**RETAINER AGREEMENT**

The Attorney General of the State of [INSERT STATE] (“OAG” or “Client”) and New York University on behalf of the lawyers at the State Energy & Environmental Impact Center at NYU School of Law (“Counsel”) agree to the following arrangement regarding Counsel advising Client from time to time on administrative, judicial, or statutory matters involving clean energy, climate change, and environmental protection (the “Subject Matters”), including advice on the Subject Matters as may be sought in connection with potential litigation brought by or involving OAG. For purposes of this Agreement, Counsel include only those lawyers who are working directly on behalf of or for the State Energy & Environmental Impact Center; it does not apply to NYU Law Fellows who will be or are serving as Special Assistant Attorneys General.

Counsel and Client agree to the following terms and conditions:

**SCOPE AND NATURE OF ENGAGEMENT**

1. Counsel has agreed to advise OAG on the Subject Matters, including in connection with potential litigation to the Subject Matters to be brought by or involving OAG. Counsel’s engagement is limited to advising the OAG on the Subject Matters only and does not include any commitment or undertaking to appear or represent or to advise the OAG in any proceeding or litigation or to advise the OAG in any other matter, proceeding or litigation.
2. The relationship of Counsel to OAG arising out of this agreement is that of attorney and client.
3. Counsel is not obligated to help OAG secure legal representation for any legal issues not covered by this agreement. If Counsel decides to advise OAG in connection with a different matter, Counsel and the Client will agree to that engagement in a separate written agreement.

**FEES, COSTS AND EXPENSES**

1. This engagement is pro bono, and Counsel agrees not to charge OAG any attorneys’ fees for Counsel’s legal services.
2. Counsel will assume all costs associated with its work on the Subject Matters, which may for example include photocopying charges, online legal research fees, travel expenses of its personnel or long-distance telephone charges. Client undertakes no obligation to pay any of the costs advanced by Counsel in advising OAG in connection with the Subject Matters.
3. OAG will be responsible for paying all expenses in connection with any investigation, proceeding or litigation involving or arising from the Subject Matters that would have been incurred if Counsel were not providing advice on the Subject Matters, which may for example include court reporter fees, transcript fees and expert witness fees. Such expenses shall be paid directly by the OAG, and may not be incurred by Counsel without the OAG’s prior approval.

**DUTIES OF DISCLOSURE & CONFIDENTIALITY**

1. Counsel and Client each agree to ensure that all confidential and/or privileged/attorney work product information provided to each other is kept confidential.
2. Counsel shall not enter into a common interest agreement related to Subject Matters covered under this Agreement, or presume that a common interest exists with, a third party without prior authorization from the Client. It is expected that common interest agreements involving cooperation with other state Attorneys General offices pursuing collective action will be routinely granted by Client.
3. Counsel will take reasonable steps to ensure that all information exchanged between Counsel and Client or generated by Counsel in connection with its performance of services hereunder is made available solely to Counsel personnel who work directly on the Subject Matters.
4. Upon request, Counsel will provide OAG with a copy of all applicable written materials prepared by Counsel in the performance of legal services hereunder.

**POTENTIAL CONFLICTS OF INTEREST/TERMINATION OF ENGAGEMENT**

1. Counsel shall take such measures as it deems necessary to ensure that its engagement in connection with the Subject Matters does not give rise to any conflict with the interests of New York University or of Counsel’s other clients, specifically including with respect to any matter, investigation, proceeding or litigation that New York University or any of Counsel’s other clients has with, before or against OAG.
2. Neither Client nor Counsel is aware of any disagreement or conflict between the Client and Counsel at this time, but both understand that disagreements or conflicts between the Client and Counsel may arise in the future and affect the Subject Matters. If such disagreements or conflicts occur and cannot be resolved with the continued assistance of Counsel, Client understands that Counsel may have to withdraw from this engagement.
3. Client and Counsel are free, at any time and with or without cause, to end this engagement.

**COUNSEL’S ACKNOWLEDGMENTS**

1. In the performance of its services hereunder, Counsel will comply with all applicable laws, rules and regulations pertaining to the rendering of such services, maintain all licenses required under applicable law, and maintain adequate Professional Liability Insurance at its own cost.
2. Counsel acknowledges that Counsel personnel working on the Subject Matters are not considered state employees and will not be entitled to protections afforded state employees under [INSERT APPLICABLE STATE LAW].
3. Counsel acknowledges that (a) in addition to whatever supervision Counsel performs over the services it provides hereunder, its work on the Subject Matters will be subject to supervision and direction by OAG, through a designated OAG attorney, and (b) OAG shall at all times retain discretionary decision-making authority in connection with any proceeding or litigation concerning or arising from the Subject Matters, including with respect to (i) selecting and retaining expert witnesses; (ii) filing motions or other court papers; and (iii) proposing, negotiating, or agreeing to settlement.
4. The OAG shall have no liability under this contract to Counsel or to anyone else.
5. Any opinions prepared by Counsel do not constitute official opinions of the Attorney General unless the prior written approval of the Attorney General is obtained.

**GOVERNING LAW & MODIFICATION**

1. This Agreement is governed by the law of the State of New York, without regard for New York’s choice of law statute. The parties agree to bring any action to construe, interpret or enforce this Agreement in a Court of competent jurisdiction in the State of New York.
2. This Agreement represents the parties’ entire agreement pertaining to fees and costs in relation to the Subject Matters, and may not be amended or modified except in writing, signed by all parties. This Agreement is binding on Client and on Counsel and the respective successors in interest of each. This Agreement may not be assigned by Counsel without the OAG’s prior written consent.

**SEVERABILITY**

1. If any clause of this agreement is found by a Court of competent jurisdiction to be void or unenforceable, then, in that event, such clause shall be severed and the rest and remainder of the agreement shall remain in force and effect such as to best reflect the intentions of the parties as indicated solely by this document.

**EFFECTIVE DATE**

1. This agreement shall be effective as of [INSERT DATE], and shall terminate on July 31, 2019, unless earlier terminated as provided herein or extended upon the mutual written consent of the parties. It may be executed in counterparts and all the counterparts together shall constitute a single agreement.

**CLIENT’S ACKNOWLEDGMENTS**

1. Client acknowledges that Client has fully read, understands, and freely enters into this agreement and that Client has received a copy of this agreement.
2. Client acknowledges that New York University is a not-for-profit education corporation and that the furnishing of legal services by Counsel is incidental to New York University’s purposes. Client consents to the compensation of Counsel by New York University.

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| Dated: [INSERT DATE], 2017 | State Energy & Environmental Impact CenterNew York University School of LawBy: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ David J. Hayes Executive Director State Energy & Environmental Impact Center NYU School of Law c/o Resources for the Future 1616 P Street NW Washington, DC 20036202-328-5052david.hayes@nyu.edu |
| Dated: [INSERT DATE], 2017 | Office of the Attorney General [INSERT STATE]By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   |
|  | [INSERT STATE SIGNATORY] |
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