

**DTE Energy C&I Midstream Food Service Program**

**Dealer Participation Agreement**

Program valid from January 1, 2020 through June 30, 2022

This Participation Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between Program Implementer and Dealer, each of which are defined herein.

**1. QUALIFYING DEALER INFORMATION**

\_\_\_\_\_  
**Company Name (“Dealer”)** **Number of Locations**

\_\_\_\_\_  
**Physical Address**

\_\_\_\_\_  
City State ZIP Code

\_\_\_\_\_  
**Mailing Address** (if different from above)

\_\_\_\_\_  
City State ZIP Code

\_\_\_\_\_  
**Federal Tax ID** **Tax Status** (Corporate, Partnership, Sole Proprietorship, Exempt)

\_\_\_\_\_  
**Website Address**

\_\_\_\_\_  
**Primary Management Contact Name**

\_\_\_\_\_  
Phone Number Email Address

\_\_\_\_\_  
**Secondary Management Contact Name**

\_\_\_\_\_  
Phone Number Email Address

\_\_\_\_\_  
**Incentive Data Entry Contact**

\_\_\_\_\_  
Phone Number Email Address

## **2. GENERAL PROGRAM INFORMATION**

### **Program Description**

The DTE Energy C&I Midstream Food Service Program (hereafter referred to as “Program”) is an energy efficiency Program to advance the adoption of high efficiency equipment for commercial customers funded by DTE Energy Company (“Utility”).

### **Program Goals**

The goals of the Program are to: (1) encourage Qualifying Dealers (as defined in Section 3 below) to increase their inventory of high-efficiency, commercial food service and laboratory equipment; and (2) encourage Dealers to upsell that equipment (explaining the technical and financial benefits to customers when possible). In the Program, Qualifying Dealers offer point-of-sale rebates on qualifying high- efficiency food service and laboratory equipment to the Utility’s customers who install the equipment at eligible non-residential facilities. The Program goals are fostered by motivating Qualifying Dealers to make such sales by providing a sales incentive for each qualifying unit sold. To participate in the Program, Qualifying Dealers are required to sign and return a copy of this Dealer Participation Agreement (the “Agreement”) to Energy Solutions (“Program Implementer”) and agree to the terms and conditions of participation contained herein.

### **Program Term**

The term of the Program is January 1, 2020 through June 30, 2022 (the “Program Term”) but may be terminated or extended with notice by the Utility or Program Implementer (as indicated below). If the Program Term is extended, terms of this Agreement will be extended for the same period unless the Agreement is terminated by the Dealer or unless otherwise altered or terminated in writing by the Utility or Program Implementer. The Program may be terminated early at the sole discretion of Utility.

## **3. PROGRAM DEFINITIONS AND TERMS OF PARTICIPATION**

### **Qualifying Dealers**

For the purposes of this Program, a “Qualifying Dealer” is an entity that purchases Qualifying Equipment (defined below) and sells such equipment to be installed at a facility of a Qualifying Customer (defined below). A Qualifying Dealer may sell equipment directly to Qualifying Customers or to a contractor, who resells to a Qualifying Customer. An incentive will only be given once for any piece of Qualifying Equipment (defined below).

Under certain circumstances, a manufacturer may serve as its own Qualifying Dealer and sell Qualifying Equipment directly to the Qualifying Customer. In this case, the manufacturer will qualify to participate in the Program.

### **Qualifying Customer**

A “Qualifying Customer” is a non-residential customer who receives natural gas and/or electric service from Utility on a Commercial or Industrial rate schedule. Equipment sales to Utility-owned facilities, such as offices, customer service centers, or sub stations, do not qualify for incentives.

It is the Qualifying Dealer’s responsibility to supply accurate and adequate customer information in the online application, including the correct customer name, street address of the facility where the equipment is installed or job sited, equipment sales date, and to identify a customer’s facility as a Qualifying Customer. Incorrect or insufficient information may result in rejection of the incentive for the equipment sold to that customer. Incorrect information could lead to termination from the Program.

### **Qualifying Facility**

A “Qualifying Facility” is Qualifying Customer’s non-residential facility located in the Utility’s service territory in Michigan. A Qualifying Facility includes, but is not limited to, restaurants, schools, offices, hotels, motels, and retail installations.

