

PREFERRED CONTRACTOR AGREEMENT

This Agreement (the “Agreement”) dated this ____ of ____ 20__

BETWEEN

Pacific Northern Gas Inc. (“PNG”) located at 750 – 888 Dunsmuir Street, Vancouver, British Columbia, V6C 3K4

AND

_____ (“the contractor”) located at _____

BY SIGNING BELOW, the parties acknowledge that they have reviewed, and understand and agree to be bound by, the terms and conditions of the Preferred Contractor Agreement, including any appendices, as set out herein.

Pacific Northern Gas Inc.

By:

Authorized
Signatory:

Title:

Address:

Telephone:

Email:

Contractor:

By:

Authorized
Signatory:

Title:

Address:

Telephone:

Email:

0. Overview. PNG as a gas utility has developed the PNG Preferred Contractor List (the “PC list”) for the Smart Energy Solutions Program (the “Program”) to connect customers with reliable and knowledgeable contractors and quality energy efficiency products. To be accepted as a Preferred Contractor (PC) under the Program and to maintain status as such, the contractor agrees to comply with these terms and conditions.

1. Eligibility (Initial and Ongoing)

1.1 Criteria. To become and remain on the PC list, the contractor must, at all times, meet the conditions and criteria set out in section 4 (“Eligibility Criteria”) and provide PNG acceptable proof thereof:

- (i) upon submitting the application for enrollment;
- (ii) annually on or before December 31st of each year in accordance with section 7; and
- (iii) otherwise upon request from PNG,

all to the satisfaction of PNG. The contractor must promptly notify PNG of any changes to any proof of eligibility submitted by the contractor.

1.2. Verification. PNG may review at any time the operations and the performance of contractor services for customers, including conducting site visits and/or reference checks of work performed and obtaining and

reviewing customer invoices, to confirm performance standards and Program eligibility, and to otherwise ensure compliance with the Program terms and conditions.

2. Acceptance

2.1. PNG Discretion. PNG reserves the right to determine in its discretion whether to accept anyone as an PC and may refuse applications which are incomplete, inaccurate or do not meet Program requirements. PNG is not responsible for lost, delayed, misdirected, damaged, illegible or incomplete applications.

2.2. Proof of Acceptance. The contractor does not become an PC until PNG provides the contractor written notice of acceptance, and subject to any requirements, limitations or restrictions contained in that notice.

3. Term and Termination

3.1. Term. Upon acceptance as an PC and subject to section 9, PC status in the Program will continue in effect until terminated (the “Term”).

3.2. Early Termination. Either party may terminate this Agreement at any time without any damages or penalty payable to the other party for such termination upon fifteen (15) business days’ prior written notice to the other party.

4. Eligibility Criteria – proof of each requirement to be provided:

- (i) Service area (gas) - provide natural gas products and services within the PNG service territory as more specifically identified on the PNG service territory map(s) available on PNG’s website;
- (ii) Years in business - at least two (2) years since date of application;
- (iii) Business license - valid business license for each jurisdiction in which the contractor carries on business;
- (iv) TSBC license - licensed and in good standing with Technical Safety BC;
- (v) WorkSafeBC - Preferred and in good standing with WorkSafeBC, or third-party disability coverage;
- (vi) Licenses and registrations - have all applicable licenses, registrations, permits and other authorizations as required by law or any governmental authority, including under the Safety Standards Act of BC for the operation of the contractor business;
- (vii) Insurance - public liability insurance of at least five million dollars (\$5,000,000) per occurrence;
- (viii) References - satisfactory financial and other references acceptable to PNG; and
- (ix) Gas fitter – If the contractor provides gas services, maintain at least one “B” gasfitter on staff or on contract.

5. PC Benefits

5.1. Eligibility. Upon acceptance as an PC, the contractor will be eligible for the benefits as set out in section 6, unless otherwise described in the notice of acceptance, and any additional benefits offered to the contractor by PNG pursuant to section 5.2 (collectively, the “PC Benefits”).

