

**MEMORANDUM OF UNDERSTANDING
FOR STEERING COMMITTEE MEMBERS ON
ADVANCED ENERGY DESIGN GUIDES**

Original Draft: March 22, 2005
Revised Draft: March 28, 2005
Revised Draft: March 28, 2005, Version 2
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The purpose of collaboration among the participating organizations (“Participating Organizations”), the American Society of Heating, Refrigerating and Air-Conditioning Engineers (“ASHRAE”), The American Institute of Architects (“AIA”), the Illuminating Engineering Society of North America (“IESNA”), and the US Green Buildings Council (“USGBC”), is to develop and publish an integrated process for all elements of a building to achieve energy savings in various building types; and to give guidance to designers and builders so that buildings may be constructed, operated, and maintained in a manner that minimizes the use of energy without constraining the building function or the comfort or productivity of the occupants.

Effective the date of this Memorandum of Understanding (“MOU”), ASHRAE, the AIA, IESNA and USGBC agree to collaborate in the development of Advanced Energy Design Guides.

1. The parties agree to the formation of a steering committee (“Steering Committee”), which shall oversee development of Advanced Energy Design Guides, and which shall otherwise exercise the rights and responsibilities set forth in this Agreement. By mutual agreement, each Participating Organization shall appoint one member to the Steering Committee, each of whom shall serve at the pleasure of that member’s organization. Each member shall be authorized to vote on behalf of that member’s organization in management and oversight decisions to set and provide direction to each Advanced Energy Design Guide project. Each member shall have one vote on the Steering Committee with the Chair voting only to break a tie. Operation, however, is expected to be by consensus. The Chair will be a fifth individual selected by consensus of the Steering Committee. Changes to Steering Committee membership shall be submitted in writing by the Participating Organization to the Steering Committee Chair effective immediately.
2. ASHRAE is designated the lead organization in the development and maintenance of the Advanced Energy Design Guides.
3. The Steering Committee shall allow, encourage and conscientiously consider other expert technical contributions to the development of the Advanced Energy Design Guides by:
 - a) inviting participation from technical committees within each Participating Organization to serve in an advisory capacity to the Steering Committee. Each organization shall be responsible for the expenses of its own technical advisors; and
 - b) seeking and approving other organizations (“Supporting Partner Organizations”) whose members may be invited to serve on the Project Committees (as that term is used below). The Steering Committee members shall vote and approve the selection of Supporting Partner Organizations according to the Criteria for Approval of Supporting Partner Organizations, a copy of which is included as Exhibit A and incorporated by reference herein.

