



ENERGY SAVINGS FOR BUSINESS

Investing to keep businesses competitive

Participant Terms and Conditions

February 1, 2021

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1. Program Overview

Emissions Reduction Alberta's (ERA) new Energy Savings for Business Program (the "Program") is a funding opportunity to support small- and medium-scale industrial and commercial businesses and will award up to \$55 million for cost-saving and emissions reducing Projects. The Program will help Alberta businesses reduce emissions, decrease operating costs, grow their operations and become more competitive, while creating skilled jobs and boosting economic recovery.

Subject to this Participant Acceptance, the Program offers financial incentives to small- and medium-scale industrial and commercial Projects in Alberta that install eligible commercially available emissions reduction technologies.

2. Definitions

- (a) **"Additional Eligibility Requirements for CHP Systems"** has the meaning given to it in section 4.6 of these Terms and Conditions.
- (b) **"Additional Eligibility Requirements for Geothermal Systems"** has the meaning given to it in section 4.7 of these Terms and Conditions.
- (c) **"Additional Eligibility Requirements for PV Systems"** has the meaning given to it in section 4.5 of these Terms and Conditions.
- (d) **"Applicant"** means a Person or other permitted entity who is submitting an Application to the Program.
- (e) **"Applicant Eligibility Criteria"** has the meaning given to it in section 4.1.
- (f) **"Application"** means a complete application for a proposed Project submitted by an Applicant via the Program Portal to the Program.
- (g) **"Application Change Approval Notice"** means a notice issued by ERA amending the Participant Acceptance and, if applicable, the Pre-Project Estimated Incentive.
- (h) **"Application Date"** means the date that the Participant submitted the Application.
- (i) **"Application Summary"** means the summary of (among other things) the Eligible Measures to be installed at the Eligible Facility attached to these Terms and Conditions as Appendix 1.
- (j) **"Asset"** means any real or personal property or immovable or movable asset, acquired, constructed, rehabilitated or improved, in whole or in part, with funds provided by ERA under these Terms and Conditions.
- (k) **"Business Day"** means any day except Saturday, Sunday or statutory holidays in the Province of Alberta on which banks are not open for business.
- (l) **"Canadian Certification Standards"** means the product standards by the Standards Council of Canada, or equivalent certification by an applicable certification body such as ULc or ETLc. Please see municipalaffairs.alberta.ca/documents/330-LEG-ECR-2-rev25.pdf for additional information

regarding product approvals and certification bodies.

- (m) **“Change Request”** has the meaning given to it in section 8.1 of these Terms and Conditions.
- (n) **“CHP System”** means a system for generating both heat and electrical energy.
- (o) **“DLC”** means the Design Lights Consortium©, the certification given to lighting Measures meeting quality and performance standards.
- (p) **“Eligible Contractor”** means a product and service provider (which includes but is not limited to distributors, suppliers, equipment installers, engineering firms, and commercial energy auditors) that has met the criteria to register for the Program.
- (q) **“Eligible Expense”** means expenses that meet the requirements set out in section 6.2 of these Terms and Conditions.
- (r) **“Eligible Facility”** means a facility that meets the requirements set out in section 4.2 of these Terms and Conditions.
- (s) **“Eligible Measure”** has the meaning given in section 4.4.
- (t) **“Eligible Measures List”** means the list of all commercially available emissions reduction technologies or installations that may be eligible for Project Incentives in the Program, as at the Participant Acceptance Date. All versions of the Eligible Measures List are available at eralberta.ca/esb (click on “Download a pdf of the Eligible Measures List.”).
- (u) **“Eligible Project”** has the meaning given in section 4.3.
- (v) **“ENERGY STAR©”** means the certification given to Measures that have been tested to meet Energy Star specifications for energy performance.
- (w) **“ERA”** means Emissions Reduction Alberta.
- (x) **“Estimated Project Completion Date”** means the date on which the Eligible Project is expected to be completed as stated in the Application Summary.
- (y) **“FOIP”** means the *Freedom of Information and Protection of Privacy Act*, RSA 2000, c.F-25.
- (z) **“Geothermal System”** means a geothermal heat pump, thermal loops, and any ancillary devices for the exchange of thermal energy of the ground or groundwater to provide space conditioning and/or water heating.
- (aa) **“GHG”** means greenhouse gases.
- (bb) **“GST”** means the Goods and Services Tax as defined under Part IX of the *Excise Tax Act*.
- (cc) **“Interconnection Approval”** means an approval granted by the applicable electric distribution service provider to connect the PV, CHP or Geothermal System to the electric distribution service.
- (dd) **“Large Emitter”** means a facility which has emitted more than 100,000 tonnes of carbon dioxide

