



Elizabethtown Gas Direct Install Program Contractor Participation Agreement

This Contractor Participation Agreement (this “Agreement”) sets forth the requirements to become a Participating Contractor for the Elizabethtown Gas (“ETG”) Direct Install Program (the “Program”). “Contractor” is defined as any independent contractor, skilled tradesmen or electrical-mechanical service provider or any other person/entity that (i) delivers energy efficient products and expertise directly to customers, (ii) meets the below requirements, and (iii) is accepted by ETG or “ICF”, the Service Provider for ETG, as a Contractor in the Program. The term Contractor as used below will include any subcontractors engaged by the Contractor to perform work for customers under the Program.

To be included on the approved list of Participating Contractors, a contractor must submit contractor-qualification forms, documentation of required insurance, and the Contractor Application to ICF. ICF will offer Contractor network membership to applicants at its discretion. When offered membership as a Contractor, the applicant must sign this Agreement, agree to follow Program guidelines, protocols and other requirements, including program reporting and verification requirements, and agree to participate in a required Program orientation which will include a review of requirements for Direct Install audits that must be conducted by the Participating Contractor, and otherwise remain in good standing with ETG and ICF.

ELIGIBILITY REQUIREMENTS AND OTHER TERMS AND CONDITIONS:

1. **ELIGIBILITY:** ETG Direct Install Program is a comprehensive commercial and multifamily energy efficiency program that offers financial incentives and financing for qualifying energy efficiency measures in commercial and multifamily buildings to customers who are property owners, tenants or managers (customers) of ETG in New Jersey. Customers must receive ETG natural gas delivery service and be in good standing. Incentives are available to customers for the purchase and installation of qualifying energy-efficiency measures at the location where the qualifying project is to be installed. ETG will not offer financial incentives for the same eligible measure to those customers who have received financial incentives or rebates from other ETG energy efficiency programs or from their overlapping electric utility.
2. **QUALIFYING PROJECTS AND MEASURES:** Qualifying projects include electric or natural gas energy-efficiency measures identified as eligible incentives in the Direct Install Program. Qualifying projects do not include any electric or natural gas energy-efficiency measures,

energy-efficiency equipment or services purchased, contracted for, or installed prior to the project pre-approval date. Incentives are not available for any measures served by deliverable fuels and any electric equipment served by municipal electric utilities.

3. **INCENTIVE AMOUNTS:** The amounts of the incentives for which qualifying projects are eligible are set forth in the program DI Tool. ETG reserves the right to change the measures and incentives at any time throughout the program cycle. All incentives are subject to available funding. ETG reserves the right to terminate, modify, suspend or extend this program
4. **CUSTOMER WORK AUTHORIZATION AND PROJECT WORK PLAN:** The Contractor will meet with the customer to discuss individual building objectives, provide a comprehensive energy assessment of the building to identify inefficient, outdated energy consuming equipment. Following the assessment, the Contractor will develop a proposal for retrofitting or replacing such equipment. This proposal will be screened by ICF solely for the purpose of determining accuracy and the correct incentive level for the project. Once approved by ICF, the Contractor will submit the proposal to the customer. The proposal must clearly state the installed cost and incentive for each energy efficiency measure and reflect the information in the DI tool. The Contractor must discuss the process and create a work project and schedule. In the event the Contractor is not approved to perform the approved installation work, the customer may select one or more contractors from an approved network of Participating Contractors.
5. **BUILDING ENERGY ASSESSMENT:** In order to qualify for incentives Contractor partners must perform a comprehensive building assessment. The assessment report must include a complete inventory of all qualified energy consuming equipment, including but not limited to, HVAC equipment, heating and domestic hot water, building controls, refrigeration, lighting etc. When applicable, equipment specific data must include model & serial numbers, manufacture date, and overall condition. The Contractor is expected to propose comprehensive solutions.
6. **IMPLEMENTATION OF WORK, PAYMENT OF INCENTIVES, INSPECTION REQUIREMENTS:** Customer shall be responsible for its share of the cost for each measure to be installed pursuant to the scope of work outlined in the contract documents. ICF quality-assurance and/or quality-control inspectors, in their sole discretion, may schedule and conduct a post-installation inspection to ensure satisfactory measure installation for the purpose of obtaining the applicable project incentives. When ICF confirms that installation of the project passes inspection for that purpose, ICF will arrange for payment of the project incentive directly to the Contractor. Incentive checks will be sent approximately four weeks after ICF confirms satisfactory installation. The Contractor will cooperate with any efforts by ICF to perform pre or post inspections.

