

# HOME PERFORMANCE WITH ENERGY STAR®

## CONTRACTOR PARTICIPATION AGREEMENT



Contractors interested in participating in the Consumers Energy Residential Home Performance with ENERGY STAR Rebate Program should complete the form below.

**Please attach a copy of your Certificate of Insurance to this application. Completed applications can be scanned and emailed to [CEHPTradeally@icf.com](mailto:CEHPTradeally@icf.com).**

Consumers Energy ("Sponsor") has developed a portfolio of Programs promoting energy efficiency and conservation, including rebates, education and services. The Consumers Energy Home Performance with ENERGY STAR Rebate Program (the "Program") offers financial incentives to participating homeowners for the installation of qualifying energy-efficient equipment and improvements in eligible residences.

The Program is designed to improve the energy performance, durability, health and safety of existing residential housing in Sponsor's service territories. Sponsor has selected ICF ("Implementer") to implement the Program on its behalf. The objectives of the Program are to enhance the delivery of building performance services that use state-of-the-art diagnostic tools and the principles of building science to reduce energy consumption cost-effectively and safely while simultaneously addressing building durability issues.

In partnership with the national Home Performance with ENERGY STAR Program sponsored by the United States Environmental Protection Agency and Department of Energy, Sponsor is offering a comprehensive assistance package to customers. This package is designed to increase awareness of, and demand for, building performance contracting while simultaneously building an infrastructure of trained and certified contractors, home energy raters and consultants to deliver such services.

This Participating Contractor Agreement ("Agreement") is between \_\_\_\_\_  
**[NAME OF PARTICIPATING CONTRACTOR]** ("Participating Contractor") and Sponsor. This Agreement sets out the terms and conditions under which Participating Contractors shall participate in the Program. Under this Agreement, Participating Contractors contract with property owners to provide building performance consulting and/or installation services that are in compliance with Program requirements and standards. The Program, in return, agrees to provide technical and marketing support for Participating Contractors.

This Agreement is completely voluntary and can be terminated at any time for any reason by either the Sponsor or a Participating Contractor with prior written notice from the terminating party to the other party.

In consideration of the terms of this Agreement, the parties mutually agree to the following:

### **SPONSOR AGREES TO OFFER THE FOLLOWING:**

- Information sessions for Participating Contractors on Program procedures, requirements and qualifying equipment specifications.
- Rebates available to eligible customers as filed with the Michigan Public Service Commission (as funds are available).
- Post-installation verification of Participating Contractors' work, when deemed necessary.
- Participating Contractor List for customers once Participating Contractors have met the following requirements: (1) execution of a Contractor Participation Agreement and (2) submittal of documentation of required licenses, insurance and other mandatory information.
- Support for training and certifying Participating Contractors' staff, following Program approval, to conduct Comprehensive Home Assessments in existing residential homes as issued by the Building Performance Institute ("BPI") or other relevant certification bodies.

- Field mentoring and technical assistance to help Participating Contractors achieve success in the Program by delivering high-quality home performance services.
- Account management assistance in obtaining and using the diagnostic equipment and software required to conduct and report Comprehensive Home Assessments and home improvements.
- The opportunity to respond to leads generated from a public awareness campaign.
- Exclusive access, on behalf of eligible customers, to the customer incentives offered by Sponsor exclusively for the Program.
- Project-based incentive payments for improving homes with eligible measures.
- Project-based incentive payments for diagnosing homes and submitting the required documentation.