in 2016 or any subsequent year, as defined in the TIER Regulation.

- (ee) **“Measure”** means a commercially available emissions reduction technology or installation that meets the Program criteria to qualify for a Project Incentive.
- (ff) **“Micro-generation Regulation”** means the *Micro-generation Regulation*, Alta. Reg. 27/2008, as amended from time to time.
- (gg) **“Mountain Standard Time”** or **“MST”** means the time zone where seven hours are subtracted from Greenwich Mean Time.
- (hh) **“Participant”** means an Applicant who meets the Applicant Eligibility Criteria and has entered into a Participation Acceptance.
- (ii) **“Participant Acceptance”** means an agreement by a Participant of these Terms and Conditions, including the Application Summary, as evidenced by the Participant’s electronic acceptance of the Participant Acceptance Form.
- (jj) **“Participant Acceptance Date”** means the date set out in the Participant Acceptance Form reflecting the date when the Participant confirms Participant Acceptance.
- (kk) **“Participant Acceptance Form”** means the form set out in Schedule A in which the Participant agrees to be bound to these Terms and Conditions including the Application Summary.
- (ll) **“Participant Information”** means any non-personal information relating to the Participant, Eligible Project or Participant’s participation in the Program, whether provided by the Participant or obtained by ERA.
- (mm) **“Participant Terms and Conditions”** means these Terms and Conditions and the Application Summary.
- (nn) **“Payment Recommendation”** means a notice advising the Participant that their Post-Project Application was reviewed and that the review did not identify any deficiencies.
- (oo) **“Person”** has the meaning as defined in the *Alberta Business Corporations Act*, RSA 2000, c.B-9.
- (pp) **“Personal Information”** has the meaning as defined in FOIP.
- (qq) **“Post-Project Application”** means the application submitted by the Participant confirming that the Eligible Project is complete and in commercial operation, as further described in section 5.2 of these Terms and Conditions.
- (rr) **“Pre-Approval Application Rejection”** means the notice sent to Participants or Eligible Contractors by ERA rejecting the Application.
- (ss) **“Pre-Approval Notice”** means the notice sent to Participants or Eligible Contractors by ERA advising them that the Participant meets the requirement to be a Participant, that the Facility meets the requirements to be an Eligible Facility, and that the proposed Measure(s) meet the requirements to be an Eligible Measure(s).

- (tt) **“Pre-Project Estimated Incentive”** means the amount set out in the Application Summary, as may be amended by an Application Change Approval Notice.
- (uu) **“Program”** means ERA’s Energy Savings for Business Program.
- (vv) **“Program Portal” or “Portal”** means the website available at esbprogram.ca where Participants or Eligible Contractors (among others) create, submit and/or receive an Application, receive the Pre-Approval Notice/Application Rejection, Application Summary, Terms and Conditions, agreement forms, and Post-Project Application and Project Completion Documentation.
- (ww) **“Program Website”** means the website available at eralberta.ca/esb.
- (xx) **“Project Completion Date”** means the date an Eligible Project has been completed.
- (yy) **“Project Completion Documentation”** means the documentation submitted by the Participant or Eligible Contractor with the Post-Project Application, and as further described in section 5.3 of these Terms and Conditions.
- (zz) **“Project Completion Documentation Submission Deadline”** means the deadline to complete an Eligible Project and submit the Project Completion Documentation, as set out in the Application Summary.
- (aaa) **“Project Incentive”** means the incentive payable to the Participant in accordance with the Participant Acceptance as further described in section 6.
- (bbb) **“Project Incentive Payment to Eligible Contractor Authorization Form”** means the form set out in Schedule A pursuant to which the Participant authorizes and directs ERA to pay the Project Incentive to the Eligible Contractor.
- (ccc) **“Public 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.
- (ddd) **“PV System”** means a power system designed to supply usable solar power by means of photovoltaics.
- (eee) **“Solar Yield”** means the expected solar yield of the PV System as calculated using the methodology set out on the Program Website and set out in the Application Summary.
- (fff) **“Specification”** means the specifications for an Eligible Measure as set out on the Eligible Measures List.
- (ggg) **“TIER Regulation”** means the *Technology Innovation and Emission Reduction Regulation*, Alta Reg 133/2019.

3. Application and Terms and Conditions

The Participant confirms that it has reviewed the Application Summary and that all information contained therein is true, accurate and complete. The Participant agrees that it is bound by this Participant Acceptance including the Application Summary.

The version of the Terms and Conditions applicable to the Participant Acceptance are those in effect on the Participant Acceptance Date. For clarity, ERA may post subsequent amended versions of the Terms and Conditions which shall not be applicable to a previously executed Participant Acceptance.

4. Eligibility Requirements

4.1 Participant

To be a Participant in the Program, an entity must meet all the following requirements:

- (a) The Participant is a Person who carries on business.
- (b) The Participant is a privately owned entity and is not a Public Authority.
- (c) The Participant receives 50 percent or less of its annual revenue from a Public Authority.

4.2 Eligible Facility

To be an Eligible Facility, a facility must meet all the following requirements:

- (a) The facility is located in Alberta.
- (b) The facility is owned or leased by the Participant.
- (c) The facility has been in operation for one year or more. PV, CHP and Geothermal Systems are exempt from this requirement and other exemptions will be specified on the Eligible Measures List.
- (d) The facility meets at least one of the following:
 - i. used solely for commercial or industrial purposes (where the rate class for the facility's electricity account is "non-residential"),
 - ii. consists only of the common areas of a multi-unit residential dwelling, or
 - iii. is a remote industrial facility with an applicable facility ID (Petrinex or equivalent).
- (e) The facility is not a Large Emitter.
- (f) The facility is not, nor is it part of a group of facilities, that are subject to or have opted into the TIER Regulation at any time during the term of this Participant Acceptance.
- (g) To the Participant's knowledge, the facility will continue to operate for the lifetime of the Measure.

4.3 Eligible Project

An Eligible Project is a project that both:

- (a) Consists solely of installing Eligible Measures at an Eligible Facility, as set out in the Application Summary and
- (b) the Participant has not already received a Project Incentive under this Program for Eligible Measures included in the project.

4.4 Eligible Measure

To be an Eligible Measure, a Measure must meet all of the following requirements.

- (a) The Measure is listed on the Eligible Measures List as of the Participant Acceptance Date.
- (b) The Measure is listed in the Application Summary.
- (c) The Measure is not used, refurbished or rebuilt.
- (d) No part or aspect of the Measure could be classified as routine maintenance.
- (e) The Measure meets all Specifications in the Eligible Measures List.
- (f) The Measure meets the Canadian Certification Standards.
- (g) The Participant has obtained all required permits, licenses, approvals and authorizations that are required by law (including any development, electrical or building permits) to install the Measure.
- (h) The Measure was installed by an Eligible Contractor. For clarity, the Eligible Contractor may be the Participant.
- (i) The Measure(s) is installed and will remain installed at the Eligible Facility for the lifetime of the Measure.
- (j) The Measure(s) is purchased, installed, and fully operational by the Project Completion Documentation Submission Deadline.
- (k) The Measure, its installation and operation comply with all applicable laws and regulations.

4.5 Additional Eligibility Requirements for PV Systems

In addition to the requirements set out in section 4.4 above (Eligible Measure), an Eligible Measure that is a PV System must meet all the following requirements (“Additional Eligibility Requirements for PV Systems”):

- (a) The Solar Yield is at least 75% of a system design with optimal azimuth and tilt at that location.
- (b) The PV System complies with the Micro-generation Regulation.
- (c) The PV System is installed by a member of Solar Alberta, the Canadian Renewable Energy Association or the Electrical Contractors Association of Alberta.
- (d) If the PV System is a new installation, it received an Interconnection Approval no earlier than one year prior to the Application Date.
- (e) If the PV System is an expansion of an existing PV system, the Eligible Measure excludes all equipment existing at the Application Date.
- (f) The PV System equipment has minimum (i) 20-year power performance warranty, (ii) 10-year manufacturing warranty on modules, (iii) 10-year manufacturing warranty on inverters and micro-inverters, and (iv) 1-year workmanship warranty.
- (g) For incentive determination, the system size will be determined total capacity in Watts DC.

4.6 Additional Eligibility Requirements for CHP Systems

In addition to the requirements set out in section 4.4 above (Eligible Measure), an Eligible Measure that is a CHP System must meet the following requirements (“Additional Eligibility Requirements for CHP Systems”):

- (a) The CHP System contains only an engine-driven or turbine-driven generator (other technologies such as microturbines or fuel cells are ineligible).
- (b) The CHP System complies with the Micro-generation Regulation.
- (c) If the CHP System is a new installation, it received an Interconnection Approval no earlier than one year prior to the Application Date
- (d) The CHP System delivers all heat and power generated to the Eligible Facility.
- (e) The CHP System meets the following minimum performance standards
 - i. Minimum overall CHP system efficiency of 50%; and

- ii. Minimum CHP system utilization factor of 85%.
- (f) The CHP System equipment has a minimum warranty of two years or 6,000 hours, whichever comes first.
- (g) The CHP System is installed in accordance with good engineering practices.
- (h) The CHP System is approved by a professional engineer licensed to practise in Alberta.
- (i) For incentive determination, the generator nameplate electrical output will be used.

4.7 Additional Eligibility Requirements for Geothermal Systems

In addition to the requirements set out in section 4.4 above (Eligible Measure), an Eligible Measure that is a Geothermal System must meet the following requirements (“Additional Eligibility Requirements for Geothermal Systems”):

- (a) The Geothermal System uses the ground or groundwater for geothermal exchange.
- (b) The Geothermal System equipment has a minimum warranty of ten years for all inground materials and a minimum warranty of five years for the heat pump.
- (c) The Geothermal System complies with *ANSI/CSA C448 Series, Design and installation of ground source heat pumps for commercial and residential buildings*.
- (d) The Geothermal System is installed in accordance with good engineering practices.
- (e) The Geothermal System is stamped by a professional engineer licensed to practise in the province of Alberta and has received accreditation for the Certified GeoExchange Designer course offered by the International Ground Source Heat Pump Association or equivalent.
- (f) The Geothermal System is installed by an installer that has received accreditation for the Accredited Installer course offered by the International Ground Source Heat Pump Association or equivalent.
- (g) For incentive determination, the nameplate rating in tons of the heat pump will be used.

5. Eligible Project Construction and Operation

5.1 Eligible Project Construction and Operation

The Participants agrees and covenants as follows:

- (a) The Participant will install the Eligible Project in the Eligible Facility as set out in the Application Summary, and in accordance with this Participant Acceptance.
- (b) The Eligible Project consists only of Eligible Measures.
- (c) The Participant will comply with all applicable laws in carrying out the Eligible Project.
- (d) The Participant will report on the status of the Eligible Project while it is under construction as and when requested by ERA.
- (e) The Participant will remove and dispose of and/or recycle any equipment and/or waste in accordance with all legal requirements.
- (f) No equipment removed as part of the Eligible Project will be sold, re-used or otherwise reinstalled.
- (g) The Eligible Measures will be in commercial operation on or before the Project Completion Documentation Submission Deadline.

5.2 Eligible Project Completion and Post-Project Application

The Participant will submit the Post-Project Application together with the Project Completion Documentation on or before the Project Completion Documentation Submission Deadline. If the Eligible Project is not completed, or if the Participant does not submit a complete Post-Project Application and Project Completion Documentation on or before the Project Completion Documentation Submission Deadline, then the Participant Acceptance will, at ERA's sole discretion, be terminated without payment, cost or liability owing by ERA to the Participant. For clarity, ERA has no obligation to accept a Post-Project Application or Project Completion Documentation submitted after the Project Completion Documentation Submission Deadline.

Where ERA has identified a deficiency in a Post-Project Application or the Project Completion Documentation and if the Participant does not correct the deficiency to the satisfaction of ERA within 30 days, ERA may terminate the Participant Acceptance at ERA's sole discretion.

5.3 Project Completion Documentation

Together with the Post-Project Application, the Participant will submit the following documents ("Project Completion Documentation"):

- (a) A spreadsheet showing all Eligible Expenses for each Eligible Measure;
- (b) A specification sheet for each Eligible Measure (if required by the Eligible Measures List);
- (c) A copy of all receipts and invoices for all installed Eligible Measures and installation costs. Receipts and invoice(s) must indicate the date of purchase, Eligible Facility address, model numbers of the Eligible Measure(s), DLC® and ENERGY STAR® identification numbers (where applicable), the number of Eligible Measures purchased, price per Eligible Measure, and the total of Eligible Expenses;
- (d) Proof of payment for all invoices that match the amount on each invoice;
- (e) Proof of address of the Eligible Facility, satisfactory to ERA;
- (f) A list of all other funding received by the Participant for the Eligible Project; and
- (g) Any other documentation required by the Eligible Measures List and the Participant Acceptance or as may be reasonably required by ERA.

6. Project Incentive

6.1 Project Incentive

All Project Incentive funds will be allocated on a first come, first served basis once a Participant receives a Pre-Approval Notice. The Project Incentive will be calculated as the least of:

- (a) Sum of each of the incentive value from the Eligible Measures List multiplied by the number of units of the Eligible Measure;
- (b) Sum of the Eligible Expenses for each Eligible Measure multiplied by the number of Eligible Measure multiplied by the corresponding maximum percentage listed on the Eligible Measures List;
- (c) Pre-Project Estimated Incentive (as may be amended by an Application Change Approval Notice);
- (d) \$250,000 per Eligible Project; and
- (e) \$500,000 less the total of all Project Incentives payable and paid to all direct and indirect "affiliates" (as defined in the *Alberta Business Corporations Act*) of the Participant as at the time

of calculating the Project Incentive.

For clarity, the Project Incentive may be less than the Pre-Project Estimated Incentive.

ERA shall have no obligation to pay a Project Incentive of less than \$1,000.

6.2 Eligible Expenses

6.2.1 An Eligible Expense is an expense that meets all the following requirements:

- (a) The expense was incurred directly for the purchase and installation of an Eligible Measure.
- (b) The applicable Eligible Measure is fully installed and in commercial operation on or before the Project Completion Documentation Submission Deadline.
- (c) Where the Eligible Contractor is a third party to the Participant, the expense is one of the following that are directly related to the design, purchase and installation of the Eligible Measure(s):
 - i. energy modelling costs;
 - ii. engineering (structural, electrical, civil, geotechnical) costs;
 - iii. costs to obtain permits;
 - iv. costs to obtain inspections;
 - v. procurement and construction costs;
 - vi. equipment purchase costs;
 - vii. installation equipment costs (e.g. cables conduits, racking or anchors);
 - viii. installation labour costs; and
 - ix. costs of interconnecting with the electrical and/or natural gas distribution system.
- (d) Where the Eligible Contractor is not a third party to the Participant, the expense is less than or equal to the fair market value, as determined by ERA, of the Eligible Measure equipment only (excluding labour and installation costs).
- (e) The expense was incurred, legally payable, and paid by the Participant to an Eligible Contractor.
- (f) The expense was incurred prior to the Project Completion Documentation Submission Deadline.
- (g) The expense is approved as an Eligible Expense in the Application Summary.
- (h) The expense relates to costs to dispose or decommission the replaced equipment.
- (i) Any Eligible Expenses incurred between November 2, 2020 and February 1, 2021 must be submitted to ERA, via the Application Summary, by March 1, 2021.
- (j) The expense was not incurred before November 2, 2020.
- (k) After February 1, 2021, no Eligible Expenses or other legally binding commitments to purchase or install the Measure are made prior to the Application Date, subject to section 4.5(d) (Additional Eligibility Requirements for PV Systems).