4. There shall be a project committee (“Project Committee”) for the development of each Advanced Energy Design Guide. The members of each Project Committee shall be selected and approved by the Steering Committee from nominations submitted by Participating Organizations and by Supporting Partner Organizations. Members of the Project Committee may withdraw from membership upon thirty (30) days written notice sent to the chair of the Steering Committee. Travel expenses (lodging, transportation, and meals) for the Project Committees shall be reimbursed from the project funds, not to exceed the government per diem rate. Expenditures will be approved based on Steering Committee consensus. Expenditures will be accounted for in accordance with the lead organization’s accounting practices.
5. Each Participating Organization shall be responsible for at least two (2) individual experts to serve on the Project Committee for each Advanced Energy Design Guide.
6. Each Participating Organization shall be responsible for obtaining interim and final reviews of the technical content for each Advanced Energy Design Guide through appropriate review procedures internal to that organization. Comments shall be reported to the Steering Committee and the appropriate Project Committee(s) according to a mutually agreed upon timetable. Final approval to publish shall be obtained by a vote of the Steering Committee.
7. ASHRAE as the lead organization shall publish the Advanced Energy Design Guides but may seek paid consultation on graphic design, layout and editing from Participating Organizations.
8. The title and ordering designations for each Advanced Energy Design Guide and the organizational acronyms used in the designations on the cover of each published Guide shall be approved by members of the Steering Committee.
9. Copyright for each Advanced Energy Design Guide shall be held by ASHRAE as outlined in Exhibit B Intellectual Property Rights Agreement, a part of this MOU. In accordance with Exhibit B, each Participating Organization must obtain written approval from ASHRAE before the use of any portion of an Advanced Energy Design Guide in any publications or educational programs, either electronic or paper-based, and website postings or links.
10. Each Participating Organization shall be encouraged to advertise, promote and sell copies of the Advanced Energy Design Guides, obtained from ASHRAE under the Intellectual Property Rights Agreement (Exhibit B).
11. Each Participating Organization represented on the Steering Committee shall collaborate on developing and delivering educational programs for each organization’s own delivery mechanism through local, regional and industry meetings as well as through jointly sponsored and delivered programs.
12. The term of this MOU shall extend until such time as the Steering Committee concludes that there is no longer a need to develop, maintain or revised the Advanced Energy Design Guides, **provided, however,** that a Participating Organization may withdraw from participation in this agreement at any time by providing written notice to ASHRAE, delivered to the Attention of the Executive Vice President. Such withdrawal shall be effective one hundred twenty (120) days after the date of the receipt of the notice by ASHRAE.
13. This Agreement reflects the complete agreement of the parties concerning the subject matter hereof, and supersedes all prior agreements, understandings, negotiations and representations pertaining thereto.

14. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Georgia.
15. No modifications of this agreement shall be effective unless contained in a writing signed by all Participating Organizations at the time of the modification.
16. Each Participating Organization (“Indemnifying Party”) shall indemnify and save the other Participating Organizations (“Indemnified Parties”) and the Indemnified Parties’ members, directors, officers, employees and agents harmless from and against any and all claims, loss, damage, injury and liability caused by the Indemnifying Party’s negligence or willful misconduct, together with all costs, expenses and attorneys’ fees in connection therewith resulting from, arising out of or in any way connected with this Agreement or the obligations to be performed hereunder, except to the extent any negligence or willful misconduct by the Indemnified Parties caused or contributed to the loss, damage, injury or liability.

For ASHRAE Date

For IESNA Date

For The American Institute of Architects Date

For USGBC Date

EXHIBIT A

ADVANCED ENERGY DESIGN GUIDES

STEERING COMMITTEE

CRITERIA FOR APPROVAL OF SUPPORTING PARTNER ORGANIZATIONS

Original Draft: March 23, 2005
Revised Draft: March 28, 2005
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This exhibit is incorporated by reference into the “Memorandum of Understanding for Steering Committee Members on Advanced Energy Design Guides” (“MOU”) and, unless otherwise specified, the terms used in this exhibit shall have the same meanings as those used in the MOU.

Selection of Supporting Partner Organizations

The Steering Committee members representing ASHRAE, the AIA, IESNA, and USGBC shall actively seek and invite participation from organizations that have a demonstrated interest in the energy goals and subject matter for each of the Advanced Energy Design Guides. The Steering Committee shall evaluate and approve participation from these Supporting Partner Organizations, whose members may be invited to serve on one or more of the Project Committees.

To be appointed as a Supporting Partner Organization, the organization shall agree to the following:

1. Have the intent to participate in a constructive way to achieve the energy design goals of the Participating Organizations represented on the Steering Committee.
2. Provide individuals with appropriate technical qualifications to serve as members of specific Advanced Energy Design Guide Project Committees and commit to their attendance and participation in all Project Committee meetings.
3. Encourage the constituency of its organization to provide input comments to the organization’s technical representative(s) on the Project Committee.
4. Be willing and able to represent the collective interests of all organizations involved in each Advanced Energy Design Guide even when an individual Supporting Partner Organization’s opinions may differ.
5. Assist and provide support in the promotion and marketplace acceptance for published Advanced Energy Design Guides.
6. Provide any other appropriate support (financial or technical) to the development of the Advanced Energy Design Guides.