#### **CONTRACTOR AGREES TO PERFORM THE FOLLOWING:**

- Follow all directives as outlined in this Agreement.
- For all installations, accurately document equipment details, required on the Program Rebate Application.
- Install equipment that meets or exceeds specifications and/or eligible installations as listed on the Program Application. Misrepresentation of the installed equipment or installations will not be tolerated. Participating Contractors found in violation of this or any of the terms of the Agreement and/or Policies and Procedures will be subject to removal or restricted Program participation.
- Hold and maintain (1) required BPI licenses (Building Analyst and Envelope Professional) or equivalent building science certification licenses by certification bodies accepted by the Program, (2) insurance coverage while a participant in the Program and (3) licenses and/or bonds as necessary by the state of Michigan or local jurisdictions, depending upon the specific services offered by the Participating Contractor.
- Install all qualifying equipment and installations for which incentives are provided in a professional manner, consistent with industry standards and in conformance with all applicable building codes; zoning laws; local, state and federal requirements; and other relevant requirements.
- Warrant all labor and materials furnished or performed for the customer from defects in workmanship for a period of 12 months after installation is completed. Warranty period shall commence at the time of final acceptance by the customer and is indicated by the date of customer's signature on the Program Rebate Application. During this period, Participating Contractor shall provide replacement materials and the necessary labor (at no additional cost to Sponsor or the customer) to replace defective materials and repair incorrectly operating equipment.
- Maintain accurate business records relating to the installation of qualifying equipment according to customary industry practice for at least two years following installation.
- Acknowledge receipt of the Program Guidebook and agree to comply with all of its terms and conditions. The specific roles, responsibilities, requirements, policies and guidelines of the Program are set forth in the Program Guidebook, which is incorporated in the Participation Agreement by reference as if fully set forth.
- Avoid knowingly misrepresenting any information concerning the Program, its purpose, policies and procedures, or the Participating Contractor's role in the Program or relationship with the Implementer or Sponsor.
- Avoid communicating with the media about the Program without written authorization and coordination with the Implementer and Sponsor.
- Understand that participation in the Program does not constitute an endorsement of any kind on the part of the Implementer or Sponsor. Participating Contractor shall not state or imply any such endorsement, either directly or indirectly.
- Submit all necessary data and supporting documentation outlined in the Program Guidebook in order to initiate incentive payments to the customer for the installation of energy efficiency measures.
- Retain all necessary licensures, certifications, training and other requirements as deemed necessary by state law and the Program policies and guidelines, including all relevant documentation pertaining to the installation of the energy efficiency measures. Participating Contractor will provide the Implementer or Sponsor with immediate access to such documentation upon request. This includes but is not limited to appropriate liability insurance, permits, licensure, certification information and installed equipment model and serial numbers.

- Acknowledge that Sponsor reserves the right to terminate this Participation Agreement at any time due to the Participating Contractor's non-compliance with the Program Guidelines, state laws or this Agreement. In the event of termination of the Participation Agreement for non-compliance, the Participating Contractor will be notified of such termination in writing and will be allowed 30 days from the date of the notification to submit any remaining documentation for qualifying energy efficiency measures that have previously been installed by the Participating Contractor.
- Acknowledge that Sponsor reserves the right to modify or terminate the Participation Agreement at any time at will, without prior notice, or as may be required by governmental regulatory action. If this Agreement is modified, the Participating Contractor shall have the right to terminate the Agreement if the modification is unacceptable to the Participating Contractor.
- Will not subcontract for any of the services without the prior written approval of the Implementer, and only then upon terms and conditions as the Implementer may require.
- Agree that, in the event of a dispute, each party will have an authorized representative empowered to resolve the dispute, and will meet for a period of not more than three calendar days to resolve the dispute. Should the dispute resolution be unsuccessful, the matter may be submitted to any court of competent jurisdiction or an alternative dispute resolution panel. No oral or written representation made during the course of any panel proceeding or other settlement negotiation shall constitute a party admission.
- Possess the required diagnostic equipment and Program-approved software, in good working order, and have the ability to deploy it at each participating business location prior to commencing Comprehensive Home Assessments and installing measures under the Program.
- Maintain at least one full-time employee who is certified to conduct Comprehensive Home Assessments under standards promulgated by the BPI, or is certified under equivalent industry standards as approved by the Program, at each operating business location that is publicly listed as participating in the Program.
- Ensure that only employees with BPI or equivalent, Program-approved certification perform Comprehensive Home Assessments and all pre- and post-installation diagnostic tests required by the Program, whether the employee is a Participating Contractor's own employee, a Program-approved subcontractor or another Participating Contractor to whom work was referred.
- Ensure that aforementioned certified technicians receive, at a minimum, training that is in compliance with each certification's continuing education credits requirement.
- Comply with all applicable BPI or equivalent, Program-approved certification standards governing home performance inspections, diagnostics and treatments described in the Program Guidebook while performing any activities connected to the Program, such as Comprehensive Home Assessments, installation of measures, or post-installation diagnostic tests and inspections.
- Agree to use Program-approved software for building analysis and energy savings estimation, as well as Program administration computer applications.
- Report every Comprehensive Home Assessment or eligible home performance project for which the Participating Contractor and customer claim incentive payments from the Program, in compliance with the procedures described in the Program Guidebook. Failure to comply with Program reporting requirements may result in forfeiture of incentives.
- Comply with the national Home Performance with ENERGY STAR Program's core requirement to educate homeowners on their energy use during a Comprehensive Home Assessment by providing the homeowner with a professional report, generated directly from Program-approved software, that contains comprehensive recommendations for improving the energy efficiency, comfort and safety of the home. The report must include an estimate of the total energy savings from the proposed improvements, equivalent to at least 20 percent of total energy use in the home. It is not a requirement of the Program, however, that customers implement the full package of recommendations in order to participate. Customers may elect to implement only a portion of a recommended package and claim incentives for any eligible measures installed.

- Comply with current ENERGY STAR Identity Guidelines (available at [energystar.gov](http://energystar.gov)), which describe how the ENERGY STAR marks, marketing graphics and name may be used. The Participating Contractor is responsible for adhering to these guidelines and for ensuring that its authorized representatives, such as advertising agencies, are also in compliance.
- Provide all Program customers with required customer information materials associated with the Program, such as the *What To Expect From ENERGY STAR* brochure and any other information or application materials.
- Acknowledge that Participating Contractors who do not perform at least five Program-qualifying jobs or do not deliver an assessment that results in completion of five Program-qualifying jobs within one year of becoming a participant will be subject to review and possible removal from the Program.
- Agree that Participating Contractor contracts must provide the customer with a written warranty of labor and materials for a minimum of one year from the date the service is performed. Installed equipment shall carry manufacturer's warranty, including optional extended warranty coverage.
- Agree to allow random field inspections by the Sponsor, Implementer or its designee of the work that has been performed. Participating Contractor, upon request from the Sponsor or its Implementer and at no additional cost to the customer, shall make reasonable repairs or corrections to the work that the Participating Contractor has performed to bring such work up to Program standards.
- Agree to work with the customer through its customer complaint resolution process if involved in a dispute with a customer over business practices. The Sponsor and its Implementer may elect to withhold Program incentives associated with the contract that is subject to the dispute until that time at which the dispute is settled. In any event, Participating Contractor shall hold harmless the Sponsor and its Implementer from any suit arising from work carried out in conjunction with the Program and shall release and indemnify the Sponsor, its affiliates, successors and assignees and the Implementer from and against any and all claims, liabilities, injuries, damages, fees, penalties and assessments arising out of or related to the work performed under the Program by the Participating Contractor.
- Commit not to employ as a subcontractor any firm known to have been suspended or terminated from the Program or any other Sponsor program without the Sponsor's prior written permission.

## QUALIFYING EQUIPMENT:

Equipment eligible for incentives must meet the following requirements:

- Be new and of good quality, free from damage or defect.
- Be installed as a replacement unit or as part of a remodel in a residential property.
- Meet or exceed specifications as outlined on the Rebate Application.

**Confidentiality Agreement:** All information that a Participating Contractor submits to the Program, including invoicing data to Sponsor, will be kept confidential within the Program and will only be used in aggregate form, as required, by the Michigan Public Service Commission.

**Limitation of Liability:** IN NO EVENT SHALL CONSUMERS ENERGY BE LIABLE FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR INTERRUPTION OF BUSINESS) ARISING OUT OF OR RELATED TO THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Indemnification:** To the fullest extent permitted by law, the Participating Contractor shall, at its own cost, defend, indemnify and hold harmless Sponsor and Implementer, including their officers, directors, employees, agents and successors, from and against any and all liabilities; damages; losses; claims; demands; actions; causes of action; costs, including attorney's fees and expenses; and all court or arbitration or other dispute resolution costs resulting from, arising out of or in any way directly connected with this Agreement or work performed by the Participating Contractor.

The Participating Contractor acknowledges that he/she has read this Participation Agreement, understands it and agrees to be bound by its terms and further agrees that it is the entire Participation Agreement that supersedes all prior understandings, written or oral, relating to the subject matter hereof. No modification or waiver of any provision shall be binding unless it is contained in writing and signed by both the Participating Contractor and Sponsor.

ACCEPTANCE
Participating Contractor Authorized Representative:
Title:
Company:
Date:
Signature:

**Please mail two copies of Agreement executed with original signatures to:**

### Consumers Energy

c/o ICF

Attn: Home Performance with ENERGY STAR

101 North Main Street, Suite 400

Ann Arbor, MI 48104

Phone: 517-768-6312

Fax: 517-768-6320

Email: CEHPTradeally@icf.com

## ADDENDUM: PARTICIPATION AGREEMENT CHECKLIST

1. In order to obtain Program incentives, every Participating Contractor shall provide a completed W-9 form for its company.  
☐ W-9 form
2. As a precondition for activation in the Program, the Participating Contractor shall provide the Program with certification of insurance coverage as follows:

### Participating Contractor's Insurance Requirements

During the term hereof, the Participating Contractor shall maintain the following minimum insurance coverage and limits of liability unless otherwise stated herein:

A. Workers' Compensation Insurance: Statutory Workers' Compensation in accordance with all state and local requirements of the state in which work is to be performed.

B. Employers' Liability Insurance with a minimum occurrence limit of:

- Bodily injury by accident: \$1,000,000 each accident
- Bodily injury by disease: \$1,000,000 policy limit
- Bodily injury by disease: \$1,000,000 each employee

Companies with no employees may be excluded from requirements A and B. If your company has obtained an Exclusion for Workers' Compensation from the state of Michigan, please submit a copy of the approved Notice of Exclusion Form with your enrollment documents.

**Option 1:** In lieu of providing Part E. Excess or Umbrella, Participating Contractors may increase their General Aggregate from Part C. Commercial General Liability Insurance to \$3,000,000.

**Option 2:** Participating Contractors who are required to provide Part B. Employer's Liability but currently do not meet Program levels (\$1,000,000) may increase coverage for Part E. Excess or Umbrella above \$1,000,000 by an amount equal to the difference needed to meet Program requirements for employer's liability. For example, "Sample Company" employer's liability is \$500,000. Program requires \$1,000,000. Part E. Excess or Umbrella may be increased to \$1,500,000 to cover the difference needed to satisfy Employer's Liability coverage.

C. Commercial General Liability Insurance, written on an occurrence basis, including bodily injury, property damage, personal injury, advertising injury, products and completed operations, and contractual liability, in an amount not less than:

- Each occurrence limit: \$1,000,000
- Products/completed operations aggregate limit: \$1,000,000
- Advertising injury and personal injury limit: \$1,000,000
- General aggregate limit: \$2,000,000

D. Business Automobile Liability Insurance with a minimum limit of \$1,000,000 liability for bodily injury and property damage for all owned, rented, leased or hired vehicles used in conjunction with this Agreement.

E. Excess or Umbrella liability insurance with a combined single limit of not less than \$1,000,000 per occurrence. This limit is to apply in excess of Employer's Liability, Commercial General Liability and Business Automobile Liability policies.

The corresponding coverages held by the Participating Contractor are for the sole use and protection of the Participating Contractor. All coverage obtained and maintained by the Participating Contractor shall be primary to and non-contributory with any and all applicable coverage held by the Implementer or Sponsor. All coverage obtained and maintained by the Participating Contractor shall contain cross-liability coverage and severability of interests language.

Neither the Implementer nor the Sponsor shall be responsible for any deductibles, self-insured retentions and/or waiting periods that may appear in the policies.

Participating Contractor shall send certificates of insurance to ICF, Attn: Consumers Energy Home Performance with ENERGY STAR, 101 North Main Street, Suite 400, Ann Arbor, MI 48104 within five business days of execution of this Agreement, and from time to time upon the Implementer's or Sponsor's reasonable request.

Receipt, failure to receive or failure to request any certificate of insurance for any of the required insurance coverages and limits shall not act or be construed as an approval of Participating Contractor's insurance or as a release or waiver of Participating Contractor's obligation to provide any or all of the insurance coverages and limits required therein. Said certificates shall contain evidence that the policy or policies shall not be canceled or altered without providing at least 30 calendar days' prior written notice to Implementer and Sponsor.

To the extent permitted by law, Participating Contractor's insurance carrier(s) waives its rights of subrogation under all above policies. Consumers Energy, its respective subsidiaries and **agent will be included as Participating Contractor's additional insured** under the Commercial General Liability, Commercial Automobile and Umbrella Liability policies.

All required insurance policies shall be issued by insurance companies rated at least 'A' 'VIII' in the most current edition of A.M. Best Guide.

3. After acquiring required technical certifications, every Participating Contractor shall provide the Program with a copy of the Certification:

- ☐ A copy of at least one BPI Building Analyst or other Program-Approved Equivalent Certification for each full-time employee at each location participating in the Program

#### PARTICIPATING CONTRACTOR INFORMATION

Contact Name:	Tax ID Number:	
Company Name:	License Category:	
Company Address:	License Number (required):	
City:	State:	ZIP:
Telephone:	Fax:	
Email Address:		
Website:		

#### COMPANY HISTORY AND PERFORMANCE

Staff Person BPI or Equivalent Certified:	
Number of Years Offering Home Performance:	Number of Staff BPI or Equivalent Certified:
Please list any additional awards/certifications:	



## ACCEPTANCE

I understand this Participation Agreement constitutes a legal agreement between the Participating Contractor and Consumers Energy to participate in Consumers Energy's Home Performance with ENERGY STAR Program. I agree to follow all Program policies and procedures as outlined in the Agreement.

Company Representative Name:

Title:

Signature:

Date:

Once this Participation Agreement is complete, attach a copy of your relevant Michigan Maintenance & Alteration Licenses to this application and submit. Please have your insurance company submit the **Certificate of Insurance**. The certificate holder is to be named as additional insured. Certificate holder is Consumers Energy and address below should be used:

**Consumers Energy Home Performance with ENERGY STAR Program c/o ICF**

**Attn: Home Performance with ENERGY STAR**

101 North Main Street, Suite 400  
Ann Arbor, MI 48104

All materials should be submitted by one of the following means:

**Email:** CEHPTradeally@icf.com

**Fax:** 517-768-6320

**Mail:**

Consumers Energy  
c/o ICF  
Attn: Home Performance with ENERGY STAR  
101 North Main Street, Suite 400  
Ann Arbor, MI 48104