



**MIDWEST HOME PERFORMANCE with ENERGY STAR**

**Participant Agreement – Major Provisions**

**Version 01/24/2011**



## Midwest Home Performance with ENERGY STAR Participant Agreement

THIS **AGREEMENT** (the “Agreement”) is between the undersigned Consultant or Contractor (the “Participant”) and the Metropolitan Energy Center (“MEC”) pursuant to the Midwest Home Performance with ENERGY STAR program sponsored by the Missouri Department of Natural Resources, through agreements with the U.S. EPA Home Performance with ENERGY STAR Program and local sponsor programs as described by attached agreements, and is effective upon signature by both parties (“Effective Date”).

The Participant and MEC agree as follows:

### 1.0 DEFINITIONS

- 1.01 **EPA** means the U.S. Environmental Protection Agency, an agency of the federal government.
- 1.02 **Home Performance with ENERGY STAR (HPwES)** means the program, run by the Environmental Protection Agency (EPA) in partnership with the Department of Energy (DOE), designed to improve the energy efficiency of existing homes.
- 1.03 **Midwest Home Performance with ENERGY STAR (Midwest HPwES)** means the Home Performance with ENERGY STAR program taking place within the middle-western U. S. A. and administered locally by Metropolitan Energy Center in Kansas City.
- 1.04 **Metropolitan Energy Center (MEC)** means the non-profit organization based in Greater Kansas City, whose mission is to promote energy efficient, sustainable communities in the Kansas City region.
- 1.05 **Consultant**, also called Auditor, shall mean a third party individual or company that has met the qualifications to participate in the Midwest HPwES program and agrees to follow the provisions outlined in this Agreement, the protocol of the Midwest HPwES program, and the terms and conditions of associated local sponsor initiatives and programs; and is distinguished by the act of performing a home performance assessment without being a vendor of a recommended product.
- 1.06 **Contractor** shall mean a third party individual or company that has met the qualifications to participate in the Midwest HPwES program and agrees to follow the provisions outlined in this Agreement, the protocol of the Midwest HPwES program, and the terms and conditions of associated local sponsor initiatives and programs; and is distinguished by the act of performing a home performance assessment and supplying product and installation services that fulfill all or part of the recommendation. A contractor may cause a consultant to perform the home performance assessment.
- 1.07 **The Home Performance Assessment (HPA) also known as a Comprehensive Home Assessment (CHA)**, also called a home energy audit, shall mean an initial energy evaluation of a Customer’s residence that includes observation of, but not limited to, lighting and appliances as well as systematic performance and safety testing of the ventilation and mechanical systems, building tightness and insulation levels, and occupant behaviors for the purpose of generating a report that includes a prioritized, whole-house based list of recommended energy efficiency improvements, and a proposed scope of work and the estimated energy savings and costs of the scope improvements. Guidelines for a HPA as well as the corresponding “HPA Summary Report” and the “Post-Installation Tests and Inspections Form” are provided in the Midwest HPwES Participating Contractor Program Guide.
- 1.08 **A Home Performance with ENERGY STAR Project** is an energy-efficiency retrofit project overseen by a qualified Participant that includes an HPA performed by a Participant. An HPwES Project may include, on rare occasions, only a single energy-efficiency measure; however, a typical HPwES Project considers the residence as a system and includes two or more energy-efficiency measures and often addresses other customer needs. The project results are verified by a post-improvement assessment. An HPwES Project may or may not qualify for incentives, such as tax credits or deductions, utility rebates, and other such financial programs. In order to be considered

an HPwES project it is not required that every recommended measure be implemented immediately.

