

Clean Energy Consultant Agreement

This agreement (the “Agreement”) dated [date], executed between Common Energy LLC, having an office at 175 Varick St, New York NY 10014 (the “Company”) and [Consultant or Company Name], having an address at [full address] (the “Invited Consultant”), and entered into for the purpose of training and engaging the Invited Consultant to become an independent sales agent of the Company.

WHEREAS, the Company offers energy services (the “Services”) to businesses, organizations, homeowners and renters;

WHEREAS, the Invited Consultant seeks to act as an independent sales representative on behalf of the Company;

WHEREAS, the Company desires to retain the Invited Consultant to work as its sales agent with the unexclusive right to offer the Company’s Services, provided the Invited Consultant meets and agrees to the terms and conditions described below;

Now therefore, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

1. Invitation to Complete the Company’s Training: The Company hereby invites and approves Invited Consultant to complete the Company’s training.
2. Appointment of Consultant: Upon the successful completion of the training and an interview with a representative of the Company, the Company may notify and appoint the Invited Consultant to become an independent sales representative of the Company (a “Consultant”), with the unexclusive right to market and sell the Company’s Services to prospective customers (each individually, a “Subscriber”, and in aggregate “Subscribers”). Each Consultant explicitly agrees to the terms and conditions described below.
3. Code of Conduct: Consultant shall promote the Company’s Services in an honest and professional manner at all times. Consultant expressly agrees to truthfully represent the Company’s Services, and not to exaggerate or misstate the estimated savings or benefits a Subscriber will realize as a result of the Company’s Services.
4. Independent Contractor: It is understood that the Consultant is an independent contractor, and nothing contained in this Agreement shall be construed as appointing the Consultant as an employee of the Company. Correspondingly, it is understood that the Consultant is solely responsible for the payment of all taxes on commissions paid by the Company under this Agreement. It is agreed that the Company shall do no withholding for income, self-employment, payroll or any other taxes. Moreover, nothing in this Agreement grants or authorizes either party to assume or to create any obligation, contract or liability, express or implied, on behalf or in the name of the other.

5. Energy Supply Services: Company explicitly agrees not to change an Approved Subscriber's existing energy supply contract.
6. Sales Materials: Company will provide Consultant with paper and electronic-form materials that Consultant will use to engage Subscribers. Consultant agrees not to alter these materials, or create new materials without the prior written consent of the Company.
7. Permitted Subscriber Engagement: Consultants are encouraged to explain and discuss the benefits of the Company's Services to individuals known to them and to the public in general. However, the following engagement activities are not permitted: (a) Door-to-door marketing or selling; (b) Telemarketing, cold calling and/or cold texting; and (c) Engaging any third-party to conduct subscriber engagement activities on Consultant's behalf.
8. Subscribers: Consultant will enroll Subscribers in the Company's Services in the Approved Territories (**Exhibit A**) through a customized webpage provided by the Company. Company will review the Subscriber's information and approve Subscribers at its sole discretion (individually, an "Approved Subscriber" and collectively, "Approved Subscribers"), and allocate a portion of the Approved Subscriber's energy use to a clean energy project (a "Project") managed by the Company.
9. Commissions: The below describes the commissions earned by the Consultant and the timing of such payments:
 - a. \$0.024 per kilowatt hour (kWh) for the electricity allocated to a project ("Allocated Energy") of any Approved Subscriber directly originated by the Consultant
 - b. The Allocated Energy will be calculated as follows:
 - i. In the case where the meter is not restricted by any program-related limits, the Allocated Energy will be 0.9 multiplied by the electricity usage of the Approved Subscriber over the last twelve months ("LTM usage");
 - ii. In the case where the meter is restricted by any program-related limit, as determined solely by the Company, Allocated Energy will be the lesser of 0.9 and the program-related limit, multiplied by the LTM usage;
 - (b) All earned Commissions will be paid as follows: 50% upon the Company approving the Subscriber and calculating the Allocated Energy; and 50% upon the Subscriber paying its first invoice to Company for any energy credits ("Bill Credits") received by the Approved Subscriber from the electric utility. For Commission examples please see **Exhibit C**.
10. Recruiting Incentive: Consultant will receive compensation for Allocated Energy sold by individuals the Consultant introduces to the Company subject to the following conditions:
 - a. Recruited Consultant. Representative will receive a \$0.004/kWh payment (the "Override Payment") for Allocated Energy sold by any individual who (a) the Representative introduces to the Company (each, a "Recruited Consultant") and (b) with whom the Company enters into a separate Clean Energy Consultant Agreement.
 - b. Override Payment. The Override Payment will be paid upon the Approved Subscriber paying its first invoice to the Company.

11. Referral Payments: Consultant is encouraged to motivate Approved Subscribers to refer other Subscribers to the Company (each a "Referred Subscriber"). Consultant will be paid as follows for Referred Subscribers:
 - a. \$40.00 for each Referred Subscriber who becomes an Approved Subscriber and who was referred by an Approved Subscriber directly originated by the Consultant ("Originator Referral Payment")
 - b. All earned Referral Payments will be paid as follows: 50% upon the Company approving the Subscriber and calculating the Allocated Energy; and 50% upon the Subscriber paying its first invoice to Company for Bill Credits received by the Approved Subscriber from the electric utility.
12. Background Check: Company reserves the right to conduct a background check on the Invited Consultant and any Consultant of the Company.
13. Documentation; Subscriber Communication: Any document signed by a Subscriber will be the sole property of the Company. The Company will have the right to communicate and meet with any Subscriber at its sole discretion, including for the purpose of verifying the quality of the Subscriber's experience with the Consultant, as described in the Company's Quality Commitment in **Exhibit B**.
14. Changes: Company reserves the right to change the amount and structure of the Commissions, Referral Payments, the Approved Territories and other terms of the Agreement at any time, provided however, that the Company is required to make all payments earned by Consultant according to this Agreement, prior to any such changes. Company may inform Consultant of such changes in writing in electronic form.
15. Costs & Expenses: It is agreed that the Consultant shall bear all costs and expenses attendant to Consultant's efforts to sell the Company's services, without reimbursement from the Company, unless the parties agree in advance in writing.
16. Confidentiality: Consultant expressly agrees to the confidentiality provisions as described in **Exhibit D**.
17. Intellectual Property Rights: Company is and shall be, the sole and exclusive owner of all right, title and interest throughout the world in and to all the results and proceeds of the services performed under this Agreement (collectively, the "Deliverables"), including all patents, copyrights, trademarks, sales materials, trade secrets and other intellectual property rights (collectively "Intellectual Property Rights") therein. Consultant agrees that the Deliverables are hereby deemed a "work made for hire" as defined in 17 U.S.C. § 101 for the Company. If, for any reason, any of the Deliverables do not constitute a "work made for hire," ISR hereby irrevocably assigns to Company, in each case without additional consideration, all right, title and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein. All confidential information and proprietary information provided by Client shall remain the Intellectual property of Company.

18. Non-Competition: Consultant agrees that as long as Consultant is engaged by the Company, the Consultant shall not carry, sell or represent any other services that are directly competitive with those of the Company in the Approved Territories. Upon request, the Consultant shall disclose to the Company the identity of every other service provider or vendor whose services the Consultant is currently selling.
19. Non-Solicitation; Non-Interference: Consultant agrees not to solicit business from any Approved Subscriber for any service competitive to the Company's Services, or cause or attempt to cause any Approved Subscriber to cancel or fail to renew any contract the Approved Subscriber may have with the Company. Consultant agrees not to solicit any other Consultant to terminate its relationship with the Company, or to offer services competitive to the Company's Services. Consultant agrees not to interfere with the Company's business in any way at any time.
20. Non-Disparagement: Consultant agrees not to disparage the Company, its personnel, or its Services at any time.
21. Disciplinary Action By Company: Violation of this Agreement, any common law duty, including but not limited to any covenant of good faith and fair dealing, any applicable duty of loyalty, any illegal, fraudulent, deceptive or unethical business conduct, or any act or omission by a Consultant that, in the sole discretion of the Company, may damage the Company, may result in one or more of the following actions by the Company: A written warning; A written demand for Consultant to take corrective action; Imposition of a fine, which may be withheld from bonus and commission payments; Loss of rights to bonus and commission payments; Withholding all or part of the Consultant's bonuses and commissions during the period that Company is investigating any conduct allegedly in violation of the Agreement; Termination or suspension of the Consultant's website and/or website access; Termination of the Consultant's Agreement with the Company; Legal proceedings against Consultant for monetary and/or equitable relief; Any other measure deemed necessary by the Company and permitted under law. For the avoidance of doubt, if a Consultant's Agreement is terminated by the Company for any disciplinary reason, Consultant will not be entitled to any commissions owed or withheld by the Company.
22. Termination: Either party may terminate this Agreement at any time for any reason.
23. Survival: In connection with any termination or expiration of this Agreement, Paragraphs 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29 shall survive termination or expiration of this Agreement in accordance with their terms.
24. Indemnification: Consultant is fully responsible for his or her actions and verbal and written statements regarding the Company's Services, benefits and compensation that are not expressly contained in materials provided by the Company. Consultant agrees to indemnify Company, its affiliates or subsidiaries and the Company's directors, officers, employees and agents, and hold them harmless from any and all liability including judgments, civil penalties, refunds, attorney fees, court costs or lost business incurred by

Company as a result of (a) any unauthorized representations or actions by the Consultant or his/her employees, agents or representatives; (b) a breach or non-fulfillment of any representation, warranty or covenant of this Agreement by the Consultant or his/her employees, agents or representatives; or (c) any negligent or more culpable act or omission (including any recklessness or willful misconduct) of the Consultant or his/her employees, agents or representatives in connection with the performance of the obligations under this Agreement.

25. Limitation of Liability: IN NO EVENT SHALL COMPANY BE LIABLE TO CONSULTANT OR TO ANY OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, AND UNDER ANY THEORY OF LIABILITY, WHETHER BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHER THEORY OF LIABILITY.
26. Mediation: Prior to any legal proceeding, Company and Consultant shall meet in good faith and attempt to resolve any dispute arising from, or relating to, the Agreement through non-binding mediation. Any Party refusing to mediate shall not prevent the other party from pursuing their claims in arbitration pursuant to Section [] hereof. One individual who is mutually acceptable to Company and Consultant shall be appointed as mediator. The mediator's fees and costs, as well as the costs of holding and conducting the mediation, shall be divided equally between Company and Consultant. Each party shall pay its portion of the anticipated shared fees and costs at least ten days in advance of the mediation. Each party shall pay its own attorneys' fees, costs and individual expenses associated with conducting and attending the mediation. Mediation shall be held in New York, New York, and shall last no more than two business days. Nothing herein will be construed to prevent any party's use of injunction, and/or any other prejudgment or provisional action or remedy. Any such action or remedy will not waive the moving party's right to compel arbitration of any dispute.
27. Arbitration: If mediation is unsuccessful, Consultant agrees that any and all controversies, claims, or disputes with anyone (including Company and any employee, officer, director, shareholder or benefit plan of the Company in their capacity as such or otherwise) arising out of, relating to this Agreement or any transaction contemplated hereunder, or resulting from Consultant's relationship with the Company or the termination of Consultant's relationship with the Company, including any breach of this Agreement, shall be subject to binding arbitration under the Arbitration Rules set forth in N.Y. Civ. Prac. Law Section 7501 et seq. (the "Rules") and pursuant to the substantive law of the state of New York, excluding its conflicts of laws principles with the exception of Sections 5-1401 and 5-1402. Consultant further understands that this Agreement to arbitrate also applies to any disputes that the Company may have with Consultant.
28. Procedure: Consultant agrees that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("JAMS") pursuant to its then Comprehensive Arbitration Rules & Procedures (the "JAMS Rules"). The arbitration shall be conducted by one neutral independent arbitrator selected in accordance with the JAMS Rule. The arbitrator shall render an award within 30 days after the arbitrator declares the hearing

closed, and the award shall include a written statement describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. Representative agrees that the arbitrator shall have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication and motions to dismiss, prior to any arbitration hearing. Representative agrees that the arbitrator shall issue a written decision on the merits. Consultant agrees that the arbitrator shall administer and conduct any arbitration in a manner consistent with the JAMS Rules, including the New York Civil Practice Law and Rules. To the extent that the JAMS Rules conflict with New York law, New York law shall take precedence. Consultant further agrees that any arbitration under this Agreement shall be conducted in New York County, New York. The decision of the arbitrator shall be final and binding on the Parties. Judgment may be entered upon an award by the arbitrator in any court of competent jurisdiction. Each Party shall bear its own attorney's fees, costs, and disbursements arising out of the arbitration, and shall pay an equal share of the fees and costs of the arbitrator.

29. Miscellaneous:

- a. *Governing Law; Consent to Personal Jurisdiction.* This Agreement shall be construed and governed by the laws of the State of New York, without regard to the conflicts of law provisions of any jurisdiction. To the extent that any lawsuit is permitted under this Agreement, the Parties hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in New York County, New York.
- b. *Assignability:* Consultant may not assign this Agreement without prior written approval from the Company.
- c. *Entire Agreement:* This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter herein and supersedes all prior written and oral agreements, discussions, or representations between the Parties. Consultant represents and warrants that he/she is not relying on any statement or representation not contained in this Agreement. To the extent any terms set forth in any exhibit or schedule conflict with the terms set forth in this Agreement, the terms of this Agreement shall control unless otherwise expressly agreed by the Parties in such exhibit or schedule.
- d. *Headings:* Headings are used in this Agreement for reference only and shall not be considered when interpreting this Agreement.
- e. *Severability:* If a court or other body of competent jurisdiction finds, or the Parties mutually believe, any provision of this Agreement, or portion thereof, to be invalid or unenforceable, such provision will be enforced to the maximum extent permissible so as to effect the intent of the Parties, and the remainder of this Agreement will continue in full force and effect.
- f. *Notices:* Any notice or other communication required or permitted by this Agreement to be given to a Party shall be in writing and shall be deemed given (i) when delivered personally or by commercial messenger or courier service, (ii) when sent by confirmed facsimile, (iii) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested), or (iv) on the third day when mailed by U.S. registered or certified mail (return receipt requested), to the

Party at the Party's address written below or at such other address as the Party may have previously specified by like notice. If by mail, delivery shall be deemed effective three business days after mailing in accordance with this Section 31.

If to the Independent Sales Consultant, to:
the address stipulated in this Agreement

If to the Company, to:
Common Energy LLC
175 Varick Street
New York, NY 10014

30. Signatures: This Agreement may be signed in two counterparts, each of which shall be deemed an original, with the same force and effectiveness as though executed in a single document.

(signature page follows)

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

COMMON ENERGY LLC

INVITED CONSULTANT

By: _____

By: _____

Name: Justin Rostant

Name: _____

Title: Vice President

Exhibit A: Approved Territories

- 1) National Grid, New York
- 2) Central Hudson Gas & Electric, New York
- 3) Potomac Edison, Maryland
- 4) Baltimore Gas & Electric, Maryland
- 5) Delmarva Power and Light, Maryland
- 6)
- 7)
- 8)
- 9)
- 10)

Exhibit B: Common Energy Quality Commitment

Common Energy's reputation is vital to its success. Successful companies and brands are built over time through consistency, trust and a high-quality offering. As a representative of Common Energy your actions and words help us build that consistency and trust, and you are vital to our success.

To support Common Energy's goal of delivering the highest quality service, Common Energy will randomly call subscribers you enroll in Common Energy's program. These calls are designed to ensure that (a) you have the best training we can provide with respect to our offering; (b) the subscriber understands our offering; and (c) Common Energy receives valuable feedback about the subscriber's experience with you and our company. A draft script of the call (a "Verification Call") is provided below, which the company may change from time to time.

Thank you for helping us deliver the highest quality experience for all of our subscribers!

Justin Rostant
Vice President of Sales

Verification Call Script

Hi this is Scott with Common Energy, may I please speak with ____?

Great. First I'd like to congratulate you on joining Common Energy! We are so happy to have you as a customer.

My goal is to make sure that you have a great experience with our company, and as part of that I have a couple quick questions about your interaction with "Rep Name" and our program. This will only take 2-3 minutes. Does that sound okay?

- 1) Overall, on a scale of 1 to 5, with 1 being the worst, and 5 being the best, how would you rate your interaction with Rep Name?

Great. I'd like to ask a few questions about our agreement to make sure you understand how you are saving:

- 2) Do you understand that by signing up with Common Energy you enable clean energy to connect to the grid, lowering emissions in your community?
- 3) Do you understand that Common Energy will deliver clean energy credits to your existing utility account?
- 4) Do you understand you will pay Common Energy for those credits at a 10% discount, creating a savings each month?

- 5) Do you understand that going forward you will receive a new, lower statement from Common Energy, instead of a bill from your electric utility?
- 6) Do you understand you will be removed from any balanced/budget billing plan you are currently enrolled in with the utility?
- 7) Do you understand it will take between 4-8 weeks to be connected, due to the utility's processing time?

Great! Thank you again for all of your time and commitment to clean energy. Please let us know if you need anything moving forward and we will be in touch as we make progress connecting your account.

I have read and understand Common Energy's Quality Commitment.

INVITED CONSULTANT

By: _____

Name: _____

Exhibit C: Payscale And Compensation Example

Metric	Customer
No. Home(s)	1
LTM Usage (kWh)	10,000
Allocated Percentage	90%
Allocated Energy (kWh)	9,000
<u>Payments</u>	
Per "Mass Market" Customer (\$/kWh)	0.0240
Per "Mass Market" Customer (\$)	\$216
Upfront Payment (50%)	\$108
Upon customer paying first bill to Common (50%)	\$108
Customers referring Customers	\$40

I have read and understand Common Energy's Payscale And Compensation Examples.

INVITED CONSULTANT

By: _____

Exhibit D: Confidentiality Agreement

1. Definition of Confidential Information. For purposes of this Agreement, the term "Confidential Information" means any proprietary or non-public information disclosed by the Company (the "Disclosing Party") to the Consultant (the "Receiving Party") which is (i) all information and documentation concerning the Disclosing Party, its affiliates, or with respect to Client, any Project, including without limitation, financial information, pricing information, equipment configurations, specifications, client and vendor lists, strategic alliances and partnerships, terms and conditions of any contracts or agreements, products and services, development plans, forecasts, business and marketing plans and strategies, names and non-public information of employees and consultants, formulas, records, files, drawings, data and databases, interfaces, memoranda, know-how, patents, trade secrets, inventions, technology, supplier lists and information, and Subscriber Data, (ii) all information and documentation prepared by the Disclosing Party or its affiliates (other than Subscriber Agreement and related CDG Program Documents), including without limitation, any and all notes, analyses or other materials prepared by the Disclosing Party and made available by the Disclosing Party or its affiliates to the Receiving Party or its Consultants (as such term is defined below) related to any Project, whether in printed, electronic, oral or any other form, and shall include the parties' negotiation and entry into and the terms of this Agreement, and (iii) other non-public information regarding the Disclosing Party, its affiliates or any Project that, given the circumstances of disclosure, and/or the nature of the information, the Receiving Party knew or reasonably should have known was Confidential Information.
2. Nonuse and Nondisclosure. The Receiving Party shall not use the Confidential Information of the Disclosing Party for any purposes except for the performance of its obligations and/or exercise of its rights under this Agreement. The Receiving Party shall not disclose the Confidential Information of the Disclosing Party to any third party. The Receiving Party shall maintain the Confidential Information of the Disclosing Party in confidence with at least the same degree of care it holds with respect to its own confidential information of a similar nature, and in any event no less than a reasonable degree of care.
3. Exceptions. The Parties' confidentiality obligations shall not apply to the extent that the Receiving Party can demonstrate that the Confidential Information: (a) was in the possession of the Receiving Party prior to the time of disclosure; or (b) is or becomes public knowledge through no action or omission of the Receiving Party in breach of this Agreement; or (c) is obtained by the Receiving Party from a third party under no obligation of confidentiality to the Disclosing Party, or (d) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, as shown by then-contemporaneous written records. The Receiving Party may disclose any Confidential Information that is requested by a governing authority with jurisdiction or required to be disclosed by Applicable Law. If such disclosure is required, the Receiving Party shall give the Disclosing Party prompt notice (to the extent practicable and permitted by Applicable Law) so that the Disclosing Party may seek a protective order or take other action reasonable in light of the circumstances.

4. Return of Confidential Information. Upon termination or expiration of this Agreement, and upon the other Party's request, each Party shall promptly return all the Confidential Information of the other Party, including all copies and tangible embodiments thereof, provided that either Party may retain one (1) archival copy of the other Party's Confidential Information for the sole purpose of complying with its continuing obligations under this Agreement, as required by law or in accordance with each Party's respective record retention policies.
5. Term. The Receiving Party's nonuse and nondisclosure obligations under this Section 5 shall remain in effect with respect to the Confidential Information disclosed during the term of this Agreement for a period of two (2) years.
6. Enforcement. Each Party acknowledges that the disclosure or misuse of Confidential Information by the Receiving Party may result in irreparable harm to the Disclosing Party, the amount of which may be difficult to ascertain and which could not be adequately compensated for by monetary damages and that, therefore, the Disclosing Party is entitled to seek injunctive relief to enforce compliance by the Receiving Party with the terms of this Agreement. Such right of the Disclosing Party shall be in addition to the remedies otherwise available under this Agreement, including monetary damages.

I have read Common Energy's Confidentiality Agreement and agree to its terms.

INVITED CONSULTANT

By: _____

Name: _____