

The Green Will Initiative

Participant Agreement

- A. The Participant (being the "Applicant" in the Application), hereby requests and makes application, either directly or by its Applicant Representative, who has authority to bind the Applicant, to the City of Toronto (the "City") to participate in the Green Will Initiative, as described in Schedule A, in accordance with the Eligibility Requirements.
- B. In consideration of the Advisory Services being provided under the Green Will Initiative from the City and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Participant acknowledges, agrees, and consents that by submitting an Application to participate in the Green Will Initiative, whether or not its Application is ultimately accepted, to the following provisions:
1. **Limited Participants:** The Applicant acknowledges that the number of participants accepted annually by the City into the Green Will Initiative is limited based on available resources and funding.
 2. **Rejection of Application:** The Applicant acknowledges that the City may reject its Application for any reason at its sole discretion however the City's rejection of the Application does not prevent or limit the Applicant from applying to participate in the Green Will Initiative at a later date;
 3. **Eligibility Criteria:** The Participant acknowledges to be eligible to participate in the Green Will Initiative it must:
 - (a) Own and/or operate a multi-residential, commercial, institutional, or industrial building portfolio;
 - (b) Own and/or operate more than one (1) multi-residential, commercial, institutional, or industrial building within the City of Toronto;
 - (c) Have a Building Portfolio that aligns with the Green Will Initiatives annual program strategy and resources at the date of the Application;
 - (d) Provide further information as requested to the City in order for the City to evaluate the Applicant's eligibility and whether the City has the sufficient resources to support the Applicant as a participant; and
 - (e) Complete and execute the Green Will Initiative Application and Participant Agreement.
 4. **Agreement:** The Participant agrees and acknowledges that the Agreement is comprised of the Application, the Participant Agreement, and the schedules;
 5. **Accurate and Complete:** The Participant declares that the information in this Application is accurate and complete in all material respects;
 6. **Participant Commitment:** The Participant acknowledges and agrees that the success of the Green Will Initiative is dependent on the Participant's commitment to:
 - (a) work with the City to develop Pathway to Net Zero Plans, including the establishment of goals and action items, to bring its Building Portfolio to net zero GHG emissions;
 - (b) to initiate the action items outlined in the Pathway to Net Zero Plans developed by the City and the Participant;
 - (c) provide access to information, data and findings to verify the progress of the action items outlined in the Pathway to Net Zero Plans and the performance of each Building;
 - (d) work cooperatively with the City, other Green Will Initiative participants, and key Stakeholders; and
 - (e) work towards having their Building Portfolio meet the City's TransformTO goal of net zero greenhouse gas (GHG) emissions by 2050;
 7. **Collection of Information:** The Participant hereby consents to the collection, use, disclosure and other handling of any information it provides to the City, inclining all reports, data, personal information, records showing historical energy use and consumption, and other information of the Participant or its subcontractors or representatives (collectively, the "Participant Information") by the City for the purposes relating to the operation, administration and assessment of the Green Will Initiative, any iterative thereof or the Application, and in connection with any reporting activities related to the Green Will Initiative;