- 1.9 **Certification** is a status obtained by an individual contractor who has completed a rigorous building science examination protocol, such as the MEC Energy Auditor certification, the Building Analyst Professional certification by the Building Performance Institute with supplemental data collection and computer modeling instruction, or the Certified Rater certification by the Residential Energy Services Network with supplemental instruction about diagnostics associated with combustion appliances and conditions found in existing residential structures.
- 1.10 **Intellectual Property** means all marketing pieces, explanatory materials, websites, signs, and any and all documentation developed by the EPA, the State of Missouri, MEC, their subcontractors, sponsors, and partners in connection with the EPA HPwES program and the Midwest HPwES program.
- 1.11 **Qualification** in the HPwES program means the Participant is allowed to align its business services with the EPA HPwES program, logo, and brand, and reference local sponsor initiatives according to the Midwest HPwES Participant Guide.
- 1.12 **Quality control** is the process whereby MEC collects assessments, reports, and occasional interviews and / or site visits for each HPwES Project that is associated with the Midwest HPwES program to evaluate the same for consistency with program guidelines and local sponsor initiatives.
- 1.13 **Quality assurance** is a random evaluation of a percentage of the HPwES Projects completed by a Participant through a verification of the site assessment findings and quality of improvements using diagnostic tests.

## 2.0 **ROLES**

This Agreement governs the terms of the relationship between MEC and the Participant in the Midwest HPwES program. The Midwest HPwES program is part of a broader regional program sponsored by the Missouri Department of Natural Resources Division of Energy, which is part of a national program administered by the EPA. MEC has signed an agreement with MDNR that defines MEC's role as the program implementer in Greater Kansas City and surrounding communities. The EPA has developed standards for the provision of home improvement services and the terms of this Agreement are meant to ensure those standards are followed. This Agreement also protects the rights and outlines the responsibilities of both MEC and the Participant.

MEC's work in this program is supported by a number of stakeholders and sponsors, including federal, state, and local interests. The obligations being made in this agreement by MEC are contingent upon continued support and funding by these and other partners.

## 3.0 **PARTICIPANT QUALIFICATION AND CERTIFICATION REQUIREMENTS**

The Participant must complete all of these steps, in the order shown, to be a qualified participant in the HPwES program:

- 3.1 Be selected and invited to participate by MEC;
- 3.2 Attend an orientation with MEC about the Midwest HPwES program and guidelines for participation. The requirements of the orientation can be found in the Orientation Checklist in the Midwest HPwES Participant Guide;
- 3.3 Sign the Midwest Home Performance with ENERGY STAR Participation Agreement to indicate an understanding of and commitment to the tenants described in the agreement;
- 3.4 Complete a background check and receive a passing grade for each staff member who will enter a residence during any part of an HPwES Project;

- 3.5 Attend and actively participate in qualifying classroom and field training, or prove that adequate training has been completed;
- 3.6 Successfully complete the classroom and field testing exam protocols that certifies a Participant according to this Agreement as a MEC Energy Auditor, a Building Analyst Professional by the Building Performance Institute with supplemental instruction, or a Certified Rater by the Residential Energy Services Network with supplemental instruction, and / or prove that adequate certification and any necessary supplemental instruction has been completed;
- 3.7 Complete a program-specific evaluation by MEC that consists of a written test, a mentored HPA in a controlled environment, and a demonstration of data analysis using a modeling software;
- 3.8 Receive mentoring by MEC on the first three HPwES Projects the Participant evaluates and on which recommended home improvement services are rendered, and receive a positive evaluation from MEC for the same. It is the responsibility of the Participant to coordinate with MEC on the schedule for home performance assessments and home improvement services to be mentored, as MEC staff must be present to witness a portion of each phase of the HPwES Project;
- 3.9 Receive mentoring and / or quality assurance visits by MEC on a minimum of ten percent (10%) of HPwES Projects performed by a Participant and receive a positive evaluation from the MEC for the same. Five percent (5%) of onsite inspections will occur after the recommended improvements have been made, but may occur during or after the post-improvement evaluation.

#### **4.0 PARTICIPANT COMMITMENTS**

Once the Participant has successfully completed the steps listed in Section 3.0, the Participant commits:

- 4.1 To use the HPwES name and related marks only as long as the Participant is participating in the Midwest HPwES program under this Agreement;
- 4.2 To abide by all of the terms and conditions regarding the use of the HPwES name and related marks as specified by the EPA through either printed documentation or verbal or written directions provided by EPA employees;
- 4.3 To abide by all of the terms and conditions regarding the use of Midwest HPwES local sponsor and partner names and related marks as specified by the Appendices of this Agreement, the Terms and Conditions for local programs, and the current version of the Midwest HPwES Participant Guide.
- 4.4 To conduct a professional HPA (also called a pre-improvement or baseline audit) and to create a HPA Summary Report according to the guidelines provided in the Midwest HPwES Participant Guide.
- 4.5 To conduct a professional Post- Installation Test and Inspection (also called a post-improvement or test out assessment) and record the findings in the Post-Installation Tests and Inspection Form according to the guidelines described in the Midwest HPwES Participant Guide, the Appendices to this Agreement, and the Terms and Conditions for local programs. The Participant that conducts the initial HPA or home performance assessment shall conduct the post assessment, after the improvements are completed.
- 4.6 To provide to MEC information about HPwES projects as required according to the current version of the Midwest HPwES Participant Guide and the guidelines for local programs. The following information requirement is general to the program:
  - 4.6.1 Customer name and contact information, including address, phone, and email, if available;
  - 4.6.2 Participant name, contact information, and staff person responsible for the project;
  - 4.6.3 Dates of the pre-improvement or baseline audit, the improvement project, and the post-improvement audit;
  - 4.6.4 Copy of the data collection and building analysis software file for baseline and recommended conditions;

- 4.6.5 Copy of the HPA Summary Report;
  - 4.6.6 Copy of the Post-Installation Tests and Inspections Form;
  - 4.6.7 Information on the measures completed under the scope of the project (copies of the detailed project proposals, copies of itemized invoices).
- 4.7 To respond to customer referrals within 48 hours, provide initial assessment within two weeks of customer request and conduct all work in a professional manner, including timely services and a clean job;
  - 4.8 To comply with all legally-required building permits and applicable building codes;
  - 4.9 To comply with guidelines regarding major and minor rule violations as outlined in this Agreement, its Appendices, the Terms and Conditions for local programs, and as described in the current version of the Midwest HPwES Participant Guide;
  - 4.10 To obtain and maintain General Liability Insurance with limits not less than \$1,000,000 per occurrence. The policy shall include, without limitation, coverage for blanket contractual liability, broad form property damage and personal injury, products / completed operations, independent contractors' protection, premises, operations, explosions, collapses, underground excavations and perils, and sudden accidental environmental pollution;
  - 4.11 To obtain and maintain Automobile Liability Insurance with a combined single limit of \$1,000,000. This policy shall cover owned, non-owned or hired vehicles with coverage for bodily injury, property damage and uninsured vehicles;
  - 4.12 To obtain and maintain Workers' Compensation and Employer's Liability Insurance including, without limitation, statutory and occupational disease coverage required under applicable law. Employer Liability limits shall be not less than \$1,000,000;
  - 4.13 To furnish certificates of insurance to MEC evidencing the policies specified above. Participant shall take all steps necessary to have MEC and all Midwest HPwES sponsors (if required) named as additional insurers on all such insurance coverage (other than statutory Workers' Compensation policies);
  - 4.14 To indemnify, defend and hold harmless the national and local partners and sponsors to this program, as identified in the Appendices to this Agreement, and their respective officers, directors, agents, servants and employees, successors, assigns, and affiliated entities ("Indemnities"), from all liability, including costs and expenses, for all actions or claims resulting from injuries or damages sustained by any person or property arising directly or indirectly as a result of any acts of the Participant, its subcontractors, or anyone directly or indirectly employed by the Participant in the performance of any work or services related to any HPwES Project; and
  - 4.15 To actively participate in the Midwest HPwES Network by attending, at a minimum, the annual program meeting and two semi-monthly network meetings, and renewing this Agreement annually.

## **5.0 MINOR AND MAJOR RULE VIOLATIONS**

- 5.1 A Minor Rule violation may result in a written warning, temporary suspension of program participation, and / or additional quality control by MEC that may be administered at a cost to the Participant. Minor Rule violations are described in the current version of the Midwest HPwES Participant Guide and the Appendices to this Agreement. The following Minor Rule violations are general to the program:
  - 5.1.1 Failure to complete a Home Performance Assessment and Summary documents according to protocol described in the Midwest HPwES Participant Guide;
  - 5.1.2 Failure to submit information about an HPwES Project in a timely manner -- information must be submitted in the same calendar quarter as the improvement installation and post-improvement assessment;
  - 5.1.3 Failure to address customer inquiries or the inquiries of the MEC or partners to this program in a timely manner -- a response shall be made within 48 hours of the inquiry;

