

## **Atlantic City Electric Energy Management Program Customer Participation Agreement FY22 (July 1, 2021 – June 30, 2022)**

The below terms and conditions govern participation in the Energy Management Program (the “Program”) by the undersigned Atlantic City Electric Company (“ACE”) customer (“Customer”).

1. **PROGRAM OFFER:** ACE is offering the Program to all existing commercial customers located within ACE’s service territory meeting the eligibility requirements set forth in this Section and in Section 2 below. The Program is intended to assist customers by assessing, identifying, and implementing low- and no-cost improvements to existing equipment to use energy more productively. Examples of eligible improvements include making changes to HVAC, building automation, controls, industrial processes and electrical systems. The Program offers four pathways for participation, each with specific requirements, process and target customer profile: (a) HVAC Tune-Up, (b) Full Building Tune-Up, (c) Monitoring-Based Commissioning, and (d) Strategic Energy Management. The Program will provide cash incentives (the “Program Incentives”) for both electric and gas energy efficiency improvements and measures (“EEMs”) that are completed in accordance with Program guidelines.
  
2. **ELIGIBILITY:** To be eligible for Program Incentives:
  - (a) Customer, or their selected Trade Ally, must submit the application package to be received by TRC Companies Inc., which is the Third-Party Implementation Contractor for the Program (“TRC”) on or before *June 30, 2022*. All submissions will be reviewed based on the current Program requirements and incentive levels approved by ACE.
  - (b) Customer must be an existing non-residential retail electric service ACE electric utility account customer. For Full Building Tune-Up, Monitoring-Based Commissioning, and Strategic Energy Management, Customer account must have an average electric demand exceeding 200 kW in the preceding 12 months. Customer must pay an EE Surcharge under an ACE electric utility account.
  - (c) For Full Building Tune-Up and Monitoring-Based Commissioning pathways, Customer must work with a qualified and approved Trade Ally (as defined below). For more information on approved Trade Allies or inquiries on how to become a Trade Ally, email the Program representatives at [ACE.energysavings@TRCcompanies.com](mailto:ACE.energysavings@TRCcompanies.com).
  - (d) For all pathways except HVAC Tune-Up, before commencing audit, analysis, installation or construction of equipment that will be the subject of an application under the Program, Customer or its authorized Trade Ally must receive a formal approval letter from TRC.
  - (e) Project invoices must be submitted to TRC and must list the *labor and material costs separately*. This final invoice must include a description of work performed as well as equipment installed, including quantity and unit price.
  - (f) EEMs must be installed in buildings located within ACE’s utility service territory. Incomplete application submissions, applications requiring inspections, and unanticipated periods of high volume may cause processing delays.
  - (g) While participating in this Program, Projects (as defined below) may not participate or apply for Program Incentives for EEMs for the same equipment through other NJ Investor-Owned Utilities.
  
3. **PROGRAM INCENTIVE AMOUNTS:** Program Incentives are offered on a first-come, first-served basis and are subject to Project and Customer eligibility and availability of funds. ACE reserves the right to limit the

amount of incentives on a per-Project basis. Any such caps on individual Projects will be disclosed to Program applicants. For details on Program Incentive amounts and caps please visit the program website: <https://commercialeee.atlanticcityelectric.com/home/energymanagement>

4. **REQUIREMENTS FOR PROGRAM INCENTIVE PAYMENTS:** The Program offers three types of incentive payments, Trade Ally Incentive, Implementation Incentive, and Performance Incentive (each as defined below), as applicable to the Program Process of each pathway outlined in Section 6 (below).
  - (a) "Trade Ally Incentives" are applicable to Full Building Tune-Up (RCx) and Monitoring-Based Commissioning and are paid directly to the Trade Ally in predetermined installments for approved services provided to Customer.
  - (b) "Implementation Incentives" are paid upon installation of EEMs and/or completion of other kick-off activities as defined in Program materials.
  - (c) "Performance Incentives" are applicable to Full Building Tune-Up (RCx), Monitoring-Based Commissioning, and Strategic Energy Management and are paid after the Trade Ally completes applicable monitoring and/or measurement and verification for a required timeframe. Incentive may be based on measured savings that meet or exceed any pre-established targets.
  - (d) ACE or TRC will perform verification and acceptance of documentation supporting incentive payments above, all in accordance with the specifications outlined in the Program materials and the online Program Incentive portal.
  - (e) ACE reserves the right to perform, or have TRC perform, a post-installation inspection of equipment for which a Program Incentive has been applied for, as part of its verification process.
  - (f) ACE reserves the right to apply Program Incentives to any of Customer's unpaid or overdue ACE accounts.
  
