



## Contractor Participation Agreement - Weatherization

This Contractor Participation Agreement (together with the attachments hereto, the “Agreement”) is entered into as of \_\_\_\_\_ and is by and between \_\_\_\_\_ (“CONTRACTOR”), and RISE Engineering, a division of Thielsch Engineering Inc. (“RISE” or “LV”).

The purpose of this Agreement is to set forth the terms and conditions pursuant to which CONTRACTOR will provide services related to Utility or Energy Efficiency Provider Programs (“the Program” or “Programs”). RISE is the Lead Vendor under contract with Program Administrators (“PA” or “PAs”), to deliver certain services in connection with the Program.

### Current RISE Energy Efficiency Program Contracts:

#### **Single-family Residential Programs (1-4 unit)**

Cape Light Compact HPC/IIC  
Eversource (formerly Columbia Gas territory) HPC/IIC  
Liberty Utilities IIC  
National Grid Cape HPC/IIC  
National Grid RI IIC  
Unitil Gas and Electric HPC/IIC

#### **Multifamily/Small Business**

Cape Light Compact IIC  
Eversource (formerly Columbia Gas territory) IIC  
Liberty Utilities IIC  
National Grid IIC  
Unitil IIC

This Agreement does not constitute a contract between CONTRACTOR and the PA. This Agreement needs to be fully executed in order for CONTRACTOR to provide services for the Program.

### 1. Term of Agreement

- a) CONTRACTOR’s participation in the Program is subject to approval by RISE and the PA. RISE and/or the PA may decline to allow CONTRACTOR to participate in the Program for any reason. If approved, CONTRACTOR’s participation in the Program will begin once RISE sends the fully executed copy of this Agreement to CONTRACTOR. CONTRACTOR will be permitted to participate in the Program for a one-year term, unless it is otherwise suspended or terminated in accordance with this Agreement. This Agreement will automatically be extended for successive one-year terms upon the same terms and conditions unless otherwise amended. CONTRACTOR understands and agrees that the PA may discontinue or modify the Program at any time for any reason.
- b) This Agreement supersedes all previous agreements that CONTRACTOR may have signed in connection with the Program.

### 2. Performance of Work.

- a) CONTRACTORS approved as Home Performance Contractors (“HPCs”) may provide energy assessments and efficiency measure installation services (“Work”) requested by eligible customers of the PA participating in its programs. CONTRACTORS approved as Independent Installation Contractors (“IIC”) may provide efficiency measure installation services (“Work”) only for eligible customers of the PA participating in its programs. CONTRACTOR agrees to provide the expertise, labor, equipment

- (including motor vehicles), materials and supplies necessary to perform the Work.
- b) CONTRACTOR shall be subject to all Program performance specifications and quality control requirements as set forth in the Program Materials and Installation Standards (Attachment A), and the Program Home Energy Assessment Standards (Attachment B).
  - c) CONTRACTOR Work may be evaluated and scored based upon criteria set forth in Attachment C – Job Scoring Criteria and Allocation Methodology.
  - d) CONTRACTOR agrees to conduct and represent its business in an ethical, professional manner. CONTRACTOR will act as an independent entity, and no employee of CONTRACTOR will be considered for any purpose, to be an employee, agent, partner or representative of the PA, LV, EnergyWise or Mass Save. Any contracts between CONTRACTOR and its customers or any third parties shall clearly and conspicuously state that no joint venture, partnership or agency relationship exists between the PA, LV, EnergyWise or Mass Save on the one hand and CONTRACTOR on the other. CONTRACTOR has no power or right to bind the PA or LV or act on their behalf when dealing with customers or third parties.
  - e) CONTRACTOR understands that neither the PA nor the LV is endorsing its business, or warranting or endorsing any equipment, or performance of measures that may be sold by CONTRACTOR. Under no circumstances shall the PA nor the LV be liable to CONTRACTOR for any direct or indirect losses, costs or damages arising from or related to any representations, equipment or installations under the Program.
  - f) As a condition of participating in the Programs, CONTRACTOR shall execute Attachment D in regards to Marketing and Co-branding.