5.2. Additional Benefits. PNG may, from time to time, offer or extend additional benefits, including offers, promotions, pilot programs and rebate program participation, to an PC based on existing Eligibility Criteria and/or subject to additional eligibility criteria. To participate in such additional benefits, the contractor must be accepted by PNG for participation and may be required to consent to supplemental terms and conditions. PNG makes no guarantee that all PCs meeting the eligibility requirements for additional benefits will be entitled to receive such benefits. Entitlement to such additional benefits is at PNG’s discretion. Acceptance as a PC, and/or receipt of additional benefits, does not guarantee the contractor participation in any future benefits, offers or promotions.

5.3. No Additional Compensation. Except for PC Benefits, the contractor is not entitled to any additional payment, compensation or consideration from PNG, any customer or any other person, for participation in the Program. The contractor will not solicit or demand any payment and will not use participation in the Program, to market, distribute or sell any products or services except as specifically permitted by PNG in writing.

5.4. Conditions. Entitlement to PC Benefits is subject to:

- (i) the contractor being a PC in good standing of the Program and not in default of these terms and conditions; and
- (ii) these terms and conditions, any additional terms and conditions associated with specific benefits, and any Program or benefits guidelines, all of which as may be established, amended, supplemented and/or replaced by PNG from time to time.

6. PC Benefits

- (i) Registrant identification:
 - (a) designation as an PC;
 - (b) right to identify the contractor as an PC and to use such designation in advertising related to eligible services, subject to section 10 (Promotion, Advertising and Use of Marks);
- (ii) Customer benefits - the opportunity for the contractor's customers to participate in PNG's Energy Conservation and Innovation programs, as available, subject to the terms and conditions of such programs;
- (iii) Program assistance - such as product information, sales and management training seminars, at minimal or no cost to contractor;
- (iv) Directory listing - inclusion of any one or more of the contractor's business name, logo and contact information in PNG's publicly available directory/listing of PCs;
- (v) Program Materials - access to, and notice of, PNG program materials promoting natural gas products and energy conservation measures;
- (vi) Promotion references - reference in specific Program promotional materials, including internal and external communications, issued by PNG from time to time. PNG will use reasonable efforts to provide advance notice of the timing and particulars of such promotions; and
- (vii) Incentive and Other Programs - opportunity to participate as set out in section 5.2 in certain incentive and other programs as determined and offered by PNG from time to time.

7. Annual Requalification and Reporting. By December 31st of each year, in addition to submitting proof that the contractor continues to meet the Eligibility Criteria, the contractor must submit to PNG:

- (i) details of any complaints and enforcement actions related to the contractor or the contractor business by any governmental authority, including Technical Safety BC.

8. Conduct of Business

8.1. Performance Standards. As an PC, the contractor must:

- (i) take out permits for all projects for which permits are required or encourage customers to do so;
- (ii) perform all sales, installations and other services in a high quality, safe and approved manner, to the satisfaction of the customer, and in accordance with all applicable laws and industry best practices;
- (iii) conduct business in a professional and ethical manner;
- (iv) be committed to customer confidence and satisfaction as a fundamental and ongoing business principle, and promptly resolve customer complaints and maintain customer satisfaction levels satisfactory to PNG;
- (v) ensure employees and contractors are qualified to perform the work and abide by these terms and conditions. The contractor is responsible for any non-compliance by their employees or contractors;
- (vi) not advertise in direct competition with PNG, or in a manner that is harmful to PNG or its natural gas service;
- (vii) safeguard the property, rights and interests of PNG and assist PNG at its request and at its expense to take steps to defend such rights;
- (viii) safeguard the personal information of prospective customers and customers in accordance with all applicable laws; and
- (ix) meet all required regulations when dealing with hazardous materials and ensure the safety of all workers and home occupants.