5.1.4 Failure to conduct business in a professional manner that is free of offensive language or presentation.

5.2 A Major Rule violation may result in immediate termination from this program. Major Rule violations are described in the current version of the Midwest HPwES Participant Guide and the Appendices to this Agreement. The following Major Rule violations are general to the program:

5.2.1 Repeated failure to complete the Home Performance Assessment and Summary documents according to protocol described in the Midwest HPwES Participant Guide;

5.2.2 Repeated failure to submit information about an HPwES Project in a timely manner -- information must be submitted in the same calendar quarter as the improvement installation and post-improvement assessment;

5.2.3 Repeated failure to address customer inquiries or the inquiries of the MEC or partners to this program in a timely manner – a response shall be made within 48 hours of the inquiry;

5.2.4 Repeated failure to conduct business in a professional manner that is free of offensive language or presentation;

5.2.5 Failure to conduct business in an ethical manner that is free of fraud, misrepresentation of fact, and intimidation;

## 6.0 MEC'S COMMITMENTS

6.1 MEC will acknowledge, once the Participant has completed the steps listed in Section 3.0, that the Participant is permitted to align its business services with the EPA HPwES program and the Midwest HPwES program, and associated names and related marks, and local sponsor initiatives, according to policies outlined in the Midwest HPwES Participation Guide;

6.2 MEC will deliver quality control and quality assurance services in accordance with EPA HPwES program protocols and local initiative terms and conditions, as outlined in the Midwest HPwES Participation Guide. These services will be generally provided at no charge to the Participant as long as MEC is able to attract sufficient program funding. If funding is inadequate to deliver no-cost quality control and quality assurance, or if additional quality control is necessitated by a Participant violation as described in this Agreement, MEC will provide this service at a cost to the Participant.

6.3 MEC will continue efforts to grow the HPwES program in the Midwest;

6.4 MEC will protect the confidentiality of the Participant's business information. MEC will not divulge information about a specific Participant's pricing. MEC will not share customer contact information and will keep this information only for the purposes of conducting quality control, quality assurance, and program analysis.

6.5 MEC will report to EPA the HPwES Projects completed by the Participant on a quarterly basis.

## 7.0 INTELLECTUAL PROPERTY

All Intellectual Property owned by the EPA, the State of Missouri, MEC, their subcontractors, local sponsors, or partners in connection with the EPA HPwES program and the Midwest HPwES program shall remain the sole and exclusive property of its owner. In no event shall the Participant reproduce or use any such Intellectual Property without the permission of its owner. Upon the termination of this Agreement, Participant shall return all Intellectual Property to its owner.

## 8.0 MISCELLANEOUS

8.1 Neither this Agreement, nor any party's obligations hereunder, may be assigned or subcontracted unless agreed to by both parties in writing;

8.2 This Agreement will be governed by the laws of the State of Missouri, without regard to its conflict of law principles. Exclusive venue for all claims arising under this agreement shall be Missouri;

- 8.3** Under no circumstances shall any party to this Agreement be liable for any indirect, incidental or consequential damages;
- 8.4** The failure of any party to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver;
- 8.5** If any term or provision of this Agreement shall be held void, illegal, unenforceable or in conflict with any law of a federal, state, or local government having jurisdiction over this Agreement, the validity of the remaining portions or provisions of this Agreement shall not be affected;
- 8.6** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the parties;
- 8.7** This Agreement constitutes the sole agreement and understanding among the parties regarding the subject matter or any related matters. Accordingly, this Agreement supersedes any and all other agreements or understandings, written or oral, among the parties. This Agreement may be amended or modified only by an instrument in writing signed by a duly authorized officer of each party.
- 8.8** This Agreement is effective as of the Effective Date and shall remain in full force and effect for one (1) year or until the earlier of: (i) any party elects to terminate this Agreement for cause or for convenience, or (ii) the funding for the Midwest HPwES program is eliminated or exhausted. There shall be no liability for a party's decision to terminate this Agreement for convenience.