### 3. Use of RISE Software

- a) FOR HPCs, RISE will provide its proprietary software for the purposes of job scheduling, invoicing, reporting, and data tracking for assessments, recommendations and completed Work performed pursuant to this Agreement.
- b) For IICs, RISE will provide access to a central calendar for the purposes of scheduling, tasking for repairs/follow up visits, and invoicing for Work performed pursuant to this Agreement.
- c) RISE will report activities to the PA and PA vendors as needed based on data provided by CONTRACTOR. CONTRACTOR will not report directly to the PA.
- d) CONTRACTOR shall supply any and all computers, printers and other peripheral devices required to perform the Work.

### 4. CONTRACTOR's Product Offerings; Confidentiality

- a) CONTRACTOR shall not offer products or services outside the scope of this Agreement and all attachments without RISE approval. This includes, but is not limited to HVAC, windows, and renewable systems. If approved, such products and services shall be provided on a separate contract or purchase order between CONTRACTOR and the customer directly. Neither RISE nor the PA shall be a party to any such contract.
- b) CONTRACTOR warrants and represents that CONTRACTOR and its subcontractors and all other persons or entities having access to the customer information by or through CONTRACTOR have the appropriate safeguards in place to prevent the disclosure or use of any customer information received from the PA or its customers, and further agrees to use such information solely for the purpose of performing the Work under this Agreement.

### 5. Work Assignment and Completion

- a) CONTRACTOR or customer must submit a request to RISE, or in some cases the PA,

- to confirm eligibility for an energy assessment/ participation in the Program.
- b) Each qualifying installation of Program measure(s) for an individual customer will be referred to in this Agreement as “Customer Work Assignment.” RISE will assign a client number to each customer who qualifies for participation in the Program and provide the number to CONTRACTOR.
  - c) RISE reserves the right, but has no obligation, to request HPCs to perform an energy assessment and subsequent Customer Work Assignment for customers not referred by HPC.
  - d) IICs may “tag” a customer by completing a Participating Contractor Referral (“PCR”) form. These Customer Work Assignments would be awarded directly to IIC. The LV must perform a home energy assessment prior to any installation of Program measure(s) to be eligible for reimbursement. IICs may be added to the Allocation Methodology (see Attachment C) for home energy assessments that are performed by the LV for customers that have not stated a preference for (or “tagged”) another IIC.
  - e) CONTRACTOR should strive to complete all Customer Work Assignments within thirty (30) days of execution with the customer.

## 6. Pricing and Payment

- a) CONTRACTOR will perform Work for eligible customers in accordance with set Residential measure pricing. Multifamily/Commercial work may be subject to bidding requirements. The rates charged by CONTRACTOR under this Agreement include all costs to perform the Work, including, but not limited to: material, labor, benefits, profit, overhead, taxes, and transportation. No changes in the prices may be offered to participating customers without the prior written consent of RISE.
- b) HPCs must obtain all materials required to perform the lighting-related measures and power strips from Energy Federation Incorporated (EFI). All other materials may be obtained from other sources provided they meet Program standards.
- c) RISE may modify pricing, both as to the specific measures included and unit pricing, at any time upon reasonable notice to CONTRACTOR. Failure to comply with the replacement pricing will result in early termination of this Agreement. No products other than approved items, may be used without prior written approval by RISE.
- d) CONTRACTOR shall secure and pay for all permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, as well as all sales, use, consumer, gross receipts or other similar taxes as applicable.
- e) HPCs will utilize program-approved customer contracts and rebate forms that are approved by the PA and LV for Program-specific incentives. Customer contracts will identify as the “PA Incentive Share” the amount or portion of the total price of the customer contract to be paid by LV, and as the “Customer Share” the amount or portion of the total price of the customer contract to be paid by the customer.
- f) HPCs shall invoice the customer for the balance of the Customer Share of the contract price, less any deposit, only after CONTRACTOR has supplied the customer with a certificate of completion detailing the nature, quantity, and costs of all measures completed, and after obtaining customer’s signature on a certificate of completion which indicates customer’s acceptance of the completed Customer Work Assignment. Neither RISE nor the PA shall have any liability for failure of a customer to pay its Customer Share.
- g) IICs will be reimbursed for Customer Work Assignments by LV upon successful quality assurance and proper submission of documentation of completed work.
- h) CONTRACTOR shall submit an invoice packet to RISE within three (3) working days of completion of the Customer Work Assignment.