8.2. Performance Obligations. As an PC, the contractor must:

- (i) be an active contractor or seller/vendor as listed on customer directories and not act primarily as a sub-contractor;
- (ii) ensure all employees and vehicles are presentable and properly identified;
- (iii) provide quotes upon customers' requests in a timely manner;
- (iv) ensure after-sales service is prompt and acceptable;
- (v) tag all equipment installed by the contractor with the contractor identification and contact number for the benefit of reference by the customer;
- (vi) promptly resolve customer complaints and immediately notify PNG of any customer complaint with respect to products installed or energy conservation measures provided;
- (vii) immediately notify PNG of any complaint, investigation, enforcement action, or fine under any applicable laws or by any governmental authority related to services, products or any energy conservation measures;
- (viii) resolve customer complaints received by PNG within ten (10) working days of receiving notice of the complaint from PNG;
- (ix) not charge customers more than competitive market rates; and
- (x) provide customers a suitable service contract and/or warranty program of one (1) year from the date of sale or installation, or as per the manufacturer's specifications, whichever is greater;

8.3 Program Activities. As an PC, the contractor must:

- (i) be willing and able to perform the sale of, or services related to, energy efficient or energy conservation measures established, implemented, endorsed, offered or promoted by PNG, as may be amended by PNG from time to time and as designated by PNG on its website and in communications provided by PNG to PCs;
- (ii) act as an ambassador for energy conservation and sustainable best practices and make available to customers relevant information respecting energy conservation measures;
- (iii) use and display materials supplied by PNG to promote the Program and the sale of energy efficient products and services, in accordance with any guidelines established by PNG and provided to PCs from time to time;
- (iv) participate in product marketing promotions appropriate to the contractor business as and when requested by PNG;
- (v) provide, or otherwise make available, to customers, all information available from PNG about its rebates or other offers;
- (vi) promptly and accurately complete and/or process information and materials required for customers to receive PNG funding and rebates and otherwise facilitate the rebate application process for customers;
- (vii) ensure that employees participate in PNG's facilitated Program courses and any orientations sessions;
- (viii) provide customers the invoice credit for, or the benefit of, any point of sale or other rebates received for products installed or acquired for customers in accordance with the Program and identify the credit/rebate as a PNG credit/rebate; and
- (ix) enable PNG to review business operations and the performance of services for PNG's customers in accordance with section 1.2.

9. Default, Suspension and Removal

9.1. Effect of Default. PNG may immediately suspend or terminate contractor participation in the Program for failing to meet the Eligibility Criteria and for any default and other non-compliance with these terms and conditions, as determined by PNG in its discretion.

9.2. Conditions for Reinstatement. If the contractor is suspended or PNG terminates the contractor's participation in the Program, PNG may impose corrective action, a probationary period or other conditions or restrictions prior to permitting reinstatement as a PC, and all such conditions or restrictions are incorporated into and form part of these terms and conditions.

10. Promotion, Advertising and Use of Marks

10.1. Use of PNG Marks. On all materials using PNG's and/or the Program's name and logo(s) (together, the "Marks"), the contractor will:

- (i) properly identify the Marks as the property of PNG, using a tagline approved by PNG;
- (ii) only use the Marks with the pre-approval of, and in accordance with any guidelines established, or instructions provided by, PNG;
- (iii) not adopt or use any trademark or name that is confusingly similar to the Marks;
- (iv) not authorize anyone else to use the Marks;
- (v) not, in any proceedings brought against it by PNG to enforce the provisions of these terms and conditions, contest or question the validity of the Marks; and
- (vi) not commence legal action affecting the Marks in its own name or on PNG's behalf unless PNG first consents in writing.

10.2. Advertising. Any advertising the contractor does identifying or promoting participation in the Program must comply with the guidelines established, or instructions provided by, PNG.

10.3. Use of the contractor Name and Marks. The contractor hereby consents to PNG using and displaying the contractor name, logo and/or address as necessary to provide the contractor the PC Benefits.