5. **PROGRAM FINANCING:** Third-party financing may be available for Projects for Customers who qualify.
  
6. **PROGRAM PROCESS:** To qualify for and receive Program Incentives, all Program processes and participation requirements must be met. See the Program documents and/or applications for additional requirements.
  - (a) HVAC Tune Up: The Contractor or Trade Ally will assess Customer's unitary HVAC equipment, perform the tune-up and submit the application to TRC on Customer's behalf for Implementation Incentive processing. There is no Trade Ally or Performance Incentive offered in this pathway.  
MEASURE INSTALLATION UNDERTAKEN PRIOR TO PROGRAM APPROVAL IS DONE AT THE PARTICIPANT'S OWN RISK.
  - (b) Full Building Tune-Up (RCx): Customer must choose a Trade Ally from the approved RCx provider list. The Trade Ally will scope the facility, enroll Customer into the Program and, upon approval, will proceed to Energy Assessment. The Energy Assessment will include an energy audit with a resulting recommended Scope of Work, estimated costs, and estimated energy savings. TRC will review Scope of Work and issue notice to proceed. CUSTOMER MUST AGREE TO MOVE FORWARD WITH ALL MEASURES IDENTIFIED IN THE ASSESSMENT THAT HAVE AN 18 MONTHS OR LESS SIMPLE PAYBACK PERIOD. The Trade Ally will implement all recommended measures and submit completion documents to TRC for processing of the Implementation Incentive. The Trade Ally will then conduct measurement & verification and submit required data to TRC for processing of the Performance Incentive.

THE PERFORMANCE INCENTIVE IS NOT GUARANTEED AND IS CONTINGENT UPON THE PROJECT MEETING ANY PRE-ESTABLISHED SAVINGS TARGETS. Trade Ally incentive will also be paid.

- (c) Monitoring-Based Commissioning (MBCx): Customer must choose a Trade Ally from the approved MBCx provider list. The Trade Ally will scope the facility, enroll Customer into the Program and, upon approval, will proceed to onboarding. Customer must execute minimum three-year contract for monitoring services with the Trade Ally and undergo training. The Trade Ally will install software, establish baseline energy use, begin monitoring, and submit onboarding documents to TRC for processing of the Implementation Incentive. The Trade Ally will conduct an 18-month monitoring period. During the monitoring period, all operational issues must be logged, and those with 18 months or less simple payback period must be remediated. CUSTOMER MUST AGREE TO MOVE FORWARD WITH ALL MEASURES IDENTIFIED IN THE ASSESSMENT THAT HAVE AN 18 MONTHS OR LESS SIMPLE PAYBACK PERIOD. The Trade Ally must submit, at a minimum, quarterly reports to TRC detailing costs and savings associated with implemented measures. At the conclusion of the monitoring period, the Trade Ally will submit completion documents to TRC for processing of the Performance Incentive. THE PERFORMANCE INCENTIVE IS NOT GUARANTEED AND IS CONTINGENT UPON THE PROJECT MEETING ANY PRE-ESTABLISHED SAVINGS TARGETS. Trade Ally incentive will also be paid.
- (d) Strategic Energy Management: Customer will enroll in the Program and work with a TRC-provided Coach for the duration of participation. Customer must agree to dedicate staff time on a monthly basis to Program participation and to participation in meetings with a cohort of other Program customers. Cohort meetings will be held, at a minimum, on a quarterly basis, led by the Coach and consist of training modules as well as an opportunity for informal discussion about energy management challenges, strategies, and best practices with other participants. The Coach will conduct kick-off activities, perform an assessment of Customer's building, and develop a Scope of Work. Customer will develop an Action Plan based upon the Scope of Work to obtain internal management buy-in for implementation during a 12-month monitoring period. The Coach will report progress towards goal, achievements, setbacks and lessons learned for processing of the Performance Incentive at the conclusion of the monitoring period. THE PERFORMANCE INCENTIVE IS NOT GUARANTEED AND IS CONTINGENT UPON THE PROJECT MEETING ANY PRE-ESTABLISHED SAVINGS TARGETS.

