

## TRADE ALLY PROGRAM PARTICIPATION AGREEMENT

This Trade Ally Program Participation Agreement (“Agreement”) provides the terms and conditions under which the undersigned Contractor agrees to participate in OPPD’s Customer-Owned Generation ("COG") Trade Ally Program (the “Program”). The Participant must read, understand, and comply with all materials pertaining to the programs implemented under the Program, including, without limitation, all eligibility qualifications, program requirements, participation processes, and rebate opportunities.

I. By signing this document, the Participant agrees to do as follows:

1. Complete the online interconnection application associated with each COG project accurately and completely.
2. Refrain from violating any of the terms of this Agreement or committing any of the violations described in the Code of Conduct and Ethical Requirements attached as Appendix A.
3. Update OPPD within fifteen (15) days of any changes to business name, business address, loss of NABCEP license or loss of required insurance coverage.
4. Conduct business in a professional, courteous, trustworthy, and ethical manner.
5. Abide by all Terms and Conditions of this Agreement, the OPPD COG Manual and all OPPD Service Regulations.
6. To be identified by OPPD as a Program participant and include the Participant’s name and contact information on the OPPD website.
7. Confidentially hold and prevent release of any customer personally identifiable information that is obtained as part of the COG interconnection process, rebate application process or other related processes. Participant will be responsible for any costs or damages incurred by OPPD as a result of its failing to meet this requirement.
8. Accurately inform OPPD’s customers of OPPD’s programs, including eligibility requirements, application processes, and incentive/rebate opportunities. This includes accuracy in communicating expected benefits to customers in advertising and marketing campaigns. Any misrepresentations by Participant, including but not limited to misrepresenting financial incentives or local/regional customer participation rates, will be grounds for removal from this Program.
9. Require Participant’s “head of sales” and “lead COG application submitter” to complete OPPD COG Trade Ally training within six (6) months of joining the Program. Such training must be satisfactorily repeated every three (3) years.
10. Acknowledge that it will not be compensated or reimbursed for time spent attending any required or optional meetings, seminars, or training sessions.
11. Maintain an active NABCEP solar installer license.
12. Represent and warrant that it has (i) been in business for at least twelve (12) months under same corporate name; and (ii) submitted at least two COG interconnection applications through the online OPPD system within the last twelve (12) months.
13. Maintain liability insurance and worker’s compensation insurance (and provide proof of insurance).
14. Have a local, physical commercial office where OPPD and customers can visit.
15. Follow OSHA minimum safety standards.

16. Allow customers to terminate their contractual obligations with Participant, upon request and without any penalty charge, at any time prior to OPPD's release of an initial Approval to Construct notice.
17. Provide customers with copies of any and all sales materials presented to them.
18. Provide OPPD with copies of any and all sales and marketing materials upon request. This includes numerical values used for financial payback period calculations including, but not limited to, utility rate adjustments, average cost per kilowatt-hour, capacity factor, and the applicable financing interest rate used.
19. Apply an annual electric rate adjustment factor no greater than that determined by the U.S. Energy Information Administration in its most recent [Annual Energy Outlook for the west north central region \(nominal dollars\)](#) for all financial payback calculations unless otherwise approved in writing by OPPD.
20. Inform and reasonably explain to customers that the primary impact to their electricity bill arising from COG will be a reduction in variable energy usage charges and that the customer will still be required to pay a fixed monthly service charge to OPPD.

II. OPPD agrees to do as follows:

1. Include contact information for each participant on the OPPD website.
2. Refer consumers, through OPPD's customer services personnel, to the participant listing when customers call in and request installer referrals.