By participating in the ETG's energy-efficiency and peak-demand reduction programs, customers agree their electric utility will maintain ownership of all Capacity Rights from electric savings measures, which refers to the demand reduction associated with any energy efficiency or peak demand reduction measures for which incentives were provided by ETG.

7. **INFORMATION AND DATA:** The Contractor will maintain any customer information including name, account numbers, electric & natural gas consumption data and electric & natural gas energy savings it obtains in performing work for customers under the Program (the

“Confidential Information”) in strict confidence. This means that the Contractor will treat and cause to be treated as confidential and proprietary all Confidential Information in its possession. In furtherance thereof, the Contractor will: (a) take commercially reasonable steps consistent with industry practices and the Contractor’s published privacy policies to prevent the disclosure of Confidential Information except as permitted by herein or otherwise agreed to in writing by the customer; (2) use or process Confidential Information only in connection with the performance of the work for the customer under the Program; (3) make copies of any Confidential Information only as necessary for the performance of such work; (4) disclose Confidential Information only to personnel of the Contractor who have a need to know the Confidential Information in connection with the performance or use of such work; and (5) destroy the Confidential Information promptly following the request of ICF or ETG, and in any event upon completion of all the Contractor’s obligations under the Program.

8. **TAX LIABILITY and CREDITS:** ETG is not responsible for any taxes which may be imposed on the customer as a result of measures installed under this program. Each customer must provide a valid Federal Tax I.D. number.
9. **DISPUTES:** ETG will have sole discretion to decide on the final resolution of any issues including but not limited to eligibility or incentives.
10. **PROGRAM CHANGES:** ETG reserves the right to change, modify, or terminate this program at any time without any liability except as expressly stated herein. ETG will honor all written commitments made in Scope of Work provided to customers prior to the date of any change, modification or termination of this program, provided that project installations are fully completed within the time specified in the Scope of Work.
11. **PROGRAM EXPIRATION:** This program will expire June 30, 2027, when funds are depleted, or when the program is terminated, whichever comes first.
12. **DISCLAIMER:** ETG and ICF will make no representations or warranties, expressed or implied, and do not guarantee that implementation of energy-efficiency measures or use of the equipment purchased or installed pursuant to this program will result in energy-cost savings. Accordingly, ETG and ICF recommend that all customers consider engaging qualified engineers or other qualified consultants to evaluate the risks and benefits, if any, of such implementation and use on energy consumption, cost savings, or operation of customers’ facilities.
13. **INSTALLATION REQUIREMENTS:** All work must be in full compliance with the requirements of applicable laws, rules, and regulations of authorities having governmental and regulatory jurisdiction. Work must be performed by Contractor approved by ICF or ETG for participation in the Direct Install Program. Additionally, work must be completed within 180 days of the commitment execution date on the Direct Install Program Participation agreement. In the removal of old equipment, the Contractor confirms that, as a requirement of the program, the Contractor carrying out installation of measures under this program shall remove and dispose of any and all equipment or materials that are replaced or removed in accordance with all applicable laws, rules, and regulations. If these requirements are not met, then ETG may

cancel, withdraw, and revoke the incentive funds from the project and/or revoke Contractor membership.

14. **INDEMNIFICATION:** To the fullest extent permitted by law or regulation, Contractor shall defend, indemnify and hold harmless each of the Utilities, and any subsidiaries or affiliates thereof, their respective directors, officers, employees, agents, representatives and Service Providers (“Indemnitees”) from and against any and all liabilities, losses, claims, damages, fines, penalties, costs, expenses (including reasonable attorney’s fees), demands and causes of actions of every kind or character (“Losses”) arising, or alleged to have arisen, out of any claims (just or unjust) relating to: personal injury, including death to any employee or other person; damage or injury to property, including loss of use; or a breach or incident to the performance of work under the Program and/or the acts or omissions of the Contractor, its employees and/or subcontractors. Notwithstanding the foregoing, Contractor’s obligations under this section shall not extend to Losses that are the direct result of a fully adjudicated finding of negligence or intentional misconduct of an Indemnitee.
15. **PREVAILING WAGE AND PUBLIC WORKS:** If the work to be performed qualifies as a “public work” under the New Jersey State Prevailing Wage Act, N.J.S.A. 34:11-56.25 et seq. (the “Act”), Contractor agrees to adhere to and comply with the Act and shall require the same of its subcontractors. These obligations include but are not limited to: 1) workers employed in the performance of work under the Program shall be paid not less than the prevailing wages applicable, and 2) irrespective of public works, Contractor will employ on the site only individuals who have successfully completed all OSHA-certified safety training, if any, required as a prerequisite for the particular work to be performed under the Program. If the work falls under the jurisdiction of the New Jersey Division of Property Management and Construction, Contractor agrees to comply with and to require its subcontractors to comply with all requirements of that agency and any related law.
16. **LIMITATIONS OF LIABILITIES:** BY PARTICIPATING AS A CONTRACTOR FOR THE PROGRAM, THE CONTRACTOR AGREES TO WAIVE ANY AND ALL CLAIMS, WHETHER ARISING IN CONTRACT OR TORT AND TO FULLY RELEASE ETG AND ICF, THEIR RESPECTIVE PARENTS AND AFFILIATES, AND ALL THEIR RESPECTIVE REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS FROM ANY AND ALL DAMAGES, OF ANY KIND. IN NO EVENT WILL ETG OR ICF, THEIR RESPECTIVE PARENTS OR AFFILIATES, OR ANY OF THEIR RESPECTIVE REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR AGENTS, UNDER ANY CIRCUMSTANCES, BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL LOSSES INCLUDING, BUT NOT LIMITED TO, DAMAGES RELATED TO SAFETY, HEALTH OR WELL-BEING, LOST OR REDUCED PROFITS, REVENUES, EFFICIENCY, PRODUCTIVITY, BONDING CAPACITY, OR BUSINESS OPPORTUNITIES, OR INCREASED OR EXTENDED OVERHEAD, OPERATING, MAINTENANCE, OR DEPRECIATION COSTS AND EXPENSES.

TO THE EXTENT THAT THIS CONTRACT INCLUDES LIQUIDATED DAMAGES, THE LIMITATION OF LIABILITY SHALL NOT APPLY TO THE LIQUIDATED DAMAGES SPECIFIED THEREIN AND THE PAYMENT OF LIQUIDATED DAMAGES SHALL NOT EXCUSE CONTRACTOR’S FAILURE TO PERFORM OR BREACH OF THIS CONTRACT. CONTRACTOR

ACKNOWLEDGES THAT: (i) THE UTILITIES WILL SUFFER SIGNIFICANT DAMAGES AND SUBSTANTIAL FINANCIAL LOSS IF THE SCHEDULE GUARANTEES OR PERFORMANCE GUARANTEES, TO THE EXTENT APPLICABLE, ARE NOT MET AND SUCH DAMAGES AND FINANCIAL LOSSES WOULD BE VERY DIFFICULT TO CALCULATE; AND (ii) THE LIQUIDATED DAMAGES SPECIFIED IN THE CONTRACT ARE FAIR AND REASONABLE, IN LIEU OF ACTUAL DAMAGES, ARE NOT PENALTIES, AND REFLECT THE PARTIES' GOOD FAITH ASSESSMENT AND ESTIMATE OF THE DAMAGES AND FINANCIAL LOSSES REFERRED TO ABOVE. THE LIQUIDATED DAMAGES SPECIFIED HEREIN ARE THE UTILITIES' EXCLUSIVE FINANCIAL REMEDY FOR FAILURE TO ACHIEVE SCHEDULE OR PERFORMANCE GUARANTEES, BUT DO NOT PREVENT THE UTILITIES FROM EXERCISING ITS OTHER RIGHTS AND REMEDIES UNDER THE CONTRACT INCLUDING THE UTILITIES' RIGHTS IN THE EVENT OF TERMINATION.

17. **WARRANTIES:** Contractor warrants that all work provided by Contractor or its subcontractors shall: (i) be of high quality; (ii) be free from any defects; (iii) be suitable for the purposes for which it was intended; (iv) be properly installed; (v) result in dependable service and performance as specified in, or that may reasonably be inferred from, the Contract documents; (vi) comply with established industry codes and standards; (vii) comply with sound industry and work practices; (viii) comply with all laws; (ix) not violate any intellectual property right or other proprietary interest; and (x) otherwise fully conform in all respects to the Contract documents.

Unless otherwise specified in the Contract, Contractor also warrants that all material provided hereunder, including all components incorporated into the work, shall be new and free from any liens, encumbrances, security interests, and defects in title.

Contractor warrants that any system(s) provided as part of the work (including but not limited to heating, wiring, piping, cooling, plumbing, electrical, control, lighting, alarm, or computer systems) shall operate properly and dependably and be compatible with other existing or connecting systems. Contractor warrants that any material provided as part of such system(s) shall be compatible with the system(s) and its components.

During the progress of the work, Contractor shall, at its sole cost and expense, promptly repair, replace, or re-perform any work, including material, in whole or in part, that is rejected by ETG or ICF as failing to conform to the Contract. Contractor shall also bear all expenses required to fix any work under the Program that is impaired, destroyed, or damaged by such non-conforming work or the repair, replacement, or re-performance of such non-conforming work.

For one year from the date work has been accepted by the Utilities, or the date work has been placed into commercial use, whichever is later (the "Warranty Period"), Contractor warrants that it will promptly repair, correct, replace, and re-perform any said work that fails to conform to the Contract at no additional cost to the customer, ETG, or ICF. All such warranty work shall be performed on a schedule acceptable to the customer, ETG, and ICF and shall be warranted for one (1) additional full year from the date of repair, correction, replacement, or reperformance of such work, which one (1) additional year shall be considered the Warranty Period. ETG and ICF acceptance of said work or placement of such work into commercial use,

or final payment therefor, shall not relieve Contractor of its responsibility to provide conforming work.

Written communication to Contractor specifying defective or otherwise nonconforming work that appears either during the progress of the work or during the Warranty Period after acceptance of the completed work for use or operation shall be deemed sufficient notice to Contractor to promptly remedy the defect or nonconformity as required by this Contract.

If repair, correction, replacement, or reperformance of defective or otherwise nonconforming work by Contractor would, in the Utilities and their Service Providers' opinion, be impracticable or disadvantageous to ETG, ETG shall be entitled to a full refund of the price paid by ETG for such defective or nonconforming work.

The liability of Contractor shall extend to all of Utilities' damages caused by the breach of any of the foregoing warranties and shall include, but not be limited to, the cost of removal and replacement of nonconforming material, shipping of material, correction of work, Utilities' labor expenses resulting from the breach of the warranty, and the cost of removal and reinstallation of other material or work made necessary thereby.

Contractor shall identify in writing all third-party or original equipment manufacturer warranties that Contractor receives in connection with the work and will pass through to the customer the benefits of all such warranties (the "Pass-Through Warranties"); provided, however, that nothing in this section will reduce, or limit, or expand Contractor's obligations under this Contract.

It is further understood that: NEITHER ETG, NOR ICF, NOR THEIR RESPECTIVE PARENTS OR AFFILIATES, NOR ANY OF THEIR RESPECTIVE REPRESENTATIVES, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS OR AGENTS ARE RESPONSIBLE FOR ASSURING THAT THE DESIGN, ENGINEERING AND CONSTRUCTION OF THE WORK, OR THE INSTALLATION OF ANY MATERIALS OR SYSTEMS, IS PROPER OR COMPLIES WITH ANY PARTICULAR LAWS, REGULATIONS, CODES, OR INDUSTRY STANDARDS. NEITHER ETG, NOR ICF, NOR THEIR OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS, OR AGENTS MAKE, AND ARE NOT AUTHORIZED TO MAKE, ANY REPRESENTATIONS OF ANY KIND REGARDING THE RESULTS TO BE ACHIEVED BY THE INSTALLED MATERIALS OR SYSTEMS OR THE ADEQUACY OR SAFETY OF THE WORK.

18. INSURANCE REQUIREMENTS: Contractor shall provide evidence of required insurance coverage (shown below) to ICF prior to commencement of any work under the Program. Certificates of Insurance must be provided for ETG, ICF, and all other overlapping utility service territories where the Contractor intends to operate.

- i. Commercial General Liability - \$1,000,000 each occurrence
- ii. Employer's Liability - \$1,000,000 each occurrence or illness
- iii. Automobile Liability - \$1,000,000 each occurrence
- iv. Workers' Compensation – per statutory requirements
- v. Professional Liability - \$1,000,000 each occurrence
- vi. Excess/Umbrella - \$4,000,000 each occurrence

Agreement and Signature

By submission of this application, the applicant and person signing on behalf of any applicant subscribes and affirms under penalties of law that the statements made in this application for inclusion to the Participating Contractor Network have been examined and to the best of his/her knowledge and belief are true and correct. The applicant affirms that no person named in this application is subject to disqualification under the terms and guidelines of the state of New Jersey unless herein stated. The applicant understands that by signing this application it consents to any other inquiry to verify or confirm the information herein. As a Contractor, you acknowledge you are acting as an independent entity to provide Energy Efficiency services for the ETG Direct Install Program and have not entered into a contractual agreement with ETG or any entity of ICF.

Contractor Full Legal Name

Authorized Representative (Please print):

Title:

Date:

Signature:

Applications should be submitted online:

[Elizabethtown Gas: Participating Contractor Management - Home](#)

Please address questions to:

ETGenergysavings@icf.com

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