## **Qualifying Installation**

A “Qualifying Installation” means the installation of the Qualifying Equipment at a Qualifying Facility in accordance with this Agreement which may include replacement (retrofit) installations or new installations.

## **Qualifying Equipment/Product**

“Qualifying Equipment” is new, natural gas or electric, high-efficiency, food service or laboratory equipment that 1) is sold to a Qualifying Customer; 2) is installed at a Qualifying Customer’s facility that receives service from the Utility; and 3) is listed as Qualifying Equipment on [www.dteincentives.com](http://www.dteincentives.com) (“Program Website”). The Utility and Program Implementer may add or remove Qualifying Equipment during the Program Term without notice. Rebate amounts for the different types of Qualifying Equipment are provided on the Program Website.

In order to be listed as Qualifying Equipment on the Program Website, the equipment must meet or exceed the qualifying equipment specifications set forth below or otherwise receive approval in writing by the Program Implementer:

1. Commercial Kitchen Equipment must demonstrate an adequate efficiency ratings as defined through ENERGY STAR® or the Food Service Technology Center, and described in their respective qualified equipment source list at [www.energystar.gov](http://www.energystar.gov) and [www.fishnick.com](http://www.fishnick.com), and must be approved by the Initiative Implementer
2. Commercial Laboratory Equipment must demonstrate an adequate efficiency ratings as defined through ENERGY STAR® and described in the qualified equipment source list at [www.energystar.gov](http://www.energystar.gov), and must be approved by the Initiative Implementer.

## **Changes to Program**

The Utility may, in their sole discretion, make changes to the Program at any time, including, without limitation, modifying incentive amounts, and adding or removing Qualifying Equipment from the Program. The date of such change(s) will take effect on the earlier of (a) the date the change is posted on the Program website, or (b) the date Qualifying Dealer receives written notice of such change.

## **PSC Authority and Use of Information**

Qualifying Dealer understands that certain federal or state governmental or regulatory entities including the Michigan Public Service Commission (each, a “Regulatory Entity”) have jurisdiction over the Utility and/or the Program, and such Regulatory Entity may, at any time, require changes or modifications to this Agreement and / or the Program terms which shall be made by Utility and accepted by Qualifying Dealer. Qualifying Dealer further understands that a Regulatory Entity may commence an investigation or proceeding in connection with the Program and/or this Agreement, and Qualifying Dealer agrees to cooperate fully with any such investigation or proceeding.

The Utility understands the sensitive nature of certain data supplied by Qualifying Dealer. Any sales data provided by Qualifying Dealers to the Utility or Program Implementer as part of the Program will be used only for the purpose of tracking and analyzing trends in sales of Qualifying Equipment over the course of the Program in order to evaluate the effectiveness of the Program. Notwithstanding the foregoing, a Regulatory Entity may review any Program data (including Qualifying Dealer data) that any Utility or Program Implementer receives or has access to in connection with the Program.

The cumulative sales information of all Qualifying Dealers will be used to generate an overall report, which will act as the basis for determination of the Program’s success. This report will be made available to the public. However, the Utility will use commercially reasonable efforts to ensure such report does not contain Qualifying Dealer-identifiable information.

Qualifying Dealers understand and agree that Utility will have no liability whatsoever to Qualifying Dealer or any other party as a result of any public disclosure or access of any data or other materials received or accessed in connection with the Program, including without limitation, such data or materials received from the Qualifying Dealer.

## **4. INCENTIVE APPLICATION PROCESSING, TERMS AND PAYMENT**

### **Application and Qualifying Sale**

For purposes of the Program, “Incentives” are those incentive payments paid by or to be paid by Program Implementer to Qualifying Dealer for Qualifying Equipment sold and installed according to the terms and conditions of this Agreement which are funded by the Utility. Qualified Equipment must be sold by Qualifying Dealer during the Program Term for installation at a Qualifying Facility. The Program is intended as a discount program and Qualifying Dealers are prohibited from offering Qualifying Equipment free of charge (at no cost) to Qualifying Customers or contractors.

### **Instant Incentive System**

The Program utilizes a paperless, online system for entering, processing, and tracking applications. This is referred to as the Instant Incentive System and is located at the Program Website [www.dteincentives.com](http://www.dteincentives.com). Qualifying Dealer entries into the Instant Incentive System are used, along with supplemental documentation provided by the Qualifying Dealer for each sale, to process each application. Upon enrollment in the Program, Qualifying Dealer is provided with a unique log-in ID and will receive Program-supported training on the use of the Instant Incentive System. Qualifying Dealer agrees it will not share its log-in ID with any third party.

### **Applying for a Program Incentive**

To apply for a Program Incentive and receive rebate reimbursement, Qualifying Dealer must apply a line-item to the customer’s invoice denoting the rebate amount to ensure 100% pass-through of the customer portion of the rebate, upload sales and installation information to the Instant Incentive System and as requested, provide occasional supplemental documents or support to aid in completing or correcting incomplete applications. The following installation, equipment, sales information, and documentation are required to complete a Program application:

#### **Qualifying Equipment Information:**

1. Manufacturer
2. Model number
3. Number of units

#### **Sales Information:**

1. Invoice number
2. Invoice date
3. Scanned copy of the invoice from the sale

#### **Installation Site Information:**

1. Business name and address where the equipment is installed
2. Customer contact information

### **Online Application Submission**

Applications for the Program must be submitted online through the Program website, [www.dteincentives.com](http://www.dteincentives.com). All online applications must be entered and submitted on or before May 31, 2022. If you do not have access to the internet to submit your application online, please contact the Program Implementer listed below to make other arrangements for application submission.

By using the online incentive system, you and/or anyone who enters the application online for you, acknowledge and accept the Terms and Conditions of the Program listed on the website. You may only enter an application after receiving a username and password. You should change your password before your first application entry. You will be responsible for maintaining the privacy of your password and for applications submitted using your password.

The Qualifying Dealer shall be responsible for supplying accurate customer information when submitting applications.

### **Application Agreement Clauses**

The following provisions contain terms and conditions that are part of every Program application. By signing this Agreement, Qualifying Dealer agrees that these terms and conditions will apply to every application Qualifying Dealer submits in connection with the Program.

### **Good Faith Statement**

Qualifying Dealer warrants all incentive application information is submitted in good faith as true and correct and all the Qualifying Equipment listed in any incentive application will be new and sold to a Qualifying Customer who installs the Qualifying Equipment at a Qualifying Facility. Qualifying Dealer will take appropriate internal administrative steps to avoid duplicate entries of Incentive applications that may be created due to Qualifying Dealer's current paperwork processes, personal organization of assigned administrative support, and potentially fraudulent activity.

### **Indemnity**

Qualifying Dealer agrees to defend, indemnify and hold Program Implementer and Utility harmless from and against any and all damages, expenses, and costs, including but not limited to, attorneys' fees and expenses, incurred by either of them arising out of claim in connection with Qualifying Dealer's exercise of its rights and obligations under this Agreement."

### **Warranty Disclaimer And Liability**

The Utility and Program Implementer do/does not endorse, guarantee, or warrant any manufacturer, Qualifying Dealer or product (including, without limitation, Qualifying Equipment), and the Utility and Program Implementer make(s) no warranties or guarantees in connection with the Program, any project, or any item or services performed in connection herewith or therewith, whether statutory, oral, written, express, or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose. The Utility and the Program Implementer shall have no responsibility or liability to the Qualifying Dealer, its employees, its agent or third parties in connection with the Program or otherwise, except the responsibility to provide the incentive rebates to the Qualifying Dealer under the Program in accordance with this Agreement. This disclaimer shall survive any cancellation, completion, termination or expiration of this Agreement and the Qualifying Dealer's participation in the Program.

The Qualifying Dealer acknowledges and agrees that any warranties provided by original manufacturers', licensors', or providers' of material, equipment, or other items provided or used in connection with the Program and this Agreement, including items incorporated in the Program, ("third party warranties") are not to be considered warranties of the Utility and Program Implementer and the Utility and Program Implementer make no representations, guarantees, or warranties as to the applicability or enforceability of any such third party warranties.

In no event shall a party be liable to another party for any consequential, incidental, punitive or indirect damages including lost profits, arising from or otherwise in connection with this Agreement.

In the event of a conflict between this warranty and liability provision and any other document provided by or on behalf of Utility regarding the Program, this provision will govern.

### **Preservation Of Records**

Qualifying Dealer shall preserve all records of sales of equipment for which a point-of-sale rebate was issued and a sales incentive was received under this Program for a period of seven years after termination of this Agreement. Utility's authorized representatives shall have the right to inspect and to reproduce any such accounts and records related to equipment purchase, sales, rebates processed, or the incentives received in connection with the Program. All financial statements, reports, records and other documents provided by Qualifying Dealer shall properly reflect the true facts about all activities and transactions for which the Qualifying Dealer issued a point-of-sale rebate and received an incentive as a Program participant.

### **Tax Liability**

Utility or Program Implementer will report Qualifying Dealer's sales Incentives as income to Qualifying Dealer on IRS Form 1099 unless Qualifying Dealer has indicated its tax-exempt corporate tax status above. Qualifying Dealer is encouraged to consult its tax adviser concerning the taxability of Incentives. Neither the Utility nor the Program Implementer are/is responsible for any taxes that may be imposed on Qualifying Dealer as a result of participation in this Program including receipt of Incentives from this Program or any other Program related cost. Qualifying Dealer assumes all responsibility for collecting and reporting any and all applicable sales tax. Qualifying Dealer acknowledges that at the time of purchase, sales tax must be applied prior to the application of any rebate.

## **Verification**

Each piece of equipment will be subject to verification of installation. Verification will be performed per DTE Energy measurement and verification requirements. In order to pass verification, the equipment's model number as listed on the application must match the equipment. The equipment must be verified to be new equipment, and the equipment must be installed at the Qualifying Customer's facility. The Qualifying Dealer is responsible for submitting accurate and exact customer addresses and notifying the relevant customer contact of the potential for a site verification to facilitate access to the installation site for the verification team. Incorrect addresses can result in the failure of verification for all the equipment at that location. All reasonable attempts will be made by the Qualifying Dealer to determine the correct address. It's acknowledged that construction projects can be subject to significant delays. If construction or other project delays cause units to not be installed, job sited, or delivered at the Qualifying Customer's facility prior to the time of field verification, the Utility may re-inspect and proceed with the inspection upon installation.

If random inspections yield a high rate of failure in the Program Implementer's sole discretion, Qualifying Dealer will be placed on mandatory inspections of up to 100% of projects or suspend the Qualifying Dealer from the program.

## **Energy Benefits**

In accepting the Incentives, Qualifying Dealer agrees that other than the energy cost savings realized by the Qualifying Customer, the applicable Utility is entitled to 100% of the energy benefits and rights associated with the Qualifying Equipment, including without limitation, environmental credits and payments under any regional Program or federal, state, or local law, Program or regulation. Qualifying Dealer agrees Qualifying Dealer will not, directly or indirectly, file payments or credits associated with the Qualifying Equipment or the Program, and further will not consent to any other third party's rights to such payments or credits without Utility's prior written consent.

## **Refunds and Adjustments**

Program Implementer or Utility is entitled to a prompt refund from Qualifying Dealer of any and all incentive amounts paid to Qualifying Dealer for Qualifying Equipment that fails verification, inaccurate applications, or ineligible units. Any refund of incentive amounts paid to Qualifying Dealer to which Program Implementer or Utility becomes entitled will be deducted as an adjustment from Qualifying Dealer's future invoices, if applicable, or through a request for immediate reimbursement by the Program Implementer. Either option is at the sole discretion of Utility. Any incentive applied for an application submitted by Qualifying Dealer near the end date of the Program will be held by Program Implementer until verification is completed.

## **Suspension**

At its discretion, Program Implementer, Energy Solution reserves the right to suspend a Qualifying Dealer from the Program for any reason (or no reason at all) in its sole discretion. Typical reasons for a suspension are: incorrect or inaccurate incentive applications, failed verifications or inspections, not adhering to this Participant Agreement, or violating Utility's Program policies and procedures, equipment or customer eligibility, or the Program's terms and conditions. Qualifying Dealer may apply for reinstatement to the Program after 30 days. During the suspension period, Utility reserves the right to disqualify all the Qualifying Dealer's equipment sales from the date of suspension to the date of reinstatement.

