

Retrofit Program – Second Amended and Restated Participant Agreement

RECITALS:

- A. The Participant (being the “Applicant” in the Application) has applied for Participant Incentives, in respect of Eligible Costs, Demand Savings or Energy Savings, as applicable, pursuant to the Application submitted to the IESO under the Save on Energy retrofit program (the “**Retrofit Program**”) in accordance with the Program Requirements.
- B. Retrofit Program participants have advised the IESO of concerns related to the continuing impact of the outbreak of the Novel Coronavirus (“**COVID-19**”) on the completion of conservation and demand management (“**CDM**”) projects under the initiative known as the Interim Framework (“**IF**”) that was established under the direction entitled “Interim Framework for the delivery of Energy Efficiency Programs” issued to the IESO on March 21, 2019, as approved by the Lieutenant Governor in Council pursuant to Order-in-Council No. 380/2019 dated March 20, 2019.
- C. The IESO wishes to take further action to provide relief to those participants impacted by the outbreak of COVID-19 that have submitted an Application under the applicable Program Requirements for the Retrofit Program that was offered under the IF;
- D. The Participant entered into a Retrofit Program participant agreement under the IF. The parties wish to amend and restate the participant agreement such that the requirements relating to the project completion date for the Projects described in the Application are accordingly extended on the terms set out herein.

All capitalized terms not defined herein will have the meanings in Schedule 1.

In consideration of the Participant Incentives being provided and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Participant agrees to the following terms and conditions:

- 1) PARTICIPANT INCENTIVE: The IESO will, subject to the terms and conditions of this second amended and restated participant agreement (the “**Agreement**”) and the Application, pay to the Participant a Participant Incentive for the implementation of the Measures in each Project described in the Application and approved by the IESO in a Pre-Approval. In addition to the other provisions hereof, payment of the Participant Incentive is subject to and conditional upon the following terms and conditions:
 - a) the Participant will implement each of the Projects described in the Application by each Project’s project completion date provided in the Application and in no event after ~~July 31, 2022~~ December 31, 2022 unless otherwise approved in writing by the IESO in its absolute and sole discretion. For certainty, any extension beyond ~~July 31, 2022~~ December 31, 2022 not expressly consented to in writing by the IESO shall be null and void and of no force or effect;
 - b) the Participant will provide the IESO with the Post-Project Submission. For certainty, the IESO may reject Applications where it has determined that the Project’s Eligible Costs are beyond reasonable standard industry costs as determined by the IESO at its sole discretion;

- c) the IESO will have the right in its absolute discretion to decide whether or not to accept or approve the evidence provided pursuant to the Post-Project Submission; and
- d) the Participant will submit an invoice to the IESO for the Participant Incentive after the approval of the Post-Project Submission by the IESO.

For greater certainty, no additional Participant Incentive will be paid for Measures that were not included in the Application.

2) **AMOUNT AND FORM OF PARTICIPANT INCENTIVE:** The Participant acknowledges that the total amount of the Estimated Participant Incentives set forth in the Application is based upon estimated Demand Savings, estimated Energy Savings and Estimated Eligible Costs based on the Application and, subject to the following and Section 3), will be the maximum amount payable hereunder. Upon the completion of each Project, the IESO will review the Post-Project Submission and recalculate the amount of the Participant Incentive based upon the best available information at such time, subject to the limitation that the recalculated Participant Incentive may not be more than 10% greater than the Estimated Participant Incentive in the Application. Notwithstanding the foregoing, the Participant may submit an Application to amend the scope of a Project prior to the completion of that Project, where such change in Project will result in a greater than 10% increase to the Participant Incentive. The IESO will review the Post-Project Submission upon receipt from the Participant, and may conduct Post-Project site visits and inspections, as required for verification purposes. If following the review, the Post-Project Submission is approved by the IESO, acting in its sole and absolute discretion, the total amount of the Participant Incentives determined by the IESO will be paid by the IESO as a lump sum payment. Any Participant Incentive payable under the Retrofit Program will be paid by the IESO to the Participant as a lump sum within 90 days of the Participant submitting an invoice to the IESO for the Participant Incentive after the approval of the Post-Project Submission by the IESO.