7. **INSPECTIONS:** Pre/post-inspection: (a) The Program reserves the right to perform pre/post-inspections as ACE or TRC deems necessary for any Project. (b) The Program must have reasonable access to Customer's facility to perform pre/post-inspections under the Program. (c) ACE or TRC, or their respective subcontractor, as applicable, has the right to refuse or end the delivery of any such pre- or post-inspection when confronted by a person present on the premises acting inappropriately or when facing a situation deemed potentially unsafe or harmful to health or well-being. Such event may cause a delay in the receipt of Project approval for Program Incentives until such time as the condition is removed and a new inspection appointment can be scheduled. "Behaving inappropriately" includes but is not limited to the following: unreasonable demands for service, personally threatening or offensive language, threatening or erratic behavior and personal contact. (d) In connection with such inspections, prior to the arrival of the ACE or TRC inspector on Customer's premises, Customer agrees to

disclose and provide accurate information to ACE and TRC when Customer personnel on the premises develops symptoms and/or is tested positive for COVID-19; provided, however, that Customer need not disclose the identity of such personnel, but will disclose what date the symptoms first developed and, if applicable, the date the positive test was taken.

8. **DEFICIENT APPLICATIONS:** If an application package is incomplete, information is missing or deemed insufficient by ACE or TRC, a deficiency notice will be sent to Customer requesting additional information via email or through the online portal system. The information or documentation so requested must be received by TRC as soon as possible to continue through the process. If Customer fails to respond to a deficiency request within 30 days, the application may be cancelled. If an application is cancelled, Customer may re-apply under the Program Incentives and requirements in place at the time of re-submittal.
9. **EXPIRATIONS:** (a) Pre-approved Projects will be given a defined commitment timeframe in which the required deliverable must be completed and/or proposed improvements are to be installed and operational. When a Project has expired, Customer will have the option to either submit a request for an extension OR submit final Project paperwork. If no response is received within 30 days of expiration, the Project may be cancelled. (b) Extension requests must be in writing from Customer, include the circumstances that led to the extension request, and include the percentage of the Project completed at that time. Extensions are not guaranteed and must be reviewed and approved by TRC. (c) Upon expiration, if the Project has not started and Customer is still interested in installing the EEMs, a new application package must be submitted, which will be reviewed under the Program Incentives and requirements in place at the time of re-submittal.
10. **TAX LIABILITY:** Neither ACE nor TRC will be responsible for any tax liability that may be imposed on Customer or the Trade Ally resulting from the payment of Program Incentives. Where applicable or if requested by TRC, Customer must supply its federal tax identification number to TRC on the application form to receive a Program Incentive.
11. **ENDORSEMENT:** Neither ACE nor TRC endorses, supports, or recommends any particular manufacturer, product, or system design in promoting the Program.
12. **NO WARRANTIES:** (a) NEITHER ACE NOR TRC, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS OR AGENTS ENDORSE, GUARANTEE, OR WARRANT ANY PARTICULAR MANUFACTURER, PRODUCT, CONTRACTOR, TRADE ALLY OR VENDOR, NOR DO ANY OF THE FOREGOING PROVIDE ANY WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PRODUCT OR SERVICE. NEITHER ACE NOR TRC, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS AND AGENTS ARE LIABLE OR RESPONSIBLE FOR ANY ACT OR OMISSION OF ANY CONTRACTOR HIRED BY THE CUSTOMER WHETHER OR NOT SAID CONTRACTOR IS A PARTICIPATING ACE TRADE ALLY. THE CUSTOMER'S RELIANCE ON WARRANTIES IS LIMITED TO ANY WARRANTIES THAT MAY BE PROVIDED BY ITS CONTRACTOR, VENDOR, MANUFACTURER, ETC. (b) NEITHER ACE NOR TRC, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS OR AGENTS ARE RESPONSIBLE FOR ASSURING THAT THE DESIGN, ENGINEERING AND CONSTRUCTION OF THE FACILITY OR INSTALLATION OF THE EEMS IS PROPER OR COMPLIES WITH ANY PARTICULAR LAWS, REGULATIONS, CODES, OR INDUSTRY STANDARDS. NEITHER ACE NOR TRC, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES, CONTRACTORS, OR

