

## **COMMERCIAL LOAN FOR ENERGY EFFICIENCY AND RENEWABLES (CLEER) PROGRAM CONTRACTOR AGREEMENT**

This Contractor Agreement (this "Agreement") sets out the terms and conditions under which the undersigned contractor ("Contractor") shall participate as an Authorized Contractor in the Commercial Loan for Energy Efficiency and Renewables Program ("Program") of the Green Finance Authority (d/b/a DC Green Bank), an independent authority of the District of Columbia ("DC Green Bank"). If DC Green Bank authorizes the Contractor for the Program, Contractor agrees to be bound by all the terms and conditions set forth in this Agreement. All of the terms, conditions and requirements set forth in the DC Green Bank Commercial Loan for Energy Efficiency and Renewable Program ("CLEER") Contractor Guidelines ("Contractor Guidelines") are part of this Agreement and hereby incorporated by reference herein. Failure to abide by such terms and conditions may result in Contractor's immediate termination from the Program. For projects financed with Program loans, Contractor will contract with eligible businesses to provide energy efficiency products and building performance services that comply with Program requirements as provided herein.

### **I. Contractor Requirements.**

- a. Contractor shall be a Service Provider or Trade Ally under Pepco's Commercial and Industrial ("C&I") Energy Savings Program or its successor ("Provider"), an approved contractor by the DC Green Bank, an approved contractor by the District of Columbia Department of Energy & Environment ("DOEE"), an approved contractor by the District of Columbia Property Assessed Clean Energy Program ("PACE") or an approved contractor by the District of Columbia Sustainable Energy Utility ("SEU") and shall remain in good standing as such Provider and/or approved contractor.
- b. Contractor shall describe its business structure, i.e., corporation, limited liability company, limited partnership, sole proprietorship, and provide documentation if requested.
- c. Contractor shall provide its applicable District of Columbia business license number(s), including expiration date(s) to DC Green Bank and maintain its license(s) to remain an Authorized Contractor.
- d. Contractor shall provide evidence of the business-related insurances, including expiration date(s) it maintains and keep such insurance policies current to remain an Authorized Contractor. Contractor shall provide annually. Contractor shall name each customer under the CLEER Program as additional insured.
- e. Contractor shall provide each customer a written warranty of labor and materials for a minimum of eighteen (18) months from the date of service. Equipment installed shall carry the manufacturer's warranty.
- f. Contractor shall provide each customer with a written estimate of the costs of the project, including projected energy savings.
- g. Contractor shall enter into a written contract with each customer for any project financed with a Program loan.
- h. Contractor shall comply with all applicable federal, state, and municipal laws, ordinances, regulations and all applicable building codes.
- i. Contractor shall cooperate with quality assurance field inspections by DC Green Bank or its subcontractors for work that has been performed by Contractor. Inspections will verify the project for Program purposes only, and DC Green Bank makes no warranty for any purpose. DC Green Bank will notify Contractor of any Program non-compliance issues. Pursuant to the quality assurance procedures described in the Contractor Guidelines, Contractor shall address any Corrective Action Request items at no additional cost to the customer or DC Green Bank.

- j. Contractor shall maintain for a minimum of eighteen (18) months (or longer if required by law) records of contracts, inspection and test results, and any documentation related to work funded in whole or in part with a Program loan and shall provide DC Green Bank reasonable access to such records.
- k. Contractor shall comply with the Contractor Guidelines with respect to the operation and any promotion of the Program.
- l. Contractor shall participate in the Program training program prior to performing any work under the Program.
- m. If the Contractor or its subcontractors becomes involved in a dispute with a customer, Contractor shall work to settle the dispute amicably with the customer. DC Green Bank has no responsibility to provide dispute resolution assistance.
- n. Contractor will assess a Program fee to customers in an amount set forth in the Contractor Guidelines (the "DC Green Bank Program Fee"). The Participating Lender with respect to such project shall deduct the DC Green Bank Program Fee from the loan proceeds and such fee shall be payable to DC Green Bank at loan closing. If there is split funding between multiple contractors, the fee applies to each contractor's portion of the work.

**II. Termination.** Either DC Green Bank or Contractor may terminate this Agreement in writing at any time and for any reason; provided, however this Agreement shall remain in effect with regard to projects which have been funded in whole or in part with Program loans.