- i) CONTRACTOR payment terms are available at net 30 or 2% 10/net 30. Terms should be identified on the invoice. The date of invoicing submittal will determine the payment date assuming that all required documentation is provided and there are no unresolved issues with the Customer Work Assignment. In cases where a final inspection is necessary, the payment will be processed after the inspection is completed and the Customer Work Assignment found to be satisfactory in RISE’s sole discretion.

**7. CONTRACTOR Personnel Requirements; Insurance and Warranties**

- a) CONTRACTOR will be subject to and comply with background checks for all persons reserved to Work in the Program in order to be approved for the Program. See Attachment E for Background Check Protocols. Any new employee must receive a new background check regardless if the employee had been cleared under a previous employer.
- b) Prior to starting the Work, CONTRACTOR shall obtain and maintain insurance as outlined below:
  - (i) *Certificates shall name the PA and LV as additional insured. Contractor shall furnish to LV a current Certificate of Insurance, issued directly from the insurer, showing coverage and limits meeting or exceeding the minimum requirements set forth below. **In addition, LV requires a copy of the policy endorsement identifying the PA and LV as additionally insured.** LV, and anyone else required must be named as additional insured(s) on a primary and non-contributory basis to any other insurance carried by LV, under the Contractor’s General Liability, Auto Liability, Pollution Liability (See Attachment F), and Umbrella/Excess Liability coverage.*

<i>General Liability</i>	<i>Each Occurrence/Aggregate</i>	<i>\$ 1,000,000/\$2,000,000</i>
<i>Automobile Liability</i>	<i>Combined Single Limits Per Occurrence</i>	<i>\$ 1,000,000</i>
<i>Pollution Liability</i>	<i>Each Occurrence/Aggregate</i>	<i>\$250,000</i>
<i>Umbrella/Excess Liability</i>	<i>Each Occurrence/Aggregate</i>	<i>SF/SB: \$ 1,000,000/\$1,000,000 MF: \$ 2,000,000/\$2,000,000</i>
<i>Worker's Compensation</i>	<i>Each Accident</i>	<i>\$ 500,000</i>
<i>Tail Coverage</i>	<i>Required only if liability coverage is on a "claims made" basis</i>	<i>5 years</i>

(ii) *Two Certificates of insurance shall be issued:*

- (1) Thielsch Engineering, Inc., 195 Frances Avenue, Cranston, RI 02910 and
- (2) Program Administrator(s) Corporate Addresses\*.

\* Corporate addresses:

Cape Light Compact Joint Powers Entity, 261 Whites Path, Unit 4, South Yarmouth, MA 02664  
Eversource (formerly Columbia Gas of Massachusetts), 247 Station Drive, Westwood, MA 02090  
Liberty Utilities, 36 5th Street, Fall River, MA 02721  
National Grid, 40 Sylvan Road, Waltham, MA 02451  
Unitil Corporation, 325 West Road, Portsmouth, NH 03801

- c) To the fullest extent permitted by applicable state law, a Waiver of Subrogation Clause shall be added to the General Liability, Automobile, Excess or Umbrella and Workers Compensation policies in favor of CONTRACTOR and PA/LV and this clause shall apply to the CONTRACTOR’S and PA/LV officers, agents and employees, with respect to all

Work during this policy term.