7. Be willing to execute an agreement with ASHRAE that is consistent with the copyright and other interests stated in the MOU, and to obtain written approval by ASHRAE before the use of any portion of an Advanced Energy Design Guide in any publications or educational programs, either electronic or paper-based, and website postings or links.

EXHIBIT B

ADVANCED ENERGY DESIGN GUIDES

INTELLECTUAL PROPERTY RIGHTS AGREEMENT

Original Draft: June 13, 2005

This exhibit is incorporated by reference into the “Memorandum of Understanding for Steering Committee Members on Advanced Energy Design Guides” (“MOU”) and, unless otherwise specified, the terms used in this exhibit shall have the same meanings as those used in the MOU.

1. To provide control over distribution of the Advanced Energy Design Guides and to prevent unauthorized use of their content, ASHRAE will retain the exclusive ownership of all intellectual property and other property rights in and relating to the Advanced Energy Design Guides, including but not limited to, all copyright and other similar rights.
2. As exclusive holder of the copyright and other similar rights, ASHRAE has the exclusive authority to grant permissions and licenses to third parties to copy and distribute the Advanced Energy Design Guides, or any portions thereof. Participating Organizations shall direct requests for use of content from the Advanced Energy Design Guides to ASHRAE, including if they so desire recommendations for ASHRAE action.
3. Each Participating Organization may reprint their respective contribution to the Advanced Energy Design Guides in their own respective publications provided attribution to the Advanced Energy Design Guides is provided.
4. Electronic dissemination by each Participating Organization is permitted when the Advanced Energy Design Guides are in the draft stage for purposes of standardization, editing, review and approval purposes.
5. ASHRAE will hold exclusive rights to manufacture in physical form for sale the Advanced Energy Design Guides. ASHRAE will make available to Participating Organizations paper copies of the Advanced Energy Design Guides at cost (including but not limited to labor, design, art, printing, and shipping) for the purpose of internal distribution by Participating Organizations and/or for resale by Participating Organizations. When Participating Organizations resell printed copies of the Advanced Energy Design Guides, no royalties or share of sales income shall be due to ASHRAE. Participating Organizations may not reproduce in physical form for resale or other distribution, whether for free or for sale, the Advance Energy Design Guides.
6. ASHRAE will make available to each Participating Organization upon request an electronic file of the Advanced Energy Design Guides (PDF) which each Participating Organization may use to make the Advanced Energy Design Guides available for download, providing the Participating Organization takes reasonably prudent precautions to protect the value of the Advanced Energy Design Guides, including preventing their unauthorized distribution or dissemination. When Participating Organizations sell downloaded copies of the Advanced Energy Design Guides, no royalties or share of sales

income shall be due to ASHRAE.

7. Participating Organizations agree that they may each sell the Advanced Energy Design Guides to their respective members at a discounted price, comparable to discounted member prices for similar publications offered and sold to their members.
8. Unless otherwise agreed to by ASHRAE, ASHRAE shall hold exclusive rights for sale of the Work through and by third party distribution channels that may or may not be shared by ASHRAE and a Participating Organization. These shared distributors shall include, without limitation, value-added resellers and other services, such as, by way of example and without limitation, American National Standards Institute, Copyright Clearance Center, Barbour Index, Global IHS and Thomson ISI.
9. Nothing in this Agreement shall be construed as a limitation on the right of ASHRAE to create derivative works of the Advanced Energy Design Guides, including without limitation, translations and compilations.
10. ASHRAE and each Participating Organization agree to be responsible for its own costs and fees incurred in marketing and handling order fulfillment for the Advanced Energy Design Guides.
11. All terms and conditions covered herein shall also apply to any and all revisions and amendments of and to the Advanced Energy Design Guides, in any and all languages and media now known and, which may be later developed, in perpetuity.