III. Terms and Conditions:

1. During the term of this Agreement, the Participant may identify itself as a Participant in the Program on the Participant's marketing materials, subject to the Participant obtaining, in each instance, OPPD's prior written consent with respect to the design, copy, placement, layout, and content of any materials that display OPPD's name or logo or identify or reference OPPD in any respect.
2. This Agreement is not intended to and does not grant, expressly or by implication, any right or license to any permit, patent, trademark, copyright, trade secret, improvement, or any other intellectual property right or similar proprietary right of any kind that OPPD may possess.
3. The Participant may not use OPPD's name, logo, or identity in any advertisement or on any marketing or other materials in any form (including printed copy or electronic) for any reason, including, without limitation, soliciting customers, without OPPD's prior written consent, in its sole discretion. OPPD may withhold its consent to any use of its name, logo, trademark or other service mark, for any reason, in its sole discretion. If OPPD notifies the Participant of its disapproval of any materials naming or identifying OPPD in any manner, the Participant shall immediately cease use of the disapproved materials.
4. The Participant shall not misrepresent any information concerning the Program or any Program materials or its role in the Program or its relationship with OPPD.
5. Participant acknowledges and agrees that participation in the Program does not constitute an endorsement of Participant or its products or services by OPPD.

6. Participant's participation as a COG Trade Ally under the Program does not create, and shall not be deemed to create, any joint venture, partnership, agency or other legal relationship between Participant and OPPD other than the contractual relationship established in this Agreement and the appropriate program application(s), if executed by Participant and OPPD. Participant shall be solely responsible for the payment of all wages, benefits, insurance and other legal requirements for its employees and authorized agents.
7. The Participant shall properly identify itself as an independent contractor. Neither the Participant, nor any of its employees shall be considered, for any purpose, to be an employee, agent, partner, or representative of OPPD, nor shall either have any power or right to bind OPPD to any obligation, or to act on behalf of or in the name of OPPD.
8. The Participant, at its own expense, shall maintain all licenses, permits, certifications, training, and insurance required by law and the Program policies and guidelines, and provide reasonable documentary evidence of the same upon OPPD's request.
9. The Participant is solely responsible for payment and reporting with respect to any taxes assessed in connection with the Participant's receipt of any rebates or other payments under the Program. Nothing in this Agreement is intended to constitute tax advice, and the Participant should consult with its own tax advisor.
10. The Participant shall be fully responsible for all work performed by its subcontractors and for payment of all costs of any subcontracted work. The Participant shall cause any subcontractor performing services related to the Program to comply with this Agreement and any other Program requirements.
11. Participant agrees to comply with all applicable federal, state, and local laws.
12. OPPD assumes no responsibility for oversight of the Participant's services. OPPD does not make any representations or warranties, and expressly disclaims all warranties and representations of any kind, with respect to the design, manufacture, construction, safety, performance or effectiveness of any equipment installed, measures implemented, or services rendered by any person or entity in connection with the Program.
13. OPPD DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, TO THE MAXIMUM EXTENT PERMITTED UNDER LAW, WHETHER STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
14. Notwithstanding any other provision of this Agreement to the contrary, in no event shall OPPD or its agents, consultants, or subcontractors be liable for any type of damages, whether indirect, special, incidental, consequential, exemplary, reliance or punitive (even if advised of the possibility of such damages), arising out of or in connection with the Participant's services or participation in the Program, including, without limitation, loss of use or loss of profits, whether in contract, indemnity, warranty, strict liability or tort, including negligence of any kind.
15. The Participant shall indemnify, defend, and hold harmless OPPD and its officers, directors, managers, associates, related firms and entities, employees, servants, contractors, and agents (collectively, the "Indemnified Parties") for, from and against all claims, losses, expenses, damages, demands, judgments, causes of action, suits, costs (including reasonable attorney's fees, court costs and litigation-related expenses) and liability of every kind and character whatsoever (collectively,

"claims") arising out of or incident to, or related in any way to, directly or indirectly, this Agreement or the Participant's participation in the Program; provided however, that the Participant shall not be required to indemnify and hold harmless any Indemnified Party against claims adjudicated to have been caused by an Indemnified Party's gross negligence or willful misconduct. This Section will survive the termination of this Agreement.