- d) CONTRACTOR must be licensed by the Commonwealth of Massachusetts and/or State of Rhode Island if required by law or regulations and maintain such licensing once approved as a CONTRACTOR, comply with laws applicable to it (such as workers' compensation and employment laws), and continuously maintain all appropriate licenses and certifications for the Work they perform as a CONTRACTOR.
- e) CONTRACTOR agrees that any defect in design, materials, or installation found within one (1) year from the date of any Customer Work Assignment shall be remedied without charge to the customer and within a reasonable period of time. The LV reserves the right to withhold payments up to one year for use in resolving customer satisfaction concerns as they relate to CONTRACTOR's Work. Defects of an emergency nature shall be remedied immediately by CONTRACTOR. Defects of an emergency nature include, but are not limited to, conditions that effect occupant health and safety shall be reported to the LV promptly.
- f) CONTRACTOR warrants that all materials and equipment furnished in connection with the Work shall be new unless otherwise specified, and that all work shall be of best quality, free from faults and in strict conformance with this Agreement and all attachments hereto.
- g) CONTRACTOR shall have a minimum of one person on staff that holds a valid BPI certification. All CONTRACTOR Energy Specialists must hold a valid Building Analyst certification. (A 6-month grace period is allowed for each HPC Energy Specialist to obtain the certification.) CONTRACTOR must have a BPI certified (or equivalent certification/training as determined by RISE) employee on the customer job site through completion of the weatherization work and to perform necessary testing procedures. CONTRACTOR cannot use outside employees or subcontractors from another company to meet licensing and certification requirements.
- h) HPC is allowed to outsource or subcontract no more than 50% of weatherization work to another program-approved contractor with LV approval. HPC is expected to complete the majority of the Work in-house.
- i) CONTRACTOR may be required to secure additional on-the-job or classroom training as RISE deems necessary without additional compensation.

#### 8. Termination/Disciplinary Actions

- a) CONTRACTOR may discontinue its participation in the Program by notifying the LV in writing of its decision. The LV may suspend, restrict, and/or end CONTRACTOR's participation at any time, in its sole discretion, by notifying CONTRACTOR in writing of that decision or, alternatively, if applicable, in accordance with the Program requirements for any Program for which CONTRACTOR has been approved. Even if suspended or terminated, CONTRACTOR is expected to complete all Work in progress according to the terms of this Agreement unless RISE opts to relieve CONTRACTOR of responsibility prior to Work completion.
- b) Upon notice of either party's intention to terminate or suspend this Agreement, RISE reserves the right to withhold all future payments for Work completed for a period of one year or until all outstanding Work including repair Work is completed to ensure funding is available to complete any deficiencies discovered after termination of this Agreement.

#### 9. Indemnification

- a) CONTRACTOR shall, to the fullest extent permitted by law, assume all liability for and agrees to indemnify, reimburse, hold harmless and defend the LV and the PA (as well as each of their directors, members, officers and employees, agents and consultants) from any claims of any kind, including, but not limited, to all fees and charges of engineers,

architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs arising out of or related to any act or failure to act of CONTRACTOR related to this Agreement, including, but not limited to, any failure on the part of CONTRACTOR to perform or comply with any of the covenants, agreements, terms, or conditions contained in this Agreement.

- b) CONTRACTOR agrees to assume all liabilities and attorneys' fees and other costs incurred by the PA and LV arising out of their efforts to enforce the Agreement. In addition, CONTRACTOR agrees to pay all costs relating to indemnification claims, including reasonable attorneys' fees incurred in investigating and responding to claims, within thirty (30) days of receipt of a payment request. Where used in this Section 9, the term "CONTRACTOR" shall also include its employees, officers, directors, agents, consultants, suppliers or subcontractors of any tier or any person, firm or entity directly or indirectly employed by or under contract with CONTRACTOR. The indemnification obligations of CONTRACTOR provided for herein shall apply irrespective of any partial or contributed negligence or alleged partial or contributed negligence of the PA and or LV. The indemnification obligations of CONTRACTOR provided for herein shall survive performance of the other obligations of CONTRACTOR under the Agreement and shall survive termination of the Agreement for any reason.
- c) CONTRACTOR agrees that the LV and the PA shall have no responsibility or liability for the discovery, presence, handling, removal or disposal of or exposure to hazardous materials of any kind in connection with participation in any Program, including, without limitation, asbestos, asbestos products, PCBs or other toxic substances.
- d) The PA's and LV's liability in connection with this Agreement or the Program shall be limited to payment of earned monetary incentives. Under no circumstances shall the PA or LV be liable to CONTRACTOR for any further amounts in connection with the Program under any legal theory, including any special, consequential, incidental or indirect damages.