**III. Indemnification.**

- a. Contractor will indemnify, reimburse, hold harmless, and defend DC Green Bank, as well as its directors, officers, employees, agents, and other consultants from any claims of any kind including, but not limited to, losses, costs, damages, punitive damages, penalties, 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 connected in any way with any actual or alleged action or omission of Contractor, its employees, agents, or subcontractors of any tier or any other entity or person for whom Contractor is responsible, in the performance or non-performance of services in connection with Program and for any breach of any representation, warranty, or covenant of Contractor. Under no circumstances shall DC Green Bank, its directors, officers, employees, agents, and other consultants be liable to Contractor for any amounts in connection with the Program under any legal theory, including any special, consequential, incidental, or indirect damages. This Section III(a) shall survive the termination of this Agreement.
- b. Contractor understands that DC Green Bank is not endorsing Contractor's business, or warranting, endorsing, or guaranteeing the performance of any equipment or materials that may be sold or installed by Contractor and financed with a Program loan. Contractor shall include a disclaimer to this effect in any of Contractor's marketing or other promotional materials related to the Program or otherwise referencing DC Green Bank.

**IV. Miscellaneous**

- a. This Agreement shall be construed in accordance with the laws of the District of Columbia. The Parties agree that any action or proceeding arising out of or relating to this Agreement may be commenced in the federal or state courts of competent jurisdiction located in the District of Columbia.
- b. DC Green Bank has received and will receive information from the Contractor related to the work to be completed by the Contractor under the Program and will use that information for Program management and evaluation and treat the information as confidential unless otherwise required by law. DC Green Bank will not release any identifying information to Contractor's competitors without

Contractor's consent and will not sell Contractor's information to third parties. For all other uses, DC Green Bank will only release Contractor information in an anonymous and aggregated form.

- c. In case any one or more of the provisions in the Agreements are invalid, illegal or unenforceable, the validity, legality, and enforceability of the remaining provisions shall be not be affected thereby.
- d. DC Green Bank may amend the Contractor Requirements upon 30 days prior written notice. Notwithstanding the foregoing, if DC Green Bank modifies the Contractor Requirements as a result of a change in law related to the Program, Contractor shall immediately comply with such modified Requirements upon written notice from DC Green Bank.
- e. Contractor shall be an independent contractor and participation in the Program is not intended to make Contractor an employee, agent, partner, or joint venture partner of DC Green Bank or any of its directors, officers, employees, agents, or other consultants.
- f. Except as otherwise provided herein, this Agreement may be amended at any time and, from time to time, by one or more writings mutually agreed to and executed by the parties.
- g. This Agreement shall be binding on the parties' successors and permitted assigns. Neither party shall assign this Agreement without the prior written consent of the other party.
- h. **Anti-Deficiency**. Notwithstanding anything contained herein, this Agreement shall be subject to the provisions of (a) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341-1351 and 1511-1519 (2004), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2012 Repl.); (b) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 et seq. (2012 Repl. and 2014 Supp.) ((a) and (b) collectively, the "Anti-Deficiency Acts"); and (c) § 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2012 Repl.), as each may be amended from time to time and each to the extent applicable to this Agreement.

[Signature Page Follows]

*NOTE: Print this page and mail a signed copy to the address listed at the beginning of the Application.*

By signing this Agreement, the undersigned, an authorized representative of Contractor represents and warrants that (i) I am duly authorized to submit this Agreement on behalf of Contractor; (ii) the information provided in the Application and any other related documents delivered to DC Green Bank, is true, accurate, and complete; (iii) I have read the Application and the Agreement in their entirety; (iv) I understand and accept the terms and conditions contained in this Agreement and in the Contractor Guidelines (including any updates thereto). I further understand and accept that the approval or rejection of the Application is at the sole discretion of DC Green Bank and only upon receipt of an application approval notice will Contractor be able to promote DC Green Bank loans to customers.

IN WITNESS WHEREOF, Contractor caused this Agreement to be executed as of the date set forth below.

Authorized Representative (print name)	Company	Title
Business Structure:		
Applicable District of Columbia Business Licenses and Numbers:		
Signature		Date

Attached:

- 1) Copy of applicable District of Columbia Business and General Contractor Licenses
- 2) Evidence of business-related insurances.