

**Participating Contractor Agreement**  
UGI Save Smart Home Energy Upgrades Program

**PARTICIPATING CONTRACTOR AGREEMENT**

**Introduction**

This Agreement sets forth the terms and conditions for those contractors who wish to participate (“Participating Contractors”) in the UGI Save Smart Home Energy Upgrades Program, hereinafter referred to as the “Program.” Participating Contractors gain Program benefits if they agree and adhere to the terms of this Agreement and all the Program requirements outlined herein.

**Program background**

The Program is one in a portfolio of programs benefiting UGI Utilities, Inc. – Gas Division and UGI Penn Natural Gas, Inc. (collectively, the “Utility”) residential customers (“Participating Customers”). The Utility has retained Performance Systems Development (“PSD”) as the Program administrator to implement the Program. Participating Contractors contract with Participating Customers throughout the service territories served by the Utility to provide building performance services that comply with Program requirements and standards. Participating Customers may be eligible to receive rebates on installation of energy-efficiency measures. Participating Contractors will be able to market these incentives to Participating Customers by submitting the application form and maintaining good standing in the Program.

The Program is only available to the Utility’s customers.

**Benefits to Participating Contractors:**

PSD will provide the following support to Participating Contractors:

1. The ability to market the Residential Energy Audit
2. The ability to market incentives for the installation of home performance energy-saving measures such as air sealing and insulation
3. Access to Program marketing materials such as program branding materials, program literature, incentive forms, and advertising campaigns, etc.
4. Administrative training on Program requirements and participation requirements
5. Easy access to Program support resources and email updates on program information and changes
6. Use of Program required software. The software will allow submission for payments, reporting of field results from audits, and calculation of customer rebates, incentives and energy savings from completed projects

7. Listed as a Participating Contractor on the Program website
8. Quality assurance field inspections (QA) and quality control data verification (QC) with prompt feedback to the Participating Contractor to ensure adherence to high standards of quality.

### **(1) Documentation Requirements**

The Participating Contractor must be able to provide Whole House Improvements as well as diagnostic Residential Energy Audits. All Participating Contractors shall maintain a valid Pennsylvania Home Improvement Contractor (PAHIC) license.

The Participating Contractor shall submit the following to PSD:

- Documentation of the Participating Contractor's business structure (i.e., Sole Proprietorship, Corporation, LLC, LLP, General Partnership, Limited Partnership); and
- Name and title of individual executing this Agreement on behalf of the legal entity and evidence that he or she has the authority to bind the company or organization

The Participating Contractor shall also:

- Comply with any applicable County licensing requirements; and
- Disclose any prior and current participation in the Utility's or its affiliates' various energy efficiency and conservation program. This is an ongoing requirement. As such, throughout the term of this agreement, the Participating Contractor shall notify PSD immediately of any changes or updates to this information.

### **(2) Certification Requirements**

To participate in the Program and to continue as a qualified participant, Participating Contractors shall meet the following certification and/or experience requirements:

- Building Performance Institute ("BPI") BA with three (3) years' experience or BPI BA with onsite QA done on two (2) of the first three (3) homes;
- Provide PSD with the names and BPI certifications for staff assigned to each jurisdiction. This is an ongoing requirement. As such, throughout the term of this agreement, the Participating Contractor shall notify the Utility or PSD immediately of any changes or updates to this information;
- When possible, encourage the use of subcontractors with BPI Certified personnel;
- Ensure that employees receive training, at a minimum, to meet the requirements of BPI's continuing education credits;
- Maintain in good standing BPI certification throughout the term of this Agreement; and

- Notify the Program immediately should it be in non-compliance with any BPI certification requirements; and
- Maintain effective procedures for quality control as required by BPI for resolution of customer complaints or disputes and for response to customer emergencies. Upon request, Participating Contractor shall make these procedures available to PSD for review and improvement.

### **(3) Program Requirements**

1. Individual terms and conditions contained on the Program incentive documents will apply for the UGI Save Smart Home Energy Upgrades. Participating Contractors agree to the terms and conditions on those forms, agree to present all customers with the appropriate forms, have them sign the forms and obtain full and current contact information for each customer including email addresses, cell phone numbers, and home and work numbers provided by customers.
2. Participating Contractor shall obtain from customers all required authorizations, including the landlord/property owner's permission to visit the home and perform any installations, if the customer is a tenant, and Participating Contractor shall obtain customer sign-offs that any installations were completed.
3. Participating Contractor shall become properly trained in and use the program mandated software for reporting, energy saving estimation and rebate submission.

Participating Contractor will be required to provide periodic status reporting for all current customers who have received Residential Energy Audits to ensure that customers who are eligible for rebates are reported.

1. Participating Contractor agrees to perform all work for which incentives are sought under the program in accordance with all program standards. Program Standards, at a minimum, require compliance with all appropriate BPI Technical Standards and standards under the Department of Energy Standard Work Specification for Home Energy Upgrades ("SWS").
2. Participating Contractors must use BPI-certified personnel to perform test-in on all homes per BPI Technical Standards. The test-in is a diagnostic audit that must include air leakage and combustion safety testing – including worst case depressurization. A diagnostic test-out (air leakage and/or combustion safety testing) may also be required, per BPI Technical Standards, depending on the work-scope.
3. Participating Contractors in the program further agree to report test-in and test-out data, as specified by the program, to PSD through specified channels. Program-provided Mobile Tool Audit and Upgrade submissions must be utilized and electronically signed by the Participating Customer and Participating Contractor.
4. Participating Customers must be informed by Participating Contractor that failure to correct BPI combustion safety problems identified by a Participating Contractor or PSD will jeopardize their receipt of a rebate.
5. Participating Contractor agrees to follow all guidelines established by BPI, including requirements for comprehensive home energy audits with regards to recommendations

- for improvement and written customer reports, installation of measures, and post installation testing (test-out).
6. Participating Contractor shall provide each Participating Customer with a Program mandated software report that details findings of performed audit with energy saving improvement recommendations.
  7. During the first and each succeeding year of participation (determined by date of activation of this agreement), Participating Contractor shall report to the Program a minimum of ten (10) completed jobs per year to be considered an active Participating Contractor within the Program.
  8. Participating Contractors must submit projects to the Program for review and approval within 30 days of completion (i.e., date of audit or completion of upgrade installation).
  9. Participating Contractors who repeatedly submit projects late may have their Participating Contractor status adjusted.
  10. All employees of Participating Contractor who perform work in connection with the Program must be free of drugs and the influence of alcohol. When reporting for duty and while on duty and, must have the appropriate mental and physical condition necessary to perform work in a safe, competent manner. Possession of drugs, drug paraphernalia, and alcohol is strictly prohibited at any Participating Customer's home.
  11. Participating Contractor shall retain all necessary licensures, certifications, training and other requirements deemed necessary by state law and the Program policies and guidelines, including all relevant documentation pertaining to the installation of efficiency measures.
  12. Participating Contractors shall maintain general liability insurance coverage of at least \$1,000,000 per occurrence.
  13. Participating Contractors shall comply with all applicable federal, state and local laws in conducting its work under this Agreement and in connection with the Program.

**(4) Business Practices:**

1. Participating Contractor will provide PSD or the Utility with access to such documentation on request. This includes liability insurance, permits, licensure, or certification information, and installed equipment model and serial number
2. Participating Contractors shall maintain effective procedures for quality control, resolution of Participating Customer complaints or disputes, and response to customer emergencies.
3. Participating Contractors shall respond to customer inquiries in a timely manner and ensure prompt and accurate reporting of project completions to the Program;
4. Participating Contractors shall act as appropriate ambassadors and marketers for the Program;
5. Participating Contractors shall treat all customers fairly and deliver promised services in a timely, competent, and responsible manner;
6. Participating Contractors shall conduct themselves in a professional and respectful manner when interacting with Participating Customers and any Utility employee, PSD, and/or the Program Quality Assurance staff;

7. Participating Contractors shall provide all Participating Customers with required Program information materials;
8. Participating Contractors shall provide, for any equipment installed, the manufacturer's warranty, if applicable; and
9. Participating Contractors shall work with PSD to amicably resolve any dispute with a customer regarding work performed or business practice. If such discussion does not produce an outcome acceptable to the Participating Customer and the Participating Contractor, the Participating Contractor shall settle the dispute through the Participating Contractor's customer complaint resolution process on file with BPI, or, if not applicable, with PSD.
10. Participating Contractor, upon request of PSD or the Utility, and at no additional cost to the customer, shall make reasonable repairs or corrections to work that Participating Contractor has performed to bring such work up to Program standards. This requirement survives the termination of this agreement;
11. The Participating Contractor will be notified by PSD of all non-compliance issues discovered as a result of these inspections. Within 30 days of the notification, and at no additional cost to the customer, the Participating Contractor shall make any required health and safety repairs or corrections and/or reasonable repairs needed to bring such work up to Program standards. All serious health and safety non-compliance issues associated with the project must be rectified by the Participating Contractor immediately.
12. Failure to comply with the Agreement will result in disciplinary actions as described in Section 10.