#### 10. Liens

- a) CONTRACTOR shall not file any liens in connection with any Customer Work Assignment. If a lien or claim is filed by CONTRACTOR or those contracting with or under CONTRACTOR, CONTRACTOR shall cause it to be released or discharged by payment or bond within 24 hours after notice of the lien or claim. If CONTRACTOR fails to do so, LV may pay all sums necessary to obtain release or discharge and deduct the costs and expenses, including attorneys' fees, from amounts due or that become due to CONTRACTOR.

#### 11. Equal Employment Opportunity

CONTRACTOR understands and acknowledges that LV is an equal employment opportunity employer and, in furtherance of LV's Policy, CONTRACTOR agrees that with respect to the Work:

- a) CONTRACTOR shall comply, at its own expense, with all applicable laws, ordinances, rules, regulations and orders of any public authority relating to the terms and conditions of employment of any employee who is employed in connection with the Work, including without limitation the applicable provisions of the Fair Labor Standards Act, the Fair Employment Practices Law and Equal Pay Act.
- b) CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, creed, color, age, sex, national origin, or any other reason declared unlawful, and CONTRACTOR shall take affirmative action and cause all of its respective sub-subcontractors to take affirmative action to afford equal employment opportunities

without such discrimination. Such action shall be taken with reference, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation and selection for training including apprenticeship or on-the-job training.


- c) CONTRACTOR shall comply, at its own expense, with all plans, guidelines, and policy determinations relating to the employment of minority groups, established by LV, any public authority, or any other appropriate organization jointly designated by Owner and LV.

## 12. Miscellaneous

- a) The PA is entitled to 100% of the energy benefits associated with the Energy Cost Measurement (ECM), excluding the value of the energy cost savings by the customer. This includes all rights to all associated ISO-NE Energy, capacity and reserves products, and CONTRACTOR agrees to provide the PA with such further documentation as the PA may request to confirm the PA's ownership of such benefits and products. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the parties relating to the subject matter hereof. To the extent any of the attachments to this Agreement contain terms that conflict with the terms set forth in the main body of this Agreement, the language in the attachments shall be disregarded. Except as expressly provided herein, this Agreement may only be amended or modified by a written instrument signed by both Parties hereto.
- b) Program expenditures, requirements and eligibility, and the terms of this Agreement, may be changed by the PA or LV at any time without notice. Should CONTRACTOR fail to execute an amendment to this Agreement which incorporates such changes, its participation as a CONTRACTOR in the Program shall terminate. The PA and LV reserve the right, for any reason, to withhold approval of Customer Work Assignments and any incentives, and to cancel or alter the Program, at any time without notice.
- c) HPC will inform customer that the benefits conferred upon the customer through participation in this Program may be taxable by the federal, state, and local government. The PA nor the LV is responsible for the payment of any such taxes.

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IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date set forth in the introductory paragraph in this Agreement.

<p><u>RISE</u></p> <p>By: <u></u> (Signature)</p> <p>Name: <u>Brian Kearney</u> (Printed Name)</p> <p>Title: <u>Director, Residential Services</u></p> <p>Date: _____</p>	<p><u>CONTRACTOR</u></p> <p>By: _____ (Signature)</p> <p>Name: _____ (Printed Name)</p> <p>Title: _____</p> <p>Date: _____</p>
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## Schedule of Attachments

- A. Program Materials and Installation Standards
  - A1. Mass Save® Materials and Installation Standards
- B. Program Home Energy Assessment Standards
  - B1. Mass Save® Home Energy Assessment Standards
- C. Job Scoring Criteria and Allocation Methodology
- D. Marketing and Co-Branding
  - D1. Mass Save® Cobranding Agreement
  - D2. Cape Light Branding Guidelines
  - D3. RI Branding Guidelines
- E. Background Check Protocols
- F. Pollution Liability Information