The Green Will Initiative

8. **Privacy Law:** The Participant acknowledges that the Application, the Agreement, and all Participant Information in the possession or control of the City are subject to applicable laws that include the access provisions of the *Municipal Freedom of Information and Protection of Privacy Act (Ontario)*;
9. **Participant Information:** The Participant agrees to cooperate and make available such Participant Information, in the form and with the frequency as may be reasonably prescribed, when requested by the City should the City require the information for the implementation of the Green Will Initiative and/or its provision of the Advisory Services to the Participant;
10. **Information To Be Public:** The Participant grants the City the right to at any time make public the Participant's participation in the Green Will Initiative and data related to the Participant's participation in the Green Will Initiative, including but not limited to Participant Information, the Participant's achievement of GHG emission reduction, description of the initiatives taken by the Participant to reduce GHG emissions, and studies, analysis, and data collected by the City while providing the Advisory Services to the Participant. The Participant acknowledges that it shall clearly mark any Participant Information to remain confidential as confidential or otherwise submit a written request to the City identifying specific Participant Information that is to remain confidential. Participant Information that has not been identified as confidential will be presumed by the City as available to be made public;
11. **Share Contact Information:** The Participant grants the City the right to refer and share the Participant's contact information to other Green Will Initiative participants, interested parties in the Green Will Initiative, and Stakeholders, unless the Participant specifically prohibited the City to do so in writing;
12. **Access to Building:** The Participant agrees to provide the City, its personnel, and agents such reasonable access to each Building in its Building Portfolio as may be necessary to implement the Green Will Initiative. The City will contact the Participant in advance of accessing a Building;
13. **Damage to Building:** The Participant hereby waives any claims of damages that may arise out of the City, its personnel, and agents accessing a Building for the purposes of the Green Will Initiative including, without limitation, damage to any structures or any related loss (including economic loss), as a result of such usage, save and except any such claims or damages directly attributed to the gross negligence of the City or those for whom it is at law responsible. The waiver of claims by the Participant shall survive the termination of this Agreement;
14. **Evaluation, Measurement and Verification, Audit:** The Participant will participate in any surveys, studies, audits, evaluations or verifications conducted by the City or representative of the City (collectively, the "Initiative Operators") in connection with the Green Will Initiative, including for the purpose of proper administration, monitoring and verification of this Agreement or evaluation of the Green Will Initiative, and will provide the Initiative Operators reasonable access to the Participant's records and facilities for such purpose;
15. **Event of Default:** Each of the following is an "Event of Default" under the Agreement:
 - (a) If the Participant fails to observe or perform any obligation to be observed or performed under this Agreement and such failure is not cured to the satisfaction of the City;
 - (b) if any representation, warranty or certification made by the Participant is untrue, incomplete or inaccurate;
 - (c) the Participant fails to undertake reasonable efforts to achieve GHG emission reductions in its Building Portfolio;
 - (d) the Participant becomes or is declared insolvent, becomes the subject of any proceeding related to its liquidation or insolvency which is not dismissed within 90 calendar days, or make an assignment for benefit of creditors;
16. **Term and Termination:** This Agreement commences on the date in which Application is submitted by the Participant to the City and will terminate the earliest of the following: (a) the rejection of the Application by the City; (b) immediately on written notice by the City in the Event of Default; (c) upon 30 calendar days written notice by the City or the Participant; or (d) termination or lack of budget approval by City Council of the Green Will Initiative. The Participant acknowledges in the event its participation in the Green Will Initiative is terminated due to (a) or (b) above the City reserves the right to make public that the Participant is no longer a participant of the

The Green Will Initiative

Green Will Initiative. Sections 4, 7, 8, 10, 13, 14, 16, 17, 18, 19, and 22 of this Agreement will survive the termination of this Agreement.

17. **Representations and Warranties:** The Participant represents, warrants and agrees that:
 - (a) All information in the Application, including any information provided to the City to evaluate the Participant's eligibility to participate in the Green Will Initiative, is true, accurate and complete;
 - (b) It has the authority and capacity to enter into this Agreement;
 - (c) It is an independent contractor, and there is no joint venture, partnership or agency created or implied by this Agreement between the Participant and the City;
18. **Indemnity:** The Participant agrees it shall indemnify, defend and hold the City (including its officials, officers, directors, employees, agents, affiliates, and representatives) (collectively referred to as the "Indemnified Party"), harmless against any and all claims, demands, costs (including legal costs on a substantial indemnity basis), penalties, fines, fees, royalties, damages (including indirect, special, remote, and/or consequential damages) and causes of action, including without limitation, proprietary or personal injury (including death) that arise from, either directly or indirectly, or relate to, any act or omission of the Participant, its officials, directors, officers, employees, agents, affiliates, partners (general or limited), joint venturers, contractors, sub-consultants, and other representatives, in connection with the Participant's responsibilities under this Agreement, including without limitation, the carrying out or failure to carry out any obligation under this Agreement as well as any patent, trademark, or copyright infringement or breach of any intellectual property right, except to the extent that same was caused by the negligence or wilful misconduct of the Indemnified Party.
19. **No Warranty:** Except as specifically set forth or referenced in this Agreement, the Participant acknowledges and agrees that City provides no representations, warranties, or conditions to the Participant 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 Green Will Initiative is based upon its own assessment and the effort of its own participation and initiative in relations to the Green Will Initiative and not on any reliance on anticipated or projected results, and that such participation may not result in the achievement of any GHG emission reductions and goals identified in the Pathway to Net Zero Plans, which are expressly disclaimed by the Participant;
20. **Successors and Assigns:** The Participant agrees that this Agreement will enure to the benefit of and be binding upon the Participant and their respective successors and assigns. The Participant agrees not to assign the Agreement or any obligations under the Agreement to another person without prior written consent of the City, which consent may not be unreasonably withheld;
21. **Subcontracting By The City:** The Participant agrees that the City may subcontract any of its responsibilities under the Green Will Initiative to a third party;
22. **Governing Law:** This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada;
23. **Compliance With Laws:** The Participant agrees to comply, in all material respects, with all laws and regulations required to be complied with in the performance of its obligations under the Agreement;
24. **Severability:** 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 the Agreement, which will remain in full force and effect;
25. **No Partnership:** The Participant agrees that nothing in this Agreement will be deemed to constitute a partnership or joint venture or create any fiduciary relationship between the City and the Participant;