3) ADVANCE INCENTIVES

- a) If the Participant is a Social Housing Provider that has requested an SHP Advance Incentive, such SHP Advance Incentive will be paid upon the acceptance by the IESO of the Application in a Pre-Approval. The total Participant Incentive payable upon completion of a Project, including the Social Housing Adder, if any, will be reduced by the amount of the SHP Advance Incentive paid by the IESO prior to the completion of the Project.
- b) If the Participant applies for a M&T Advance Incentive and the IESO approves such M&T Advance Incentive, the M&T Advance Incentive will be paid upon acceptance by the IESO of the Application in a Pre-Approval. The total Participant Incentive payable upon completion of a Project, will be reduced by the amount of the M&T Advance Incentive paid by the IESO prior to the completion of the Project. Further, any Demand Savings or Energy Savings attributed to other Measures that are recorded by the M&T Measure during the Period, will be subtracted from the Demand Savings or Energy Savings attributable to the Project.
- c) Where an Advance Incentive is paid to the Participant and the amount of the Advance Incentive is more than the total Participant Incentive payable to the Participant in accordance with Section 2), the difference between the Advance Incentive paid by the IESO upon acceptance by the IESO of the Application in a Pre-Approval and the total Participant Incentive payable to the Participant in accordance with Section 2) shall be

payable by the Participant to the IESO or recovered by set-off from any other Participant Incentive that becomes payable.

- d) If the Participant is a Social Housing Provider and the Project for which that Advance Incentive was made has not been completed within one year of the date the Application was approved in a Pre-Approval, the Participant will no longer be eligible to receive the Social Housing Adder, and any Advance Incentive previously advanced will be repaid to the IESO or the IESO will be entitled to set-off such amount from any Participant Incentive that may become payable.
- 4) SETTLEMENTS: The IESO will pay, at its sole discretion, any Participant Incentive via electronic funds transfer or by cheque issued by the IESO or its subcontractor.
- 5) OPERATION OF PROJECT: The Participant will maintain, or will cause to be maintained, all of the equipment and improvements implemented through each Project, including the Measures, in good working order and will operate and maintain, or will cause to be operated and maintained, such equipment and improvements without any modification for a continuous period of 48 months (the “**Period**”) starting on the first day of the month immediately following the month in which the IESO pays the Participant Incentive.
- 6) EVENTS OF DEFAULT

Each of the following is an “**Event of Default**” hereunder:

- a) if equipment or improvements implemented through a Project requires any modification during the Period and the Participant does not obtain the IESO’s written consent prior to carrying out any such modification, which consent may be withheld in the IESO’s sole discretion;
- b) if the equipment or improvements implemented through a Project, including the Measures, ceases operation before the end of the Period;
- c) if the Participant does not perform or comply with any term or condition of this Agreement or if any representation, warranty or certification made by the Participant is untrue, incomplete or inaccurate;
- d) except as permitted in Section 12)b), if any equipment replaced is not properly decommissioned or such equipment is used again; or
- e) in the case of a Social Housing Provider that has requested and received an Advance Incentive, if the Projects in the Application are not all completed.
- 7) REPAYMENT AND MULTIPLE EVENTS OF DEFAULT: If an Event of Default occurs then, upon demand by the IESO, the Participant will repay to the IESO a portion of the Participant Incentive, calculated as follows:

Participant Incentive paid (in relation to each defaulting Project) x months remaining in Period ÷ 48

For the purposes of this calculation: (a) an Event of Default occurring at any time during a month will be deemed as an Event of Default for the full month; and (b) for an Event of Default in Section 6)e), the “months remaining in Period” will be deemed to be 48.

If the Participant is in default under this Agreement and any other participant agreement executed by the Participant under the Retrofit Program, the IESO may, upon written notice, not be obligated to provide Participant Incentives for all Projects completed by the Participant under this Agreement or any other participant agreement executed by the Participant under the Retrofit Program.

- 8) **PROJECT DETAILED INFORMATION:** The IESO shall have the right to publicize the features or equipment described in the Application to potential participants who are considering the Retrofit Program and may refer any interested party to the Participant, unless the Participant clearly indicates which sections of the Application are to remain confidential or otherwise provides a written request to the IESO that this information remain confidential.
- 9) **REPRESENTATIONS AND WARRANTIES:** The Participant represents, warrants and agrees that:
- a) unless otherwise disclosed to the IESO, no Project has received, is receiving or will receive any financial incentives generally funded by a Governmental Authority, whether administered by the IESO, a local electricity or gas distributor or any other party (unless funding is principally directed to Social Housing Providers and if such funding, when combined with the Participant Incentive, does not exceed the Project cost) or rebates from manufacturers or wholesalers or other supply chain participants;
 - b) it has all required rights and authority to install the equipment and improvements, including, for greater certainty, the Measures, and to carry out all other obligations in this Agreement;
 - c) all information in the Application, including any attached documentation, is true, accurate and complete;
 - d) the Participant is a Non-Residential Customer or Recognized Farm Operation;
 - e) if applying for a Social Housing Adder, it is a Social Housing Provider;
 - f) it would not otherwise have undertaken the Project(s) without the financial support and participation of the IESO;
 - g) it has the authority and capacity to enter into this Agreement;
 - h) the Participant further acknowledges that it is an independent contractor, and that there is no joint venture, partnership or agency created or implied by this Agreement; and
 - i) where the Participant becomes eligible to receive or does receive funding as described in Section 9)a): (i) the Participant will promptly notify the IESO, (ii) the funding received will be deducted from the Estimated Eligible Costs or the Eligible Costs; and (iii) the Estimated Participant Incentive and/or Participant Incentive will be recalculated.

10) EVALUATION, MEASUREMENT AND VERIFICATION, AUDIT: The Participant will participate in any surveys, studies, audits, reporting, evaluations or verifications conducted by the IESO or its service providers (collectively, the “**Program Operators**”) in connection with the Retrofit Program, including for the purpose of proper administration, monitoring and verification of this Agreement or evaluation of the Retrofit Program, and will provide to the Program Operators reasonable access to the Participant’s records and facilities for such purposes. The Participant will allow inspections to be conducted in the Facility by the Program Operator if the Participant is selected by IESO or its subcontractors for a quality assurance and quality control review.

The Participant hereby consents that in connection with reporting, surveys, studies and audits, the Program Operators may contact the Participant directly including by email and other electronic communication. Pursuant to Canada’s anti-spam legislation (hereinafter “**CASL**”) the IESO is hereby requesting your Express Consent (as that term is meant in CASL and its associated Regulations) to contact you at the electronic address identified in this Agreement. If you wish the IESO to communicate with you by email in connection with future conservation programs, customer satisfaction surveys and other related purposes, you can register for the business newsletter by clicking here <https://saveonenergy.ca/For-Business-and-Industry>. You may withdraw your consent at any time. You may also reach the IESO at: 120 Adelaide Street West, Suite 1600, Toronto, ON, M5H 1T1; ieso.ca; saveonenergy.ca; or 905 403-6900.

11) COMPLIANCE WITH PROJECT M&V PROCEDURE: The Participant acknowledges and agrees that the Participant will comply with the Project M&V Procedure.

12) EQUIPMENT DISPOSAL AND DECOMMISSIONING:

- a) Subject to Section 12)b), the Participant will take all necessary steps to have equipment that was removed or replaced as part of any Project disposed of or decommissioned in accordance with appropriate disposal or decommissioning processes, applicable laws and regulations, and in accordance with commercially reasonable environmental practices and shall evidence such activities by appropriate disposal certificates or similar documentation.
- b) Notwithstanding Section 12)a), the Participant may utilize their removed or replaced air compressor for emergency back-up situations and/or scheduled maintenance purposes only. The Participant shall record the number of hours the removed or replaced air compressor is utilized which shall not exceed 4% of the annual average run time of the air compressor. The Participant shall provide the log of recorded emergency and/or scheduled maintenance use to the IESO upon request.

13) ENVIRONMENTAL ATTRIBUTES:

- a) All right, title and interest in and to all benefits or entitlements associated with decreased environmental impacts now or in the future, direct or indirect, arising as a result of, relating to or in connection with the electricity savings for which an incentive has been paid, and the right to quantify and register these, including any energy efficiency certificate, renewable energy certificate, credit, reduction right, offset, allocated pollution right, emission, reduction allowance (collectively, the “**Electricity Savings Environmental Attributes**”) will be allocated on a proportionate basis, with the IESO owning an amount equal to the total quantity of Electricity Savings Environmental Attributes multiplied by the Environmental Attribute Funding Percentage (the result being the “**IESO Environmental Attributes**”) and the Participant owning the remaining

quantity of Electricity Savings Environmental Attributes (the “**Participant Environmental Attributes**”), where Environmental Attribute Funding Percentage means, in respect of an Eligible Measure purchase and installed, the total incentive amount paid to the Participant and funded by the IESO in respect of the Measure, divided by the total amount of actual costs incurred by the Participant that meet the eligibility requirements for such costs set out under these terms and conditions, multiplied by 100, and expressed as a percentage.

- b) The Participant shall notify the IESO in writing prior to assigning, transferring, encumbering, submitting for compliance purposes, trading or otherwise using (collectively, “realizing”) any of the Participant Environmental Attributes, with such notice to include: (i) the quantity of Participant Environmental Attributes to which the Participant believes it is entitled; (ii) the quantity of Electricity Savings Environmental Attributes and the Environmental Attributes Funding Percentage used to determine the quantity of Participant Environmental Attributes; and (iii) supporting calculations and data used to determine the total quantity of Electricity Savings Environmental Attributes and the Environmental Attribute Funding Percentage.
 - c) The Participant agrees that all right, title and interest in and to all benefits or entitlements associated with the IESO Environmental Attributes are hereby transferred and assigned by the Participant to, or to the extent transfer or assignment is not permitted, held in trust for, the IESO and its successors and assigns.
 - d) The IESO will be entitled unilaterally and without consent to deal with such IESO Environmental Attributes in any manner it determines. The Participant acknowledges that the IESO will contact the Participant prior to realizing on any IESO Environmental Attributes.
 - e) The Participant agrees that it will, from time to time, upon written direction of the IESO, take all such actions and do all such things necessary to:
 - i) effect the transfer and assignment to, or holding in trust for, the IESO all rights, title and interest in all IESO Environmental Attributes; and
 - ii) certify, obtain, qualify and register with the relevant authorities or agencies IESO Environmental Attributes that are created and allocated or credited pursuant to applicable laws and regulations from time to time for the purpose of transferring such IESO Environmental Attributes to the IESO. The Participant will be entitled to reimbursement by the IESO of the cost of complying with such a direction provided that the IESO, acting reasonably, has approved such cost of compliance in writing prior to the cost being incurred and provided that such reimbursement will be limited to: (x) the total amount of such cost of compliance that have been approved in advanced by the IESO, multiplied by (y) the applicable Environmental Attributes Funding Percentage.
- 14) NO WARRANTY: Except as specifically set forth or referenced in this Agreement, there are no representations, warranties, or conditions of the Participant or the IESO, express, implied, statutory or otherwise, regarding any matter, including any implied warranties or conditions of quality, workmanship, safety, legal compliance or fitness for a particular purpose. Without limiting the generality of the foregoing, the Participant acknowledges that its participation in the Retrofit Program is based upon its own assessment of the Retrofit Program and not on any reliance on anticipated or projected results, and that such participation may not result in the achievement of any Energy Savings or Demand Savings, which are expressly disclaimed by the Participant.

- 15) **ASSIGNMENT:** This Agreement will enure to the benefit of and be binding upon the Participant and their respective successors and assigns. This Agreement will not be assigned to another person other than an affiliate except with the prior written consent of the IESO, which consent may not be unreasonably withheld or delayed.
- 16) **SUBCONTRACTING BY THE IESO:** The IESO may subcontract any of its responsibilities under this Agreement or the Program Requirements to an affiliate or a third party.
- 17) **MISCELLANEOUS:** Except as otherwise provided, this Agreement constitutes the entire agreement between the Participant and the IESO in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings, whether oral, written, express or implied, concerning the subject matter of this Agreement. The Participant will, from time to time, on written request of the IESO, do all such further acts and execute and deliver or cause to be done, executed and delivered all such further things as may be reasonably required in order to fully perform and to more effectively implement the terms of this Agreement. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The invalidity, unenforceability or illegality of any provision in this Agreement will not, to the extent permitted by applicable laws, affect the validity, enforceability or legality of any other provision of this Agreement, which will remain in full force and effect.
- 18) **TERM AND TERMINATION:** Except as otherwise specified herein, this Agreement will terminate upon the expiration of the Period, upon notice from the IESO following any Event of Default herein, or as otherwise determined by the IESO in its reasonable discretion. Sections 9), 10), 13), 14), 18) and 21) of this Agreement will survive the termination of this Agreement.
- 19) **THIRD PARTY BENEFICIARIES:** Except as provided in Sections 8), 10), 15), 21) and 22), this Agreement is solely for the benefit of:
- a) the IESO, and its successors and assigns, with respect to the obligations of the Participant under this Agreement, and
 - b) the Participant, and its successors and permitted assigns, with respect to the obligations of the IESO under this Agreement;
- and this Agreement will not be deemed to confer upon or give to any other person any claim or other right or remedy.
- 20) **COVENANT NOT TO INCREASE RENT:** Where the Facility is a Multi-Family Building, the Participant must evidence ownership or operation of a facility that permits tenants to occupy rental units subject to the *Residential Tenancies Act, 2006* (the “**RTA**”), the Participant shall not use the Participant Incentives as a basis for applying to the Board (as defined in the RTA), for an increase in the annual rent amounts paid by such tenants above the annual rent-increase guideline permitted under the RTA.
- 21) **COLLECTION OF PARTICIPANT INFORMATION:** The Participant understands and agrees that by submitting the Application, whether or not this Application is accepted:

- a) it hereby consents to the collection, use, disclosure and other handling of any information it provides to the Program Operators, which may include personal information and records showing past and current energy usage (the “Participant Information”) by the Program Operators for purposes relating to the operation, administration, compliance or assessment of the Retrofit Program, including for dispute resolution, and in connection with any reporting activities, follow-up surveys, studies and audits relating to the Retrofit Program, which shall include, without limitation:
- i) sharing of Participant Information among the Program Operators;
 - ii) use by the Program Operators of the Participant Information provided by the Participant to conduct, analyze and report on the results of surveys and modify the Retrofit Program based on such surveys; and
 - iii) disclosure to the Ontario Energy Board, the Ontario Ministry of Energy or the Ontario Environmental Commissioner or their respective successors;
- b) it hereby consents to the disclosure by the IESO of Participant Information to local electricity utilities or local distribution companies and to the IESO receiving information related to the Participant that is collected by local electricity utilities or local distribution companies, required for the purpose of administering and assessing the Retrofit Program and/or Local Programs implemented by local electricity utilities or local distribution companies and to determine the Participant’s eligibility to receive a Participant Incentive by ensuring the Participant meets the eligibility requirements set out in the Program Requirements and does not receive more than one financial incentive funded by the IESO for the same Measure; and
- c) it acknowledges the IESO is a not-for-profit corporation without share capital established under the *Electricity Act, 1998*. The *Ontario Energy Board Act, 1998* and sections 6(1)(i) and 6(1)(p) of the *Electricity Act, 1998*, gives IESO the authority to collect, use and potentially disclose personal information about a Participant as necessary to advance its statutory objects. IESO complies with the privacy protection rules contained in Ontario's *Freedom of Information and Protection of Privacy Act* ("FIPPA").

For information about IESO's general personal information practices, please refer to its privacy policy at www.ieso.ca/en/privacy or contact IESO at: 120 Adelaide Street West, Suite 1600, Toronto, ON, M5H 1T1; 416-969-6277; or privacy@ieso.ca.

- 22) INDEMNITY OF PROGRAM OPERATORS: The Participant will indemnify and save harmless each of the Program Operators and their respective directors, officers and employees from any and all liability and all claims, losses, damages (including indirect or consequential damages), expenses and proceedings for personal injury (including death) or property damage of any person relating to, in connection with, resulting from, or arising out of the Retrofit Program, including by reason of the actual or alleged implementation of any Project and its operation or any other matter contemplated by this Application or the Agreement.
- 23) COMPLIANCE WITH LAWS: The Participant and the IESO will comply, in all material respects, with all laws and regulations required to be complied with in the performance of its obligations hereunder.



- 24) FACSIMILE/ELECTRONIC SIGNATURES: This Agreement may be executed and delivered by facsimile transmission or by any other method of electronic execution and the Participant and the IESO may rely upon all such signatures as though such signatures were original signatures.
- 25) ADDENDA: Notwithstanding any term in this Agreement, where an application is submitted through the Retrofit Portal for a financial incentive payable under a Local Program, the terms of the applicable Local Program Addendum, which supplements this Agreement, will apply.

I, the Participant, certify that I understand and agree to the terms and conditions as set forth above in this Agreement.

PARTICIPANT / LEGAL COMPANY NAME	AUTHORIZED SIGNATURE	DATE
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SCHEDULE 1 DEFINITIONS

Capitalized terms not otherwise defined in the Agreement will have the following meaning:

“Advance Incentive” means a portion of the total Participant Incentive to which a Participant is entitled in accordance with the Program Requirements and payable prior to completion of the Project. For greater certainty, Advance Incentive includes a M&T Advance Incentive and a SHP Advance Incentive.

“Application” means a complete application for a proposed Project submitted by a Participant or Applicant Representative via the Retrofit Portal to the IESO for approval. For greater certainty, an Application for a Project with Custom Measures must include a completed Custom Worksheet.

“Applicant Representative” means a representative of a Participant that enters applicant and Project information into the Retrofit Portal on behalf of the Participant.

“Combination Incentive” means a Participant Incentive payable for the installation of a combination of Custom Measures and Prescriptive Measures calculated as the lesser of:

- a) the Custom Incentive calculated as specified herein plus the Prescriptive Incentive calculated as specified herein; and
- b) 50% of the Eligible Costs for the Project, up to a maximum of 55% of the Estimated Eligible Costs in the Application approved by the IESO.

“Custom Incentive” means a Participant Incentive payable for the installation of a Custom Measure calculated as the lesser of:

- a) either:
 - i) for Lighting Systems and Occupancy Lighting Control Systems, the greater of \$400/kW of Demand Savings or \$0.05 / kWh of Energy Savings; or
 - ii) for Non-Lighting Systems and Non-Occupancy Lighting Control Systems the greater of \$800/kW of Demand Savings or \$0.10 / kWh of Energy Savings; and
- b) 50% of the Eligible Costs for a Project with Custom Measures, up to a maximum of 55% of the Estimated Eligible Costs in the Application approved by the IESO.

“Custom Measures” means a Measure not comprising a Prescriptive Measure that involves one or more of the following:

- a) replacement of existing equipment with equipment that is more efficient;
- b) purchase and installation of new equipment that is more efficient than what would have been installed if the Participant had not participated in the program, where none previously existed;
- c) replacement of oversized existing equipment with appropriate sized equipment that is more efficient;

- d) implementation of new operating procedures, including the purchase and installation of equipment (such as an energy management system, building automation system, sensors, control equipment, metering equipment, or related communication systems) necessary either to obtain or to increase the effectiveness of an energy management system or building automation system; or
- e) improvement of thermal performance of a building envelope through Measures such as increased insulation, installation of high performance windows and frames, low emissive window glazing or low emissive roof barriers.

For greater certainty, an M&T Measure is a Custom Measure.

“Custom Worksheet” means a worksheet describing Custom Measures in the form made available by the IESO, as updated from time to time, and submitted as part of an Application for a Custom Measure.

“Demand Savings” means the average load reduction in electricity demand between the base case and the energy efficient case occurring between 1 p.m. to 7 p.m. on business days, June 1 through August 31. For Measures that are weather dependent, Demand Savings shall be considered as occurring at peak design load conditions.

“Distribution System” means a system connected to the IESO-Controlled Grid for distributing electricity at voltages of 50 kV or less and includes any structures, equipment or other thing used for that purpose.

“Electricity Savings Environmental Attributes” has the meaning provided in Section 13)a).

“Eligible Cost” means the costs that are eligible to be included in the calculation of the Participant Incentive payable to a Participant under the Program Requirements as described in Schedule 2.

“Energy Savings” means the estimated, determined or actual kilowatt hour reduction in energy consumption attributable to the installation of a Custom Measure over the course of the first year after completion of a Project.

“Estimated Eligible Costs” means an estimation of the anticipated Eligible Costs, as specified in the Application approved by the IESO in a Pre-Approval.

“Estimated Participant Incentive” means an estimation of the anticipated Participant Incentive, as specified in the Application approved by the IESO in a Pre-Approval, as updated from time to time.

“Event of Default” has the meaning given in Section 6).

“Facility” means a building structure where Measures are installed that is a single facility, connected to, or behind the meter of, another electricity consumer connected to the IESO-Controlled Grid or a Distribution System, provided that a Facility may be located within or upon a building but may also be a structure other than a building, such as a freestanding billboard.

“Governmental Authority” means any federal, provincial, or municipal government, parliament or legislature, or any regulatory authority, agency, tribunal, commission, board or department of any such government, parliament or legislature, or any court or other law, regulation or rule-making entity, having jurisdiction in the relevant circumstances,



including the IESO, the Ontario Energy Board, the Electrical Safety Authority, the office of the Auditor General of Ontario, and any person acting under the authority of any of the foregoing, but excluding the IESO.

“**HST**” means the harmonized sales tax payable pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15.

“**IESO**” means the Independent Electricity System Operator.

“**IESO-Controlled Grid**” has the meaning given to it in the IESO Market Rules.

“**IESO Environmental Attributes**” has the meaning provided in Section 13)a).

“**IESO Market Rules**” means the rules made under Section 32 of the *Electricity Act, 1998* (Ontario), together with all market manuals, policies, and guidelines issued by the IESO or its successor.

“**Lighting System**” means light bulbs, lighting fixtures, exit signs and LED strips.

“**Local Program**” means a cost-effective conservation demand management program that is not duplicative of IESO conservation and demand programs and is designed and delivered by a local distribution company.

“**Local Program Addendum**” means an addendum provided to the Participant that supplements and/or modifies this Agreement to include terms specific to the applicable Local Program.

“**M&T Advance Incentive**” means an Advance Incentive, provided at the IESO’s discretion, payable for an M&T Measure in the amount calculated by the IESO at its discretion up to a maximum of 35% of the estimated Custom Incentive payable for the M&T Measure upon request.

“**M&T Measure**” means equipment to monitor the energy and/or demand performance of a system, relative to production by such system, for the purpose of setting targets for future energy performance and assisting with the implementation of savings targets through continuous feedback.

“**Measure**” means any eligible electricity savings measure or activity that may be taken under the Retrofit Program.

“**Multi-Family Building**” means a Facility that houses multiple residential tenants and is captured by the: (a) general service less than 50 kW account, (b) general service greater than 50 kW account, or (c) the large user account, as applicable.

“**Non-Lighting System**” means any Measure that is not a Lighting System.

“**Non-Occupancy Lighting Control System**” means an advanced lighting control system that is capable of network controls, programming, measurement and verification, data collection, central reporting and multiple lighting control strategies.

“**Non-Residential Customer**” means electricity customers in Ontario that: (a) are not classified as residential in the most recent Yearbook of Electricity Distributors published by the Ontario Energy Board, and (b) are connected to the IESO-Controlled Grid.

"Occupancy Lighting Control System" means a standalone lighting control system consisting of occupancy sensors, vacancy sensors and/or day lighting sensors.

"Participant" means the person who has signed this Agreement and has submitted an Application for a Participant Incentive.

"Participant Environmental Attributes" has the meaning provided in Section 13)a).

"Participant Incentive" means, in respect of the Retrofit Program, the financial incentives paid or payable to a Participant calculated by the IESO in accordance with the Program Requirements and this Agreement. For greater certainty, Participant Incentive includes a Custom Incentive, a Prescriptive Incentive, a Combination Incentive and a Social Housing Adder.

"Participant Information" has the meaning provided in Section 21)a).

"Performance-Based Optimization Activities for M&T Measures" means the diagnosis of building system performance issues, identification of problems, solution development, and quantification of benefits over a period of time relative to a normalized base-line condition.

"Period" has the meaning provided in Section 5).

"person" means a natural person, firm, trust, partnership, association, unincorporated organization, limited partnership, company or corporation (with or without share capital), joint venture, sole proprietorship, governmental authority or other entity of any kind.

"Post-Project Submission" means the submission made by the Participant via the Retrofit Portal after the completion of a Project, which shall include, without limitation, evidence of completion and implementation of the Project, verification of the Project's Eligible Costs, in the form of accounting records and contractor invoices, and any other evidence required by the IESO (including visual inspections by the IESO or its subcontractors).

"Pre-Approval" means a notice from the IESO to the Participant via the Retrofit Portal that their Application has been reviewed and their Project deemed eligible for a Participant Incentive, and that the Participant may proceed with the Project in accordance with the Program Requirements and the notice. For greater certainty, if a Participant does not submit a Post-Project Submission within 6 months of receipt of a Pre-Approval, then the IESO, at its sole discretion, may declare the Pre-Approval and the underlying Application null and void.

"Prescriptive Incentive" means a Participant Incentive payable for the installation of a Prescriptive Measure, calculated as the lesser of:

- a) The Estimated Participant Incentive calculated in accordance with the Prescriptive Worksheet(s); and
- b) 50% of the Eligible Costs for a Project with Prescriptive Measures, up to a maximum of 55% of the Estimated Eligible Costs in the Application approved by the IESO.

“Prescriptive Measures” means Measures that replace existing equipment with efficient equipment listed on a Prescriptive Worksheet. For greater certainty, Prescriptive Incentive includes Unitary AC Eligible Measures and VFD or VD Compression Eligible Measures.

“Prescriptive Worksheet” means the worksheets describing Prescriptive Measures embedded in the Retrofit Portal and in the form made available by the IESO as updated from time to time.

“Program Operators” has the meaning given in Section 10).

“Program Requirements” means the program requirements for the Retrofit Program made available by the IESO as updated from time to time.

“Project” means one or more Measures that are expected to be undertaken in accordance with the eligibility requirements in the Program Requirements, as described in Schedule 3.

“Project M&V Plan” means a plan to conduct measurements and verification of the Energy Savings and Demand Savings in respect of a Project, in accordance with the Project M&V Procedure.

“Project M&V Procedure” means the Project measurement and verification procedure in the prescribed form made available by the IESO, as updated from time to time.

“Recognized Farm Operation” means a farm property that possesses a farm business registration number, being the six to seven digit number administered by Agricorp, an agency of the Government of Ontario, and housed by Agricorp, the Ontario Ministry of Food, Agriculture and Rural Affairs, the Municipal Assessment Corporation and the municipalities.

“Retrofit Portal” means the IESO online portal used for Application submissions, Pre-Approvals notices and Post-Project Submissions for the Retrofit Program.

“Retrofit Program” has the meaning given in the Recitals of this Agreement.

“SHP Advance Incentive” means an Advance Incentive, provided at the IESO’s discretion, payable to a Social Housing Provider in the amount calculated by the IESO at its discretion up to a maximum of 50% of the total estimated Custom Incentive, Prescriptive Incentive, or Combination Incentive (plus the Social Housing Adder, if any) payable to the Social Housing Provider upon request.

“Social Housing Adder” means a Participant Incentive payable to a Social Housing Provider for a Project, in addition to a Custom Incentive, Prescriptive Incentive or Custom Incentive, calculated as the positive difference, if any, of:

- a) the Participant Incentive that would otherwise be payable for such Project had the applicant not been a Social Housing Provider, multiplied by two (2), up to a maximum of 50% of the Eligible Costs for such Project or a maximum of 55% of the Estimated Eligible Costs in the Application approved by the IESO in a Pre-Approval; and
- b) the Participant Incentive that would otherwise be payable for such Project had the applicant not been a Social Housing Provider.

The Social Housing Adder is payable subject to available IESO funds.

“Social Housing Provider” means a non-profit provider of assisted or social housing under a federal, provincial or municipally funded program, and includes, without limitation, non-profit corporations under the *Housing Services Act, 2011*, as amended or any successor legislation; public housing corporations owned by municipalities directly or through local housing corporations, non-profit housing co-operatives as defined in the *Co-operative Corporations Act*, non-profit housing corporations that manage or own residential buildings developed under the “Affordable Housing Program”, and non-profit organizations or municipal or provincial governments that manage or own residential supportive housing, shelters and hostels.

“Unitary AC Eligible Measures” means Prescriptive Measures that are unitary air-conditioning eligible measures.

“Unitary AC Eligible Measures Worksheet” means the Prescriptive Worksheet for the Unitary AC Eligible Measures, in the form made available by the IESO, as updated from time to time, and embedded in the Retrofit Portal.

“VFD or VD Compressor Eligible Measures” means Prescriptive Measures that are variable frequency drive or variable drive compressor eligible measures.

“VFD or VD Compressor Eligible Measures Worksheet” means the Prescriptive Worksheet for the VFD or VD Compressor Eligible Measures, in the form made available by the IESO, as updated from time to time, and embedded in the Retrofit Portal.

SCHEDULE 2 ELIGIBLE COSTS

Costs which are eligible to be included in the calculation of the Participant Incentives must be reasonable standard industry costs and be directly related to the procurement and implementation of the Measures and are limited to:

- 1) for Prescriptive Measures, be directly related to procurements and implementation and be limited to:
 - a) cost of the equipment purchased;
 - b) cost of labor for equipment installed by a third party; and
 - c) costs to dispose or decommission the replaced equipment.
- 2) for Custom Measures:
 - a) costs of the equipment purchased;
 - b) costs of labour for equipment installed by a third party;
 - c) costs of energy audits not funded by the IESO;
 - d) costs of design, engineering and/or architecture;
 - e) third party project management costs;
 - f) shipping, delivery, duties and other costs applicable to the delivery of equipment to the Facility;
 - g) costs to prepare and implement the Project M&V Plan;
 - h) costs to dispose of or decommission the replaced equipment;
 - i) costs of inspections, as may be required pursuant to Laws and Regulations; and
 - j) Performance-Based Optimization Activities for M&T Measures for up to a 12-month period following Project completion.

For certainty, costs which are not eligible to be included in Eligible Costs include:

- 1) costs of the Participant's labour, service, administration or overhead that are not incurred by a third party;
- 2) financing costs including, but not limited to, costs associated with financing, leasing, and lease-to-own procurement arrangements and such other financing costs associated with leasing or borrowing capital;
- 3) insurance costs;
- 4) costs associated with post-installation work related to equipment maintenance or repair;

- 5) costs of spare parts, spare equipment or other inventories;
- 6) costs of purchase or lease of tools for equipment installation;
- 7) HST; and
- 8) any costs already covered by or will be covered by funding or grants funded by a Governmental Authority, whether administered by the IESO, a local electricity or gas distributor or any other party (unless funding is principally directed to Social Housing Providers and if such funding, when combined with the Participant Incentive, does not exceed the Project cost), or rebates from manufacturers, wholesalers, or other supply chain participants.

SCHEDULE 3 PROJECT ELIGIBILITY REQUIREMENTS

A Project must:

- 1) be comprised of one or more Measures;
- 2) for Prescriptive Measures only:
 - a) result in a minimum Participant Incentive of \$500; and
 - b) for the unplanned replacement of recently failed existing equipment with a Prescriptive Measure listed on the Unitary AC Eligible Measures Worksheet or the VFD or VD Compressor Eligible Measures Worksheet, have the following:
 - i) an Estimated Participant Incentive less than \$10,000; and
 - ii) an Application submitted within 45 days following the completion of such Project;
- 3) for Custom Measures only:
 - a) result in a minimum Participant Incentive of \$1500; and
 - b) be projected to deliver such Demand Savings and/or Energy Savings for a minimum period of 48 months from the in-service date of the Project;
 - c) have Demand Savings of 1 kW and/or annual Energy Savings of at least 2,000 kWh;
- 4) be located in a Facility;
- 5) not comprise the following:
 - a) an Application for Custom Measures that proposes Measures that are not generally commercially available, are pilot or demonstration projects, or are otherwise unproven;
 - b) an Application for Prescriptive Measures that proposes the replacement of existing equipment that were previously incented (must use Custom Measure for any incremental benefit); or
 - c) a project that participated in a previous IESO or former Ontario Power Authority-funded program for the same Measures, unless evidence supports the installation of Measures in a different area of the Facility;
- 6) be based on a reasonable estimate of Demand Savings and Energy Savings for Custom Measures; and
- 7) have an in-service date of no later than ~~July 31, 2022~~ December 31, 2022.