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Signature for Participant	Printed Name and Business Name	Date
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Signature for Metropolitan Energy Center	Printed Name and Title	Date
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## **Appendix 1: Kansas City Power & Light (KCP&L) HPwES Customer Incentive Program**

### **Participant Commitments**

Each Participant shall, with respect to KCP&L's HPwES Customer Incentive Program:

A1.1 Abide by all of the terms and conditions regarding the use of KCPL's HPwES Incentive Program name and related marks as specified by this Agreement, KCP&L's HPwES Program Terms and Conditions, and the current version of the Midwest HPwES Participant Guide. Any and all marketing material, whether in print or as a verbal explanation, that references KCP&L or the KCP&L HPwES Customer Incentive Program must be submitted to MEC for KCP&L's approval;

A1.2 Comply with all terms and conditions of the Midwest Home Performance with ENERGY STAR Participant Agreement;

A1.3 Maintain qualification and certification to participate in the Midwest HPwES program as outlined in the Midwest HPwES Participant Agreement and Guide. Each and every staff member that is participating in the completion of a HPA or Post-Installation Test must meet this requirement;

A1.4 Renew the Midwest HPwES Participant Agreement and its Appendices annually;

A1.5 Cross promote other KCP&L programs and incentives that will further improve the energy efficiency of a residence;

A1.6 Provide assessments only to residential dwellings that are currently occupied or have been previously inhabited;

A1.7 Perform home energy audits using diagnostic tests, data collection, and modeling software to produce an assessment report and a prioritized list of recommended improvements that reference cost and energy savings;

A1.8 Provide the HPA summary, the baseline and recommended improvement software files, and any additional audit reports to the MEC for pre-approval of those improvements that may qualify for a customer incentive through KCP&L. A Participant shall not recommend improvements to the potential customer prior to this review by MEC. The MEC will ensure the assessment report is complete and contains all the required information for a customer to make educated purchasing decisions. Only those improvements that are pre-approved by MEC may be qualified for the incentive;

A1.9 Propose and perform the pre-improvement HPA and post-installation tests and inspections as a single product package – the post-installation tests and inspection shall be at no additional costs to the customer;

A1.10 Ensure that the Participant who completes the audit must be the same Participant who creates the HPA summary report. The assessment will be checked for correctness. The recommended improvement package must state the savings to investment ratio, the simple payback, the Kilo-watt hour (KWh) electricity reduction estimate, and the hundred cubic feet (CCF) natural gas reduction estimate;

A1.11 Retain responsibility for completing the software-based analysis – A Participant shall not subcontract this responsibility to other parties;

A1.12 Provide the customer with the Home Performance Summary and a list of recommendations with improvements that are pre-approved by MEC to qualify for the KCP&L HPwES Customer Incentive within two (2) weeks of the home performance assessment;

A1.13 Provide all information for customer incentive applications to the MEC according to the Application Checklist that is available from the MEC; also,

A1.14 The Participant is subject to minor rule and major rule violations as described in the Agreement, along with the following: It is a minor rule violation to fail to submit paperwork that is complete in a timely manner,



## **Appendix 2: Missouri Gas Energy (MGE) HPwES Customer Incentive Program**

### **Participant Commitments**

Each Participant shall, with respect to MGE's HPwES Customer Incentive Program:

A1.1 Abide by all of the terms and conditions regarding the use of MGE's HPwES Incentive Program name and related marks as specified by this Agreement, MGE's HPwES Program Terms and Conditions, and the current version of the Midwest HPwES Participant Guide. Any and all marketing material, whether in print or as a verbal explanation, that references MGE or the MGE HPwES Customer Incentive Program must be submitted to MEC for MGE's approval;

A1.2 Comply with all terms and conditions of the Midwest Home Performance with ENERGY STAR Participant Agreement;

A1.3 Maintain qualification and certification to participate in the Midwest HPwES program as outlined in the Midwest HPwES Participant Agreement and Guide. Each and every staff member that is participating in the completion of a HPA or Post-Installation Test must meet this requirement;

A1.4 Renew the Midwest HPwES Participant Agreement and its Appendices annually;

A1.5 Cross promote other MGE programs and incentives that will further improve the energy efficiency of a residence;

A1.6 Provide assessments only to residential dwellings that are currently occupied or have been previously inhabited;