## **Program Contacts**

If you have question about the Program, please call the Program Implementer first, before calling the Utility representative.

### Program Implementer:

Energy Solutions – Aru Sau, 1-313.293.7552, [asau@energy-solution.com](mailto:asau@energy-solution.com)

### Utility representative:

DTE Energy – Sarah Tocco, 1-313-235-0219, [sarah.tocco@dteenergy.com](mailto:sarah.tocco@dteenergy.com)

## 5. APPLICATION AGREEMENT CLAUSES

The following clauses contain Terms and Conditions that are part of every Program application. By signing this Participant Agreement, Dealer agrees that these Terms and Conditions will apply to every Program application Qualifying Dealer submits:

Qualifying Dealer certifies that the information submitted for this Program will be true and correct and that all of the equipment listed in any application will be new and sold to a Qualifying Customer intending to install it in a Qualifying Facility. Furthermore, Dealer will take appropriate internal administrative steps to avoid duplicate entries of equipment that may be created due to current paperwork process, personal organization of assigned administrative support, and potential fraudulent activity.

Qualifying Dealer agrees to cooperate with verification activities conducted by the Utility, their third-party representative, or the Program Implementer of both the sales transaction and equipment installation, and to provide information about its stocking practices, sales practices, and customers for use in Program measurement and evaluation activities.

Qualifying Dealer understands that applications and supporting documentation must be received by Program Implementer online or faxed no later than May 31, 2022. **Qualifying Dealer understands that the Program has a limited budget and applications will be accepted on a first-come, first-served basis until May 31, 2022 or until Program allocated funds are no longer available, whichever comes first.** A total program budget, a maximum budget per Qualifying Dealer, and a maximum budget per end use customer will be enforced and conveyed over email at the discretion of the Utility and Program Implementer.

Qualifying Dealer understands the Program requirements as set forth in this Participant Agreement and agrees to abide by those requirements. Further, Dealer understands that payment of any incentive under the Program is contingent upon providing Program Implementer with complete and accurate documentation as necessary to support Qualifying Dealer's application(s).

Qualifying Dealer understands that the Utility or a third party representative will conduct selected field verifications to ensure that equipment was sold and installed or delivered at the customer job site in the manner required by the Program, and that Program Implementer reserves the right to adjust or deny incentive payments, require repayment of incentives previously paid, or suspend Qualifying Dealer's participation in the Program based on the results of these field verifications or submitted applications. Program Implementer reserves the right to make changes to the Program subject to internal audits or changes in business conditions.

Qualifying Dealer shall preserve all records of sales on equipment for which an incentive was received under this program for a period of three years after termination of this Participation Agreement. Utility's representatives shall have the right to inspect and to reproduce any such accounts and records related to equipment purchase, sales, or the incentives received. All financial statements, reports, records, and other documents shall properly reflect the true facts about all activities and transactions for which the Qualifying Dealer received an incentive as a Program participant.

The Program Implementer and Utility will have no liability to Qualifying Dealer or any other party as a result of any public disclosure of any data or other materials, including without limitation, those received from the Qualifying Dealer and stored in the online system. The Qualifying Dealer gives permission to use data for application and reporting purposes as defined in the Participation Agreement. The cumulative sales information of all participating Qualifying Dealers will be used to generate an overall report, which will act as the basis for determination of the Program's success. This report will be made available to the public. However, this report will not contain customer-specific or Qualifying Dealer-specific information.

## 6. PROGRAM PARTICIPATION ACTIVATION

Qualifying Dealer has caused this Agreement to be executed by its duly authorized representative.

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**Qualifying Dealer's Representative's Signature**

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**Print Name**

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**Title**

\_\_\_\_/\_\_\_\_/\_\_\_\_  
**Date**

Fill out page one in the Qualifying Dealer Information section, then sign and date above. Please make a copy of this Agreement for your records, and then mail or electronically submit the signed document to:

[DTEincentives@energy-solution.com](mailto:DTEincentives@energy-solution.com)

### **ENERGY SOLUTIONS**

**ATTN: DTE C&I MIDSTREAM FOOD SERVICE PROGRAM**

400 Renaissance Center

Suite 2600

Detroit, MI 48243