AGENTS MAKE, AND ARE NOT AUTHORIZED TO MAKE, ANY REPRESENTATIONS OF ANY KIND REGARDING THE RESULTS TO BE ACHIEVED BY THE EEMS OR THE ADEQUACY OR SAFETY OF SUCH MEASURES.

13. **LIMITATION OF LIABILITY AND INDEMNIFICATION:** (a) Neither ACE nor TRC, nor their respective officers, directors, employees, affiliates, contractors and agents shall be liable to Customer for any direct, special, indirect, consequential or incidental damages or for any damages in tort (including negligence) caused by any activities associated with the Program and Customer's participation therein. By participating in the Program, Customer agrees to waive any and all claims, whether arising in contract or tort and to fully release ACE, TRC and their respective officers, directors, employees, affiliates, contractors and agents from any and all damages, of any kind. (b) Customer shall protect, indemnify, and hold harmless ACE, TRC and their respective officers, directors, employees, affiliates, contractors and agents from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorney's fees and expenses) incurred by or assessed against ACE, TRC or their respective officers, directors, employees, affiliates, contractors or agents arising out of or relating to the Program, whether arising in contract or tort.
14. **CHANGES TO / CANCELLATION OF THE PROGRAM:** (a) ACE may change the Program requirements, or Program Incentives at any time without notice, including suspending acceptance of applications or terminating the Program. (b) In the event of such a Program change, pre-approved applications will be processed to completion under the terms and conditions and other Program requirements in effect at the time of pre-approval of such application by ACE or TRC. (c) Submission of a completed application does not entitle Customer to Program participation.
15. **CUSTOMER CERTIFICATION:** Customer certifies that it purchased and installed, or will purchase and install, the equipment listed in its application at the location within ACE's service territory specified in the application. Customer certifies that all information submitted in its Program application is true and correct and that it conformed to all Program and equipment requirements listed in the Program materials. Applications submitted by anyone other than Customer, or Customer's selected Trade Ally on Customer's behalf, must be submitted with the express written consent of Customer. Program Incentive payments for any applications submitted by such other person or entity without the express written consent of Customer are not guaranteed.
16. **ACKNOWLEDGEMENT:** Customer: (a) acknowledges and certifies that it has read, understood and is in compliance with all rules and regulations concerning the Program, gives TRC permission to share its records with ACE and any contractors ACE or TRC selects to manage, coordinate or evaluate the Program, including the release of electric utility billing information, and (b) agrees to allow ACE to retain ownership of all Capacity Rights, which refers to the demand reduction associated with any energy efficiency or peak demand reduction measures for which Program Incentives were provided by ACE.

Definitions. Terms used herein but not defined above will have the following meanings.

- **Trade Ally** – Qualified contractor/installer approved to provide services for HVAC Tune-Up, Full Building Tune-Up, or Monitoring-Based Commissioning paths of the Program.
- **Energy Assessment** - An inventory of Customer's existing energy consuming equipment and analysis of possible improvements and replacement measures generated by the Program, and may also be referred to as an energy audit.
- **Scope of Work** – Document which captures all improvements that will be part of the Project.

- **Project** - The measure(s) to be installed in the facility listed on the application for the Program. May also be referred to herein as improvements or EEMs.

<b>Agreement and Signature</b>		
By signing below, the undersigned certifies that he/she/they has/have the authority to sign on behalf of Customer and agrees on behalf of Customer to the foregoing terms and conditions.		
Customer Company Full Legal Name		
Authorized Representative (please print)	Title:	Date:
Signature:		