A1.7 Perform home energy audits using diagnostic tests, data collection, and modeling software to produce an assessment report and a prioritized list of recommended improvements that reference cost and energy savings;

A1.8 Provide the HPA summary, the baseline and recommended improvement software files, and any additional audit reports to the MEC for pre-approval of those improvements that may qualify for a customer incentive through MGE. A Participant shall not recommend improvements to the potential customer prior to this review by MEC. The MEC will ensure the assessment report is complete and contains all the required information for a customer to make educated purchasing decisions. Only those improvements that are pre-approved by MEC may be qualified for the incentive;

A1.9 Propose and perform the pre-improvement HPA and post-installation tests and inspections as a single product package – the post-installation tests and inspection shall be at no additional costs to the customer;

A1.10 Ensure that the Participant who completes the audit must be the same Participant who creates the HPA summary report. The assessment will be checked for correctness. The recommended improvement package must state the savings to investment ratio, the simple payback, the Kilo-watt hour (KWh) electricity reduction estimate, and the hundred cubic feet (CCF) natural gas reduction estimate;

A1.11 Retain responsibility for completing the software-based analysis – A Participant shall not subcontract this responsibility to other parties;

A1.12 Provide the customer with the Home Performance Summary and a list of recommendations with improvements that are pre-approved by MEC to qualify for the MGE HPwES Customer Incentive within two (2) weeks of the home performance assessment;

A1.13 Provide all information for customer incentive applications to the MEC according to the Application Checklist that is available from the MEC; also,

A1.14 The Participant is subject to minor rule and major rule violations as described in the Agreement, along with the following: It is a minor rule violation to fail to submit paperwork that is complete in a timely manner,



## Appendix 3: Auditor Rebate Application Guidelines

### Step 1:

Immediately following the audit, auditor will upload the following four files separately at [www.kcenergy.org](http://www.kcenergy.org) using the “HPWES Contractor Login” link toward the bottom of the homepage (if you do not have a User ID and Password, please contact MEC):

- Baseline “.blg” REM file
- Proposed “.blg” REM file
- Home Performance Assessment (HPA) in PDF format
- Improvement Analysis Report (from REM) in PDF format

Upon submittal, auditors will receive feedback acknowledging receipt or error messages with instructions.

### Step 2:

Auditor will provide the homeowner, at a minimum, a copy of the HPA with recommendations within 6 weeks of the audit. It is the auditor’s discretion to provide homeowners with a customized professional report as long as the details and recommendations meet or exceed those included in the HPA.

### Step 3:

Homeowner requests bid(s) from a contractor(s) of their choosing, or they may choose to install their own measures, and the work is completed.

### Step 4:

Upon completion of the measures, the Homeowner will contact the original auditor to schedule a Post Test.

### Step 5-A:

Auditor will confirm that the measures installed qualify for the HPwES rebate according to the current performance guidelines. Findings must be clearly identified on the Post Test Data Collection form, such as, but not limited to:

- Physically measure loose-blown insulation in the attic
- Visually inspect air sealing measures, such as ductwork, attic bypasses, wall penetrations, plumbing chases, etc.
- Verify that windows/doors installed meet Energy Star performance specs

### Step 5-B:

Following completion of the Post Test, auditor will review the rebate submittal process with the Homeowner to ensure accurate and timely processing.

#### OPTION 1 – Submitted by Auditor

Email the required documents indicated below to [HPWES@kcenergy.org](mailto:HPWES@kcenergy.org) in one PDF file in the order listed with the email subject line containing the customer name, i.e..“Tom Jones - Street Address - Complete Application”.

#### OPTION 2 – Submitted by Homeowner

Email the required documents indicated below to [HPWES@kcenergy.org](mailto:HPWES@kcenergy.org) or mail copies to Metropolitan Energy Center, HPwES Rebates, 3810 Paseo Blvd, Kansas City, MO 64109. Homeowners are encouraged to keep copies of all documents submitted for their personal records.

## Required Rebate Request Documents:

### 1. Application

- a. Signature of utility account holder(s), including complete address and contact information
- b. Utility account #s – if a utility is not applicable, write NA in the first two squares of the appropriate utility account number.
- c. Auditor information completed
- d. Payment Release (where applicable) is completed and signed by the utility account holder.

Common complications:

