please indicate that the Workbook is completed.

Promotional Support Workbook for Markdown

Please indicate that the sales data is included.

Samples of store level sales data reports

Sample of POS Certification letter

Please identify how products will be shipped to retailer partners. (Check one)

Product will be shipped by manufacturer directly to each retail location

Product will be shipped to the retailer's central distribution center for delivery to each retail location.

Sales data to be provided by: (Check one)

Manufacturer

Retailer

Reimbursement to be paid to: (Check one)

Manufacturer

Retailer

Other Items to include (if applicable):

Product Shipping Schedule

Description of Marketing Plan

By submitting this Form, I acknowledge that I have executed a NJCEP Request for a Manufacturer and Retailer Negotiated Cooperative Promotion Proposal and that approval of a Proposal is contingent upon my complying with the RFP requirements. I understand that incentive funding is available only upon written confirmation (by means of an executed Promotion Agreement) from the Sponsor. I agree to implement the promotion as described in the Promotion Agreement (PA) upon receipt of written confirmation. I understand that actual incentive amounts will be based on compliance with the PA. My ability to participate in this promotion is not guaranteed and Sponsor reserves the right to reallocate or deny funding of promotions. The Sponsor may refine any selected proposal through subsequent discussions and negotiation with the proposing party. The Sponsor also retains the right to reject any and all submitted proposals for any reason or no reason.

Retailer Name: _____

Retailer Signature: _____

Print Name: _____ Date: _____

Manufacturer Name: _____

Manufacturer Signature: _____

Print Name: _____ Date: _____