

Contractor Connect Agreement

THIS AGREEMENT (“Agreement”) dated as of the ____ day of _____, 20__ (“Effective Date”), between **ORANGE AND ROCKLAND UTILITIES, INC.** (“the Company”), a New York corporation with offices at One Blue Hill Plaza, Pearl River, New York 10965 and _____, a _____ (“Contractor”), with offices at _____ (the Company and Contractor are each sometimes referred to herein individually as a “Party” and collectively as the “Parties”).

WHEREAS, the Company is introducing a new program called the “Contractor Connect Program” (“Program”), the intended goal of which is to offer the Company’s residential and commercial customers an easy to use contractor database (“Database”), which will allow customers to contact a heating, ventilation, and air conditioning (“HVAC”) contractor; and

WHEREAS, Contractor wishes to participate in the Program; and

WHEREAS, Contractor will be able to assist and market the Program to the Company’s customers by executing this Agreement and by maintaining good standing in the Program; and

WHEREAS, this Agreement outlines the responsibilities and requirements of Contractor by participating in the Program;

NOW, THEREFORE, in consideration of promises and mutual covenants contained herein, the Parties agree as follows:

1. Participation Requirements

Subject to the participation requirements set forth below, the Company will allow Contractor to participate in the Program and will include Contractor in the Database. Contractor acknowledges and agrees that its participation in the Program is at the Company’s sole discretion. Contractor is subject to removal from the Program if it fails to comply with the terms and conditions of this Agreement or if the Company in its sole discretion shall elect to terminate this Agreement. If Contractor is in violation of any of the Program’s terms and conditions, it will first receive a warning and must correct their actions immediately to remove the violation. If, within 12 months of first violation, Contractor is in violation of any of the Program’s terms and conditions for a second time, the Company may immediately remove Contractor from the Program. Contractor shall immediately cease promoting its participation in the Program and shall return (at its own expense) any Program marketing materials provided by the Company. Once removed, Contractor shall not be eligible for reinstatement for one year from the date of notification of removal. All of the Company’s removal decisions shall be final and binding.

2. No Endorsement

The Company is providing its customers with the name of the Contractor solely as an informational matter. The Company’s inclusion of the Contractor on any list should not be considered, in any way, to be an endorsement, recommendation or promotion, either expressed or implied, by the Company of the Contractor.

3. Program Guidelines

During the term of this Agreement, the following guidelines apply:

- a. The Contractor shall maintain any and all relevant licenses as required by federal, state, county, or municipal government for work in the trades that it undertakes through the Program.
- b. The Contractor shall procure and maintain at its own expense general liability insurance coverage of at least \$- 1 million per occurrence; Workers' Compensation Insurance as required by law; Employers' Liability Insurance, including accidents (with a limit of \$1 million per accident) and occupational disease (with a limit of \$1 million per employee). Any changes or updates to coverage must be provided to the Company within 24 hours of changes being made. At least three days prior to commencing work under this Agreement, Contractor shall furnish the Company with copies of the policies providing the insurance coverage specified above and Certificate(s) of Insurance covering all required insurance, signed by the insurer or its authorized representative, certifying that the required insurance has been obtained and will not be cancelled or altered without at least ten days' prior written notice to the Company. Such Certificates of Insurance shall also state that the Company is an additional insured with respect to all coverages enumerated. Copies will be received by the Gas Conversion Team, 71 Dolson Avenue Middletown, NY 10940-6501, or emailed to gasconversionteam@oru.com.
- c. Contractor shall maintain effective procedures for customer satisfaction, quality control, resolution of customer complaints or disputes, and timely response to customer emergencies within one business days.
- d. Contractor shall provide a complimentary in-home consultation/scope of work estimate to participating customers within three business days.
- e. Contractor shall provide a minimum one-year parts and labor warranty following the installation of new equipment.
- f. Contractor shall properly represent the relationship between Contractor and the Company. Contractor and its employees shall not represent themselves as employees and/or agents of, or certified by, the Company.
- g. Contractor is acting as an independent contractor under the Program, and has the sole responsibility and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all work to be provided to customers in connection with the Program.

4. Post-Installation Work Verification

The Company may conduct random field inspections on work performed under this Agreement in order to maintain the Program's quality standards. If an inspection by the Company or any other entity authorized by the Company determines that actual field conditions do not corroborate conditions indicated on Contractor's and/or customer's application, he/she may become ineligible for the incentive applied for. Contractor's failure to meet minimum Program standards and correct deficiencies may lead to Contractor being removed from the Program and rendering Contractor and its customers ineligible to receive future incentives under the Program.

5. Indemnification and Limitation of Liability

In no event shall the Company have any liability for claims of any kind, whether based on contract, tort (including negligence and strict liability), or otherwise, for any loss or damage sustained or incurred by any third-party relating to this Agreement or Contractor's performance of services relating to this Agreement. Contractor hereby releases and discharges the Company from all liability for such claims. Contractor shall, to the fullest extent permitted by law, assume all liability for and agree to indemnify, defend (at the Company's option) and hold harmless the Company and its respective affiliates, officers, directors, agents, servants, employees and representatives from and against any and all liabilities, losses, claims, damages, suit charges, costs, expenses (including attorney's fees and costs) demands and causes of actions of every kind or character arising or alleged to have arisen out of any claims (just or unjust) for damages for personal injury, including death to any employee or person, for damage or injury to property and from any and all resulting damages, expenses, costs and fees, arising out of or in any way occurring incident to the performance of this Agreement and/or the acts or omissions of the Contractor, its employees and/or subcontractors. In addition, Contractor agrees to assume all liabilities or attorney's fees and other costs incurred by the Company arising out of the Company's efforts to enforce the provisions of this Section. Where used in this Section, the term "Contractor" shall also include any subcontractor, or any person, firm or entity directly or indirectly employed by or under contract with either Contractor or any subcontractor or supplier to Contractor.

The indemnification obligations of Contractor provided for herein shall apply irrespective of any partial or contributed negligence or alleged partial or contributed negligence of the Company, except to the extent, if any, that the provisions of Section 5-322.1 of the New York General Obligations Law requires otherwise. Contractor shall nevertheless remain liable hereunder on account of the negligence of a party other than the Company whether or not the Company is partially negligent.

The indemnification obligations of Contractor provided for herein shall in all events survive performance of the other obligations of Contractor under this Agreement and shall survive termination of the agreement for any reason.

6. Limitation of Liability

In no event, whether as a result of breach of contract, tort (including negligence and strict liability), or otherwise shall either Party and its affiliates, contractors, subcontractors or any of its or their respective representatives be liable to the other Party its affiliates, contractors, subcontractors or any of its or their respective representatives for any or all special, incidental, penal, punitive or consequential damages of any nature in connection with, or arising from, the transactions contemplated by this Agreement, including, without limitation, delays, lost profits, business interruptions, loss of use, lost business opportunities, loss of revenue, losses and other damages, cost of capital, loss of goodwill, whether or not (i) such damages were reasonably foreseeable, or (ii) either Party was advised or aware that such damages might be incurred.

7. Contractor Representations

Contractor hereby represents to the Company as follows:

- a. Contractor is a [a sole proprietorship, or limited liability corporation [company], or partnership, or corporation] validly existing and in good standing under the laws of the state in which it is organized and is in good standing, and is duly qualified to conduct business, in New York State;
- b. Contractor has all requisite power and authority to enter into and execute this Agreement, undertake its obligations hereunder and consummate the transactions contemplated hereby; this Agreement will constitute, the valid and legally binding obligations of Contractor, is and will be enforceable in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar law affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or law); and
- c. Neither the execution and delivery of this Agreement, nor the consummation by Contractor of the transactions contemplated hereby, will constitute a violation of or be in conflict with, or constitute or result in a default under: Contractor's Certificate of Incorporation, bylaws, or similar organizational documents, each as amended to date; any agreement or commitment to which Contractor is a party or by which Contractor is bound or is subject; or any statute or any judgment, decree, order, regulation, rule of any court or governmental authority

8. Company Representations

The Company hereby represents to Contractor as follows:

- a. The Company is a corporation validly existing and in good standing under the laws of New York State and is in good standing, and is duly qualified to conduct business, in New York State;
- b. The Company has all requisite power and authority to enter into and execute this Agreement, undertake its obligations hereunder and consummate the transactions contemplated hereby; this Agreement will constitute, the valid and legally binding obligations of the Company, is and will be enforceable in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar law affecting creditors' rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or law); and
- c. Neither the execution and delivery of this Agreement, nor the consummation by the Company of the transactions contemplated hereby, will constitute a violation of or be in conflict with, or constitute or result in a default under: the Company's Certificate of Incorporation, bylaws, or similar organizational documents, each as amended to date; any agreement or commitment to which the Company is a party or by which the Company is bound or is subject; or any statute or any judgment, decree, order, regulation, rule of any court or governmental authority.

9. Term

This Agreement will become effective on the Effective Date and will extend for a one-year period as an initial term. This Agreement will continue year-to-year thereafter unless and until terminated by either Party by providing not less than 30 days advance written notice of termination to the other Party.

10. Amendments

No amendment, change, supplement or modification (collectively “Amendment”) of this Agreement shall be valid unless made in writing and executed by a duly authorized representative of the Party to be bound by such Amendment. No express provision of this Agreement can be amended, changed, modified or supplemented by course of conduct, trade usage, trade custom or the like.

11. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

12. Entire Agreement

This Agreement shall be deemed to constitute the entire agreement between the Parties relating to the transactions contemplated by this Agreement and shall supersede all previous agreements, negotiations, courses of dealings, oral or written offers, understandings, discussions, communications and correspondence with respect thereto.

13. Delay or Failure to Exercise Rights

No delay or failure on the part of a Party in exercising any rights under this Agreement and no partial or single exercise thereof shall constitute a waiver of such rights or of any other rights hereunder.

14. Waiver

Waiver of the breach of any of the terms or conditions of this Agreement by a Party shall not be deemed to constitute the waiver of any other breach of the same or any other term or condition.

15. Notices

Except as otherwise expressly agreed to in writing by the Parties hereto, any notice or other communication to either Party hereto pursuant to any provision of this Agreement shall be effective only if it is in writing and if (i) delivered by hand (against a signed receipt), (ii) sent postage prepaid, certified or registered mail, return receipt requested, or (iii) sent by a nationally recognized courier service providing for overnight delivery, provided the sender shall obtain a written receipt for such delivery, prior to the expiration of any time limitation governing the giving of the same.

If to the Company, addressed to:
Orange and Rockland Utilities, Inc.
390 West Route 59
Spring Valley, NY 10977

Attention: Orange and Rockland Utilities, Inc.
C/O Gas Expansion Team
71 Dolson Avenue
Middletown, NY 10940-6501

If to Contractor addressed to:

Attention: _____

(a) Each Party may at any time or times change the place to which such notices or other communications are to be addressed, on 30 days written notice to the other Party.

(b) All such notices or other communications shall be deemed given: (i) on the date hand delivered unless the date of such hand delivery was not a business day, in which event delivery shall be deemed to have been rendered on the next business day; (ii) three days after mailing, if mailed as aforesaid; or (iii) on the date delivered by a courier service, unless such delivery was not made on a business day, in which event delivery shall be deemed to have been rendered on the next business day.

(c) If pursuant to any provision of this Agreement, any response to any notice or other communication must be given within a specified time period, such time period shall not begin to run until the actual receipt of such notice or other communication by the Party to receive such notice or other communication.

16. Assignment

Neither Party may assign this Agreement or its rights hereunder or delegate its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld.

17. Successors and Assigns

The terms and provisions of this Agreement are binding on and shall inure to the benefit of the Parties hereto and their personal representatives, successors and assigns.

18. Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute a single agreement binding on the Parties notwithstanding that a Party may not have signed a particular counterpart.

19. Section Headings

The section headings used herein are for convenience of reference only, do not constitute part of this Agreement, and shall not be deemed to limit or otherwise affect any of the provisions hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this License Agreement as of the date first above written.

Orange and Rockland Utilities, Inc.

By _____

Title _____

Date _____

Name of Contractor _____

Contractor's Address _____

Signature of Owner/Principal Party _____

Please Print Name _____

Date _____