

Terms and Conditions

This Contractor Agreement ("Agreement") is made and entered into by and between CLEAResult, (hereinafter "Implementer"), and _____ (hereinafter "Participating Contractor"), (Implementer and Participating Contractor each hereinafter referred to as a "Party" and together as the "Parties"). Implementer administers the Small Business Direct Install program (hereinafter "Program") on behalf of SWEPCO, a division of American Electric Power (hereinafter "Utility"). In consideration of the mutual covenants and agreements hereinafter set forth, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

As a Participating Contractor in the Program, Participating Contractor hereby agrees to the following:

1. The Participating Contractor agrees to the roles, responsibilities, requirements, policies, terms, conditions, and guidelines of the Program as set forth in the 2015 SBDI Program Manual.
2. Participating Contractor is an independent contractor in relation to the Implementer and Utility, and is voluntarily participating in the Program to deliver the services as outlined in the program manual directly to customers for whom Utility provides electric delivery service ("Customer"). As such, Participating Contractor shall not be deemed a partner, agent, or employee of the Implementer, Utility, or Customer for any purpose. Participating Contractor will pay all of its administrative, overhead, and other costs, including withholding taxes, social security, unemployment, disability, health, workers' compensation, or other insurance coverage.
3. Participating Contractor shall not knowingly misrepresent any information concerning the Program, its purpose, policies, incentives, and procedures, or their role in the Program or relationship with the Implementer or the Utility.
4. Participating Contractor acknowledges that incentives will be paid by Utility only if: 1) Customer(s) and installed measure(s) or services meet the program eligibility requirements outlined in the program manual; 2) Measures are installed in project sites that receive delivery of electricity from Utility (SWEPCO's Arkansas service territory) as evidenced by the meter number; and 3) Measures are installed at a project site that has not received incentives from any other of Utility's energy efficiency programs for the same measure(s). Participating Contractor understands that Utility may withhold incentive payments committed to the Participating Contractor if the project site is proven to not receive electric delivery service from Utility.
5. Participating Contractor will, at its sole expense, purchase, maintain, and require its agents and subcontractors to purchase and maintain, during the term of its participation in the Program, insurance policies with substantial and sound insurers, having coverage of the types and at least in the amounts specified in this Agreement.
6. Participating Contractor shall not use the Implementer or its affiliates, or SWEPCO trademarks without written approval by the Implementer, or Utility respectively.
7. The Implementer has the sole right and authority to determine acceptance of Participating Contractor's application and resulting right of participation in the Program.
8. Participating Contractor must agree to pursue referral leads resulting from the Program's marketing and communications efforts, and must make a good faith effort to provide, in a timely fashion, services to these leads in accordance with the Program guidelines and this Agreement. Participating Contractor recognizes that any leads received as a result of the Program's efforts constitute a Program benefit.
9. Participating Contractor understands that participation in the Program does not constitute an endorsement of any kind on the part of the Implementer or Utility. Participating Contractor shall not state or imply any such endorsement, either directly or indirectly, in written or verbal form.
10. Participating Contractor shall not mislead any customer(s) about the availability of Program incentives or misrepresent its role in the incentive award process. Only Utility or the Implementer on behalf of Utility, in its sole discretion can approve or reallocate Program incentives for a customer.
11. Participating Contractor must possess the required diagnostic equipment, in good working order, and have the ability to deploy it at each participating location, prior to commencing comprehensive energy audits and installing measures under the Program.
12. Participating Contractor, and its agents and subcontractors, shall retain all necessary licensures, certification, training, and other requirements as deemed necessary by state law, the Program policies and guidelines, and all relevant documentation pertaining to the installation of the energy efficiency measures, and will provide immediate access to such documentation to the Implementer and Utility upon request. This includes but is not limited to appropriate liability insurance, permits, licensure, or certification information, installed equipment model and serial numbers, etc.
13. Participating Contractor must agree to allow random field inspections, by Utility, the Implementer or its designee, of work that has been performed. Participating Contractor, upon request from Utility or the Implementer, 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.
14. Participating Contractor, its employees, agents and subcontractors, represent and warrant that: 1) the services performed for a customer through the Program shall be performed in a good workmanlike, skilled, and professional manner; 2) the services shall comply in all material respects with the specification and other requirements set forth in each applicable contract with customer and in strict accordance with the Program and this Agreement; 3)

Participating Contractor's performance of the services shall not violate any applicable law, rule, regulation, contracts with third parties, and/or any third-party rights, including, without limitation, any copyright, trademark, trade secret, or patent or similar right; and 4) Participating Contractor is the lawful owner or licensee of any intellectual property, software applications or other materials used by Participating Contractor in the performance and delivery of the services and has all rights necessary to convey to customer the unencumbered ownership of all work product that results from the services.

15. Participating Contractor understands that the Implementer reserves the right to terminate or to modify this Agreement at any time for Participating Contractor's noncompliance with the program manual, any law, any clause of this Agreement. In the event of termination of this Agreement by the Implementer, Participating Contractor will be notified of such termination in writing, and Participating Contractor will be allowed 30 days from the date of the termination to submit any remaining documentation for qualifying energy efficiency measures that have previously been installed for a customer by the Participating Contractor.
16. Participating Contractor acknowledges that the Implementer is an independent contractor with respect to Utility and the Program, and that beyond reserving incentive funds, the Implementer is not authorized to make reservations or incur obligations on behalf of Utility.
17. Any review, inspection, or acceptance by the Implementer or Utility of the project site or of the design, construction, installation, operation or maintenance of any energy efficiency measure and/or energy generation measure(s) by the Implementer or Utility is solely for the information of Utility and that, in performing any such inspection or review or in accepting an energy efficiency measure and/or energy generation measure(s), Utility makes no representation or warranty whatsoever, whether expressed or implied, including without limitation warranty of merchantability and fitness for a particular purpose, as to the economic or technical feasibility, capability, safety, or reliability of the energy efficiency measure and/or energy generation measure(s) or its installation by the Participating Contractor.
18. Participating Contractor shall defend, protect, indemnify, and hold harmless Utility and the Implementer, their respective officers, directors, agents, and employees, and each of their parents and affiliates, and each of their respective officers, directors, agents, and employees (collectively referred to as the "Indemnified Parties") from and against any and all claims, losses, expenses, attorneys' fees, damages, demands, judgments, causes of action, suits, and liability in tort, contract, or any other basis and of every kind and character whatsoever (hereinafter referred to as "claims") arising out of Participating Contractors, or its agents or subcontractors, acts or omissions incident to or related in any way to, directly or indirectly, the services, agreement and/or the Program. Participating Contractor acknowledges and agrees that with respect to any claims brought against the Indemnified Parties, Participating Contractor will be required to waive as to the Indemnified Parties any defense it may have by virtue of the Workers' Compensation Laws of any state, to the extent allowed by law.
19. In the course of participation in the Program, Participating Contractor may have access to confidential information. Participating Contractor agrees to 1) use such confidential information solely for the purposes for which it is provided; 2) not disclose such confidential information to any third party; and 3) otherwise protect such confidential information from unauthorized use and disclosure to the same extent that it protects its own confidential information of a similar nature.
20. Participating Contractor will not assign any of the rights or responsibilities arising from this Agreement to any individual or entity without first having obtained the written approval of the Implementer.
21. In no event shall the Implementer or Utility be liable to Participating Contractor, its employees, agents, or subcontractors for damages whatsoever (including but not limited to lost profits or interruption of business) arising out of the Program, or the services related to this Agreement, even if advised of the possibility of such damages.
22. Participating Contractor agrees that no marketing materials shall be created to promote the Program without prior authorization from the Implementer and Utility. The Implementer will provide approved marketing materials to Participating Contractor.
23. This Agreement shall be governed by and construed in accordance with the laws of the State of Arkansas, The Parties agree that the proper venue and jurisdiction for any cause of action relating to this Agreement will be Washington County, Arkansas, unless such cause of action is within the jurisdiction of the Arkansas Public Service Commission (APSC), in which case proper venue and jurisdiction will be at the APSC.
24. Participating Contractor acknowledges that they have read this Agreement, understand it, and agree to be bound by its terms. No modification or waiver of any provision shall be binding unless it is contained in writing signed by both Parties.

Tax Implications

Incentives are taxable and, if annual total is greater than \$600, will be reported to the IRS on Form 1099 unless Participating Contractor has indicated Corporation or Exempt tax status on the Participating Contractor information portion of this Agreement. Participating Contractor must provide the Implementer with its tax identification number on a W9 form. Utility nor Implementer will be responsible for any tax liability imposed on the Participating Contractor as a result of Participating Contractor's receipt of incentives. Participating Contractors and customers are encouraged to consult with their tax advisors about the taxability of any incentive payments.

Agreement

Company: SWEPCO

Company: _____

Name: Phillip Watkins

Name: _____

Signature: _____

Signature: _____

Title: Manager, Consumer Programs

Title: _____

Date: _____

Date: _____