The Green Will Initiative

26. **Miscellaneous:** Except as otherwise provided, the Participant acknowledges and agrees that this Agreement constitutes the entire agreement 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 acknowledges that the City, from time to time, on written request ask the Participant to do 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/or more effectively implement the terms of the Agreement;
27. **Amendment:** The Participant acknowledges and agrees that the City reserves the right to change the provisions of the Agreement at any time on reasonable notice; and
28. **Electronic Signatures:** This Agreement may be executed and delivered by email transmission. The City may rely upon all such signatures as though such signature was an original signature.

Signature of the Applicant or Applicant Representative	
<i>I/We have authority to bind the Applicant</i>	
Signature	
Print Name (First, Last)	
Print Title	
Date (yyyy-mm-dd)	

Office Use Only	
Received Date (yyyy-mm-dd)	
Approval Signature	
Print Name (First, Last)	
Print Title	
Approval Date (yyyy-mm-dd)	

The Green Will Initiative

Schedule A – The Green Will Initiative

A Participant in the City of Toronto's Green Will Initiative will be assigned a program staff responsible for supporting the development and implementation of strategic practices at throughout the Participant's Building Portfolio and at each Building to reduce greenhouse gas (GHG) emissions and to build a pathway to net zero GHG emissions. Program staff will act as a catalyst to leverage existing plans, initiatives and resources established by a Participant to accelerate GHG emissions reduction in their Building Portfolio.

Program staff will work with the Participant to build Pathway to Net Zero Plans that will leverage existing resources and plans established by the Participant and provide support to accelerate the Participant's actions which may include:

- Establishing a baseline and assist in identifying short and long term goals specific to the needs of their Building Portfolio,
- Creating an action plan to achieve established goals,
- Evaluating the state of good repair and long term capital planning both at the Building and the Building Portfolio level,
- Supporting the integration of environmental and social goals, along with increased operational effectiveness, when formulating business cases for projects and plans,
- Supporting the implementation of strategies and plans including short and long term projects.

The Green Will Initiative

Schedule B - Definitions

"Advisory Services" means advisory and support provided by the City or representatives of the City to drive energy management and GHG emissions management initiatives to improve the Participant's Building performance and reduce GHG emissions in Participant's Building Portfolio.

"Agreement" means the Participant Agreement, Application, and the Schedules, as it or they may be amended, restated or supplemented from time to time.

"Applicant" means, in respect to the Green Will Initiative, a person who has submitted and signed the Green Will Initiative Application and Participant Agreement to participate in the Green Will Initiative. Applicant also means Participant where applicable.

"Application" means a completed Green Will Initiative Application to participate in the Green Will Initiative submitted by a Participant or Applicant Representative to the City for approval.

"Applicant Representative" means a representative of the Participant that completes and submits the Application on behalf of the Participant.

"Building" means the building, premise or land, or part thereof, owned or occupied by the Participant and in respect of which such Participant is participating in the Green Will Initiative. A Building would be one of the buildings that make up the Participant's Building Portfolio.

"Building Portfolio" means the buildings, premises or lands, or part thereof, owned or occupied by the Participant and in respect of which such Participant is participating in the Green Will Initiative.

"City" means the City of Toronto.

"Eligibility Requirements" means the requirements the Green Will Initiative applicant needs to meet in order to qualify as a Participant as outlined under s. 3 of the Participant Agreement and revised by the City without notice from time to time.

"Participant" means, in respect to the Green Will Initiative, a person who has submitted and signed the Application and Participant Agreement to participate in the Green Will Initiative and has meet the Eligibility Requirements outlined in Section 3 of the Agreement, and whose Application has been accepted by the City. Participant also means Applicant where applicable.

"Participant Agreement" means, in respect to the Green Will Initiative, an agreement containing terms and conditions of the Green Will Initiative that the Participant must enter into or agree to be bound by in order to participate in the Green Will Initiative.

"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.

"Stakeholder" means persons determined by the City that can support and add value to the Advisory Services delivered through the Green Will Initiative.