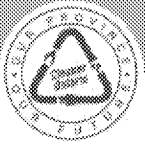




PARTICIPANT AGREEMENT

As consideration for the installation of the Eligible Measures (as listed in section 7 of the Work Order) and the Standard Incentives (as calculated in section 7 of the Work Order) discount, and pursuant to the Work Order, the Participant (as identified in section 2 of the Work Order) agrees to the following terms and conditions:

- 1) This Participant Agreement is between and is binding on your local distribution company (as identified in section 1 of the Work Order, your “LDC”) and the Participant. The Contractor (as identified in section 6 of the Work Order), for the purposes of this Program Initiative (as defined below), is a subcontractor of the LDC and the LDC may subcontract any of its responsibilities under this SMALL BUSINESS LIGHTING (the “Program Initiative”) to the Contractor, an affiliate or a third party.
- 2) The Participant has reviewed the Work Order and confirms that all information is true, complete and accurate. In particular, the Participant has reviewed Section 7 of the Work Order (Eligible Measures) and confirms that the equipment listed under “Existing Equipment” accurately describes the Participant’s current equipment to be replaced, and “Retrofit Measure” accurately describes the new energy efficient equipment to be installed.
- 3) The LDC shall install Eligible Measures at the Facility (identified in section 2 of the Work Order). The Eligible Measures must be whole Eligible Measures and cannot be fractions of or part Eligible Measures ~~and must have an aggregate value of at least \$300 based on Direct Install Eligible Costs (excluding applicable taxes).~~
- 4) The Participant shall be liable directly to the LDC for the cost of any Eligible Measures installed ~~that are not fully funded by the program and where the total of the Direct Install Eligible Costs is in excess of \$21,500, excluding applicable taxes, and such costs may only be incurred for whole Eligible Measures and cannot be fractions of or part Eligible Measures.~~ The Participant will be entitled to a discount on such Eligible Measures installed in excess of the \$12,050 threshold where the amount of the discount will be equal to the amount of the Standard Incentive, and the maximum amount chargeable by the Contractor shall be capped at the ~~Direct Install Eligible Cost (less the Standard Incentive, if applicable) listed on the Eligible Measure Price List available on the LDC’s website at saveonenergy.ca.~~
- 5) The LDC directs and authorizes the Participant to pay amounts described in Section 4 above directly to the Contractor.
- 6) The Participant authorizes (i) the LDC to install the Eligible Measures at the Facility and (ii) the LDC to remove and dispose of any Existing Equipment that has been replaced.
- 7) Neither of the Independent Electricity System Operator (“IESO”) nor the LDC will be liable for any direct, indirect, special or consequential damages, costs or losses arising from the installation or use of the Eligible Measures, whether in accordance with the manufacturer’s instructions or otherwise, or from any actions, negligence or misconduct by any Contractor.
- 8) The Participant represents and warrants that:
 - a) the Participant is not a Residential Consumer or is a farm property that possesses a Farm Business Registration



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FBR number, being the 6 or 7- digit number that is administered by Agricorp, an agency of the Government of



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Ontario, and housed by Agrincorp., the Ontario Ministry of Food, Agriculture and Rural Affairs, Municipal Property Assessment Corporation and the municipalities.

- b) the Participant has all required rights and authority to have the Eligible Measure(s) installed;
- c) the Retrofit Measures were not purchased and the Eligible Measures were not installed before the date of the Work Order;
- d) the Facility is within the service area of the LDC;
- e) where the Facility is individually metered, it is the subject of a General Service less than 1050kW Account;
- f) where the Facility is not individually metered by the LDC, the average estimated demand of all unit connected to that meter over a twelve month period is less than 1050kW based on the bulk metered data;
- g) the Facility did not previously participate in this Program Initiative;
- h) the Facility may have been a participant of the predecessor programs (PSB & 2011-2014 SBL), specifically from 2015 or earlier did not participate in the Power Savings Blitz (Small Commercial Direct Install Program); and
- i) the Facility did not receive the Existing Equipment in the Equipment Replacement Incentive Initiative or its predecessor IESO-funded programs including, without limitation Toronto Hydro – Business Incentive Program, Building Owners and Managers Association of Toronto CDM Program, City of Toronto – Existing Buildings Program, and the Greensaver/Multi-Family Energy Efficiency Rebate Program or Enbridge High Performance New Construction Program;
- j) the Participant has not received, is not receiving or will not receive any financial incentives generally funded by energy ratepayers or tax payers of the Province of Ontario with respect to the Eligible Measures to be implemented;
- k) the Participant would not otherwise have undertaken this retrofit project without the financial support and participation of your LDC;
- l) the Participant understands and agrees to the terms and conditions as set forth herein;
- m) the Participant understands and agrees that if the Work Order is accepted by the LDC, it will be bound by this Agreement; and
- n) it has the authority and capacity to enter into this Agreement.