11. Limitation of liability and indemnity

11.1. No Liability. PNG assumes no liability or responsibility for work performed by the contractor for customers or for any goods sold or services performed by the contractor.

11.2. Customer Rebate. Provision of a rebate to the customers under the Program does not constitute PNG assuming any ownership interest, either in whole or in part, of the product(s) that are the subject of the rebate.

11.3. Indemnity. The contractor hereby indemnifies and save harmless PNG and its directors, officers and employees for all costs, expenses, causes of actions, claims, suits and judgments incurred by PNG as a result of, caused by, incidental to, or arising from the operation of the contractor business, any work performed by the contractor, the contractor's employees, agents and sub-contractors, any non-compliance by the contractor with any term or condition of this Agreement, or the contractor's participation as a PC in the Program.

11.4 Survival. This section 11 survives termination of this Agreement.

12. Additional terms and conditions

12.1. Modifications and Termination. PNG reserves the right to amend or modify these terms and conditions, the Program, the Eligibility Criteria or the PC Benefits, or to terminate the Program at any time and for any reason, without cause, reason or notice.

12.2. Governing Law. The Program and these terms and conditions will be governed by and construed in accordance with the laws of the Province of British Columbia.

12.3. Enurement. These terms and conditions will be binding upon and will enure to the benefit of and be enforceable by PNG, the contractor, and their respective successors.

12.4. No Agency. As a PC, the contractor is an independent contractor and not the legal representative, or agent, partner or joint venturer of PNG for any purpose, and the contractor has no right to, and will not, incur any liability on behalf of PNG or bind or otherwise commit PNG to any matter whatsoever.

12.5. Exercise of Discretion. Where PNG exercises any right, discretion or decision-making, such exercise shall be in PNG's sole, absolute and unfettered discretion.

12.6. No Assignment. The PC shall not assign its rights and obligations without the prior written consent of PNG.

12.7. No Waiver. No delay or failure by PNG in exercising any right shall constitute a waiver of such right and no consent to, or waiver of, a breach of any term or condition shall constitute a consent to any prior or subsequent breach. PNG is not bound by any waiver of a provision unless such waiver is consented to in writing by PNG.

12.8 Record Keeping. During, and for a period of two (2) years after the expiry of, the Term, the contractor will prepare and retain all books of account relating to the performance of the Work and will provide them to PNG upon request.

12.9 Disagreement and Dispute. In the event of any disagreement or dispute between the parties relating to the interpretation of this Agreement or concerning any matter arising under this Agreement, each of the parties will designate one of its senior management as its representative, and such senior managers will meet within seven (7) calendar days of the disagreement or dispute arising and make a bona fide attempt to settle the matter of disagreement or dispute. If the senior management representatives so delegated are unable to resolve the matter within thirty (30) calendar days of the original meeting, either party shall refer the matter to a single arbitrator, if the parties agree upon one, otherwise to three arbitrators, the first appointed by PNG, the second appointed by the Contractor, and the third chosen by the first two named before they begin the arbitration process. The award and determination of the arbitrator or arbitrators or any two of the three arbitrators will be binding upon the parties, their successors and assigns. The provisions of the British Columbia Arbitration Act, as amended or replaced from time to time, will apply to the arbitration process and the costs of the arbitration will be split evenly between the parties.

12.10 Previous Communications. This Agreement sets forth the entire agreement between the parties and supersedes all previous communications with respect to the subject matter of this Agreement.

12.11 Agreement Execution. This Agreement may be signed in counterparts, and signed electronically, and exchanged electronically in PDF or a similarly secure format, which when taken together will constitute one agreement.

12.12 Appendices. Any appendices attached to this Agreement from time to time will be incorporated herein and shall be considered a part of this Agreement for the purposes stated herein and therein, except that in the event of any conflict between any of the provisions of such appendices and the provisions of this Agreement, the provisions of this Agreement shall prevail.