**(5) Contractor Relationship with Program:**

1. Participating Contractors shall properly represent the relationship between the Participating Contractor, the Utility, PSD and the Program. The Participating Contractor is acting as an independent contractor under this Program and is not acting as an agent of the Utility or PSD.
2. For the Program, the Participating Contractor shall identify itself as an independent contractor and a qualified participant in the UGI Save Smart Home Energy Upgrades Program. The Participating Contractor is acting as an independent contractor under this program, and has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all work to be provided to Participating Customers that may be eligible for Program incentives.
3. The Participating Contractor and its employees shall not represent themselves as employees and/or agents of, or certified by the Utility or the PSD or the Federal government.
4. The Participating Contractor acknowledges and agrees that participation in the Program is in no way to be construed as an endorsement by the Utility, PSD, or the Federal government of the Participating Contractor's work.
5. Participating Contractors acknowledge and agree that they participate in the Program at the sole discretion of the Utility and PSD and are subject to removal from the Program and discontinuation of eligibility to promote the Program to Participating Customers if

they fail to comply with the terms and spirit of this Agreement or if the Utility or PSD in its discretion shall elect to terminate this agreement with the Participating Contractor.

6. In the event a Participating Contractor is removed from the Program, they shall immediately cease promoting their participation in the Program and shall return (at their own expense) any marketing material provided by the Program. A removed Participating Contractor shall not be eligible for consideration to be reinstated for twelve (12) calendar months from the date of notification of removal. A removed Participating Contractor shall have a one-time option to appeal the removal decision in writing to PSD. All decisions of the Utility and PSD shall be final and binding.
7. Participating Contractors are responsible for all of the work performed by their subcontractors, including ensuring that subcontractors adhere to Program policies and standards;
8. Upon request, the Participating Contractor must provide information related to all subcontractors providing program services, fully describing the nature of these relationships, ownership data, and other information requested by the Utility; and
9. The Participating Contractor cannot employ as a subcontractor any firm that has been suspended or terminated from this Program or any other Utility program without prior written permission. Failure to do so may result in disciplinary action and/or termination from the Program
10. Participating Contractor shall accept full and exclusive liability for its personnel's salaries, employee benefits, allowances for vacation, sick leave, holiday pay, employee insurance and retirement benefits, all payroll taxes, workers' compensation and employer's liability insurance, and other insurance premiums measured by payroll costs, other contributions and benefits imposed by any applicable law or regulation, plus all Participating Contractor personnel expenses incurred in conformance with standard Participating Contractor policy, including travel, accommodation and subsistence expenses. The Utility shall not be responsible for Participating Contractor personnel administration matters as such relate or are applied to such personnel including, without limitation, pay, internal discipline, equal opportunity or discrimination claims.
11. Neither the Utility, PSD , nor their affiliates, subsidiaries or successors are, or shall be construed to be, an employer (common law or otherwise), co-employer or joint employer of any Participating Contractor personn

#### **(6) Post-Installation Work Verification:**

1. PSD or an evaluation contractor may conduct random field inspections on work performed under this Agreement to verify work performed and assess the quality standards sought by this program. If an inspection by PSD, or evaluation contractor, determines that actual field conditions do not meet conditions indicated on a Participating Contractor's and/or Participating Customer's application, the project may become ineligible for an incentive.
2. A Participating Contractor's failure to meet minimum program standards and correct deficiencies may lead to the Participating Contractor being removed from the Program

and rendering the Participating Contractor and their customers ineligible to receive future incentives under the Program.

3. Participating Contractors will be subject to onsite Quality Assurance at a rate of 10%, including at the audit and completed job stages, at both final inspection and work-in-progress stages.
4. For all work performed under the Agreement, Participating Contractors must meet and uphold the BPI's health and safety requirements and protocols for Building Analyst Professional Any health and safety non-compliance issues associated with the work-scope must be rectified by the Participating Contractor per BPI Technical Standards.

#### **(7) Indemnification and Limitation of Liability:**

1. In no event shall the Utility or PSD have any liability for claims of any kind, whether based on contract, tort (including negligence and strict liability), or otherwise, for any loss or damage sustained or incurred by any third party relating to this Agreement or the performance of services or participation by the Participating Contractor in the UGI Save Smart Home Energy Upgrades Program.
2. The Participating Contractor hereby releases and discharges the Utility and PSD from all liability for such claims.
3. The Participating Contractor shall, to the fullest extent permitted by law, assume all liability for and agree to indemnify, defend and hold harmless the Utility and PSD and their respective affiliates, officers, directors, agents, servants, employees and representatives from and against any and all liabilities, losses, claims, damages, suit charges, costs, expenses (including attorney's fees and costs) demands and causes of actions of every kind or character arising or alleged to have arisen out of any claims (just or unjust) for damages for personal injury including death to any employee or person, for damage or injury to property and from any and all resulting damages, expenses, costs and fees, arising out of or in any way occurring incident to the performance of the agreement and/or the acts or omissions of the Participating Contractor, its employees and/or subcontractor
4. Additionally, the Participating Contractor agrees to assume all liabilities or attorney's fees and other costs incurred by the Utility arising out of the Utility's efforts to enforce the provisions of this section.
5. Where used in this section, the term "Participating Contractor" shall also include any subcontractor or any person, firm or entity directly or indirectly employed by or under contract with Participating Contractor, subcontractor to Participating Contractor, or supplier to Participating Contractor.
6. The indemnification obligations of the Participating Contractor provided for herein shall apply irrespective of any partial or contributed negligence or alleged partial or contributed negligence of the Utility or PSD.
7. The Participating Contractor shall nevertheless remain liable hereunder on account of the negligence of a party other than the Utility or PSD whether or not the Utility is partially negligent.

8. The indemnification obligations of the Participating Contractor provided for herein shall in all events survive performance of the other obligations of the Participating Contractor under the Agreement and shall survive termination of the Agreement for any reason.
9. Should the Utility or PSD be required to pay any amount to a governmental agency for failure by the Participating Contractor (or its subcontractors) to withhold any amount as may be required by law, the Participating Contractor agrees to indemnify each of the Utility or PSD, as the case may be, for any amount so paid, including interest, penalties and fine.

**(8) Tax Liability:**

Incentives may be taxable as gross income to parties receiving incentives. Neither the Utility nor PSD is responsible for any taxes that may be imposed as a result of receiving incentives through this program.

**(9) Trademarks and other Intellectual Property:**

The Utility reserves all ownership rights in the Utility's Trademarks (as defined below).

1. The Utility does not transfer or license any trademark or other intellectual property rights to Participating Contractor.
2. The Participating Contractor shall not register, apply to register, or claim any rights to any trademark that contains the Utility's program material
3. The Participating Contractor shall not use the Utility's Trademarks in any manner without prior written approval by the Utility. Upon expiration or termination of this Agreement, Participating Contractor agrees to immediately cease the use of and shall not thereafter use Trademark.
4. For purposes of this Agreement, the Utility's Trademarks shall include program marketing materials that are now or hereafter owned, claimed, adopted, acquired, or used by the Utility.

**(10) Suspension and Termination of Participating Contractors:**

1. The Utility or PSD may suspend or terminate Participating Contractor's participation in the Program for any reason, including failure to maintain Program standard In all cases involving a Participating Contractor's participation status, or denial of Program incentives, the written decision of the Utility is final.
2. Participating Contractors who submit fraudulent information or data to the Program are subject to immediate termination from the Program.
3. Participating Contractors shall be classified in one of the following participation status designation Each classification shall be subject to limitations or requirements associated



with that designation. The Utility reserves the right to modify the definition, limitations, and requirements of these statuses. The Utility retains sole judgment over determining a Participating Contractor's progression into and through each status designation.

Provisional – Initial status for all Participating Contractors in the Program. Provisional Participating Contractors are entitled to all applicable Program benefits. Projects completed by Participating Contractors on Provisional status will receive enhanced Quality Assurance / Quality Control oversight. A Participating Contractor will only proceed to full status after the Quality Assurance requirements outlined below are met and the Participating Contractor has received a satisfactory review. A satisfactory Quality Assurance is a review, regardless of failure, in which all program standards are met and any corrective action requirements are completed within 30 days of notification.

Full – Participating Contractors, not operating under any of the other status designations described here, that have met program goals and provide quality services utilizing industry best practices shall have the status of Full Participant. Full Participants are entitled to all applicable Program benefits.

Full Participating Contractors will be subject to onsite Quality Assurance at a rate of 10%, including at the audit and completed job stages, at both final inspection and work-in-progress stages. Each completed QA inspection will receive an assessment of Pass, Pass with Action, or Not Passed. The incidence of Pass with Action or Not Passed will be the metric used to identify the need for future QA oversight.

Any QA inspection assessed Not Passed will result in the following actions:

- First occurrence: Full Participating Contractors will retain their status provided that the following conditions are met:
  - All required Corrective Actions are successfully completed within 30 days, and verified by Program Implementer.
  - The subsequent three projects must successfully meet all program standards and receive QA assessments of Pass.

If the above conditions are not met or the contractor experiences an additional assessment of Not Passed for any of the 3 subsequent projects, even if all corrective actions were completed for the first QA failure, then the Full Participating Contractor will be placed on Probationary Status as described below.

Any QA inspection assessed as Pass with Action will result in the following actions:

- First occurrence: Full Participating Contractors will retain their status provided that the following conditions are met:
  - All required Corrective Actions are successfully completed within 30 days, and verified by Program Implementer through either an on-site visit or photo-documentation.

- The subsequent project must successfully meet all program standards and receive a QA assessment of Pass.

If the above conditions are not met or the contractor experiences a second consecutive assessment of Pass with Action, even if all corrective actions were completed for the first QA failure, then the Full Participating Contractor will be placed on Probationary Status as described below.

Probationary – Participating Contractors who have been found to be in violation of program or ethical standards, who have received (2) QA assessments in a row of Pass with Action, who have received (2) QA assessments of Not Pass out of any (4) inspections, who have been notified by BPI that they are in breach of their BPI certification agreement (due to administrative lapses) shall be placed on Probationary status. The Probationary Period will not be less than 30 days.

During the Probationary Period, the Participating Contractors shall:

- Submit to the Implementing Contractor, in writing, an action plan designed to ensure future violations are avoided.
- Be subjected to increased frequency of QA inspection.

Upon review of the action plan submitted, Probationary Period QA results and prior to the end of the Program's determined Probationary Period, the Utility will rule on the Participating Contractor's Participation status going forward. This determination may include: continued Probation, Full Participation status, Suspension, or Termination. During the Probationary Period, the Participating Contractor will maintain its eligibility for Participating Contractor incentives and posting on the Program's website.

Suspended – Applies to Participating Contractors who:

- Are on Probationary status and have either been unresponsive to, or failed to adequately fulfill, the terms of their probation
- Have an assessment of Not Pass while on probation
- Been placed on Probation twice in a twelve-month period
- As determined by the Utility or PSD, have engaged in practices that have put the public or Program at risk
- Have had their certification suspended by BPI due to work quality or health and safety issue

During this period, the Participating Contractor may, if approved by the Utility, complete customer projects already submitted to the Program. The Participating Contractor, however, forfeits any incentives for projects completed during the suspended period. A Participating Contractor with the status of Suspended is prohibited from representing itself as a Participating Contractor, enrolling new customers in the Program, or receiving Participating Contractor incentives. Suspended Participating Contractors may progress to Probationary Status upon satisfactory completion of the specified remedial activities, or be terminated from Program participation. Nothing in this progression relieves the Participating Contractor of the responsibility to fulfill any outstanding obligations to the Program or Program customers.

Terminated – Participating Contractors may be terminated from the program if the Participating Contractor:

- Has been on Suspended Status for more than 30 days and has been unresponsive to the Utility or PSD or failed to adequately fulfill the terms of their suspension,
- Has had their certification terminated by BPI, or
- Has committed illegal actions while performing services for the Program, provided non-authorized signatures on documents, or violated program standard

Participating Contractors with this designation are prohibited from participation in the Program. The officers and owners of a Terminated Participating Contractor are prohibited from being or becoming officers or owners of any other current or subsequent Program Participating Contractor. Nothing in this process relieves the Participating Contractor of the responsibility to fulfill any remaining obligations to the Program or Participating Customers.

In addition, if the Participating Contractor has participated in the Program previously or in any Utility program within the past year, the Participating Contractor shall demonstrate satisfactory past performance in the Utility program(s), past compliance with Program terms and BPI standards, satisfactory and professional customer interaction, timely completion of work, and response to customer complaints or the Utility directives. Failure to promptly provide such information about past performance will compromise Participating Contractor's eligibility