Commented [RC1]: Should we just remove "H" (it will be in Program Rules anyway)?

Commented [RC2]: Is "I" applicable? Because we will be in new framework previous participants of ERIL and other programs can participate, the PA they signed only says measures must remain installed until 2014



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9) The Participant covenants that:

- a) the Eligible Measures will be installed on or before December 31, 2020~~15~~;
- b) the Participant will participate in any follow up surveys, studies, audits, evaluations or verifications conducted by the LDC or the IESO or their agents in connection with the Program Initiative, including for the purpose of proper administration, monitoring and verification of the Work Order or evaluation of the Initiative, and will provide to the LDC, the IESO, the Contractor, the Assessor and their respective affiliates, employees, agents, officers, directors, service providers or heirs or assigns (together, the “**Program Operators**”) reasonable access to the Participant’s records and Facilities for such purposes;
- c) The Participant will not remove any Retrofit Measure (other than in the normal course of operation) for a minimum period of ~~five~~ years; and
- d) The Participant will pay the taxes, if any, imposed under Part IX of the Excise Tax Act (Canada) on the Participant’s share of the costs of installed Eligible Measures above \$~~21,050~~00.

10) 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, including personal information and records showing historical energy use and consumption (the “**Participant Information**”) by the Program Operators for purposes relating to the operation, administration or assessment of the Initiative or the Work Order, and in connection with any reporting activities relating to the Initiative, 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 to modify the Initiative 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; and
- b) it agrees that the IESO may provide the LDC with information on its participation in any program listed in 8 (g),(h), (i) or (j) for the purpose of confirming the Participant’s eligibility; and
- c) notwithstanding anything contained herein to the contrary, it 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 Initiative, including by reason of the actual or alleged installation of any Eligible Measures and its operation or any other matter contemplated by this Agreement;

Commented [RC3]: should we delete section 10, there is no application for the program.



- 11) 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 or demand savings for which the Participant Incentive has been paid, and the right to quantify and register these, including without limitation, any energy efficiency certificate, renewable energy certificate, credit, reduction right, offset, allocated pollution right, and emission reduction allowance (collectively, the “**Environmental Attributes**”) are hereby transferred and assigned, or to the extent transfer or assignment is not permitted, held in trust for, by the Participant to the LDC and its successors and assigns. The LDC shall be entitled, unilaterally and without the consent of the Participant, to deal with such Environmental Attributes in any manner it determines. The Participant acknowledges that the LDC has further transferred and assigned to the IESO, or may further transfer and assign to the IESO, such Environmental Attributes and that the IESO may direct the Participant in the same manner as the LDC and that the IESO or the LDC may direct the Participant to take such actions and do all such things necessary to certify, obtain, qualify and register with the relevant authorities or agencies such Environmental Attributes for the purpose of transferring such Environmental Attributes to the IESO.
- 12) With the Participant’s prior consent, the LDC and the IESO may publicize the Participant’s participation in the Program Initiative.
- 13) Except as specifically set forth or referenced in this Agreement, there are no representations, warranties, or conditions of either party to this Agreement, 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 Program Initiative is based upon its own assessment of the Initiative and not on any reliance on anticipated or projected results, and that such participation may not result in the achievement of any electricity savings or demand savings, which are expressly disclaimed by the Participant.
- 14) Except as otherwise provided, this Agreement constitutes the entire agreement between the parties 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. This Agreement may not be varied, amended or supplemented except by an agreement executed by both of the parties. Each of the parties will, from time to time, on written request of the other party, 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 Law, affect the validity, enforceability or legality of any other provision of this Agreement, which will remain in full force and effect.
- 15) The Participant acknowledges that it is an independent contractor, and that there is no joint venture, partnership or agency created or implied by this Agreement.
- 16) This Agreement will ensure to the benefit of and be binding upon the parties 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 LDC, which consent may not be unreasonably withheld or delayed.



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- 17) Except as provided in Sections 7, 9 10, 11 and 12 this Agreement is solely for the benefit of:
- a) the LDC, 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 LDC under this Agreement;
 - c) and this Agreement will not be deemed to confer upon or give to any other person any claim or other right or remedy.
- 18) If the Participant is an owner or operator of a Facility which 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 Landlord and Tenant Board (being the “Board” 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.
- 19) This Agreement may be executed and delivered by facsimile transmission or by any other method of electronic execution and the parties may rely upon all such signatures as though such signatures were original signatures.
- 20) Each party to this Agreement will comply, in all material respects, with all laws and regulations required to be complied with in the performance of its obligations hereunder.