16. OPPD may, at any time and in its discretion, change or discontinue the Program or any program, study, offering, or initiative of OPPD, at any time and without notice. OPPD may, at any time and in its sole discretion, terminate this Agreement and the Participant's participation in the Program, effective upon delivery of OPPD's termination notice.
17. The Participant may terminate this Agreement and discontinue its participation in the Program by providing OPPD with at least thirty (30) days prior written notice.
18. The Participant may not assign this Agreement without OPPD's prior written consent, in its sole discretion, and any assignment in violation of this Section will be void. None of the provisions of this Agreement will be considered waived by OPPD unless waived in writing.
19. This Agreement does not create rights in or to grant remedies to any third party as a beneficiary of this Agreement or of any duty, covenant, obligation or undertaking established herein. If any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, is held by a court of competent jurisdiction to be invalid as to any person or circumstance, all other terms, covenants and conditions of this Agreement and their application will not be affected thereby, but shall remain in force and effect.
20. The terms of this Agreement, including all incorporated references, constitute a complete statement of the agreement applicable to the Program, and supersede all prior representations or understandings, whether written or oral. OPPD shall not be bound by or be liable for any statement, representation, promise, inducement, or understanding of any kind that is not set forth in this Agreement or any purchase order issued by OPPD.
21. This Agreement will be governed by and construed in accordance with the laws of the State of Nebraska, without regard to conflicts of law principles. Any action, suit or proceeding arising out of or relating to this Agreement shall be prosecuted in a state or federal court of competent jurisdiction in Douglas County, Nebraska, and the Participant irrevocably submits to the jurisdiction of any such court.
22. OPPD may, at any time and without the Participant's prior knowledge or consent, contact mutual customers of OPPD and the Participant in order to solicit feedback on the customer's experience with the Participant.

By signing below, the undersigned party requests to participate in the Program as a Participant, and represents, warrants, acknowledges and agrees that:

- It meets all participation eligibility requirements;
- It has read, understands and agrees to comply with all terms and conditions of this Agreement;
- All information provided to OPPD as part its application to the Program is true and correct, and it will notify OPPD immediately of any changes that would render that information false or incomplete; and

- The signatory below has the authority to bind Participant to this Agreement.
- Updated: 01/2023

Participant Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

Accepted by OPPD:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

Email Address: \_\_\_\_\_

## Appendix A Code of Conduct and Ethical Requirements

### List of Violations

The following is a non-exhaustive list of potential violations. Any action not included below, but which would negatively impact customers or OPPD's programs and services, may be considered a violation.

1. Unsafe work practices.
2. Failure to adhere to Program or equipment installation requirements.
3. Work quality or performance that fails to meet Program requirements.
4. Unprofessional business practices.
5. Unethical behavior or business practices.
6. Applying for rebates while on suspension, either directly or through a sub-contractor or third party, or requesting that a customer submit applications directly.
7. Interference in any OPPD complaint or disciplinary process by contacting customers or third parties.
8. Violating any relevant local, state, or federal laws or rules governing licensing, labor practices, worker compensation, liability insurance, trade practices, or customer data privacy and controls, or operating without required qualifications, permits, licenses, certifications, or insurance.
9. Any conduct toward members of the public, OPPD personnel, or other contractors that is discriminatory, disruptive, offensive, threatening, or is deemed by OPPD to be harassment, sexual harassment, retaliation, or bullying.
10. Criminal acts such as theft, violence, or illegal drug use, and criminal or negligent property damage.

### List of Disciplinary Actions

The following is a non-exhaustive list of potential disciplinary actions. Disciplinary actions not explicitly listed below may also be applied. In determining the appropriate disciplinary action, OPPD may consider the Participant's history with the Program and risk for continued violations. Severe or egregious violations will result in permanent removal from OPPD programs.

- 1) Warning Letter
- 2) Corrective Action(s)
- 3) Probation
- 4) Suspension
- 5) Permanent Removal