6.2.2 The following expenses are not Eligible Expenses:

- (a) Any costs that are not directly required to purchase or install the Eligible Measure;
- (b) Any costs where the applicable Eligible Measure is not installed and in commercial operation as of the Project Completion Documentation Submission Deadline;
- (c) Costs to repair or refurbish existing or used equipment;
- (d) Costs to prepare or modify the Eligible Facility;
- (e) Costs for aesthetic improvements;
- (f) Costs to operate, maintain or upkeep equipment;

- (g) Any costs that have received financial incentives, funding, subsidies, grants or other monies from any other third party;
- (h) GST or any other provincial sales taxes;
- (i) Costs to purchase warranties or insurance;
- (j) Costs of battery or storage equipment and installation;
- (k) Overhead, administrative or internal costs;
- (l) Costs to complete Program documents;
- (m) Any costs incurred prior to November 2, 2020;
- (n) Any tax costs that result from participation in the Program;
- (o) Eligible Expenses incurred between November 2, 2020 and February 1, 2021 that were not submitted to ERA via the Application Summary by March 1, 2021; and
- (p) Where the Eligible Contractor is not a third party to the Participant, any labour costs, or other costs to install the Eligible Measure.

ERA may require additional information to determine if a submitted cost is an Eligible Expense.

6.3 Funding from Other Sources

The Eligible Project has not received and is not receiving any financial incentives, funding, subsidies, grants or other monies as a result (directly or indirectly) of the TIER Regulation, the repealed Climate Leadership Act, or the Pan-Canadian Framework programs.

Subject to Section 11, the Participant may receive financial incentives, funding, subsidies, or grants or other monies other than as a result (directly or indirectly) of the TIER Regulation, the repealed Climate Leadership Act, or the Pan-Canadian Framework programs, provided the amounts and sources are set out in the Application Summary.

6.4 ERA Obligation to Pay Project Incentive

Subject to section 6.7 (Disclaimer and Termination of Participant Acceptance), ERA shall only be obligated to pay a Project Incentive where:

- (a) The Participant Acceptance is complete and signed;
- (b) The Eligible Project is installed and in commercial operation on or before the Project Completion Documentation Submission Deadline;
- (c) The Eligible Project consists only of Eligible Measures;
- (d) The Post-Project Application and Project Completion Documentation have been reviewed and no deficiencies were found;
- (e) The Participant has complied with the Participant Acceptance; and
- (f) The Project Incentive is greater than \$1,000.

6.5 Project Incentive Payment

Where the Participant and the Eligible Project have met all requirements of section 6.4 (ERA Obligation to Pay Project Incentive), ERA will issue a Payment Recommendation and request the Participant to set up an account in a payment system, which will require the Participant to provide (among other things) its address and the name, address, transit number, branch number, account number and SWIFT code of its financial institution (bank).

6.6 Assignment of Project Incentive Funds to Eligible Contractor

Where the Participant has agreed with the Eligible Contractor, the Participant may also direct and authorize ERA to pay the Project Incentive directly to the Eligible Contractor by signing the “Project Incentive Payment to Eligible Contractor Authorization Form” in Schedule A.

6.7 Disclaimer and Termination of Participant Acceptance

Notwithstanding any other term or condition contained herein, the Participant agrees and acknowledges that the Program may be amended, suspended or terminated at any time and for any reason whatsoever without prior notice to the Participant, and that ERA may terminate the Participant Acceptance at any time and in all circumstances without payment, cost or liability.

The Participant further agrees and acknowledges that the payment of any Project Incentive or other amount by ERA is subject to the availability of Program funding. ERA intends to process Participation Acceptances, Change Requests and Post-Project Applications in the order that they are received. ERA expects to allocate Program funding to Post-Project Applications and Project Completion Documentation in the order that they are reviewed and determined to be complete with no deficiencies.

Based on the foregoing and notwithstanding that the Participant may have complied with all applicable terms of the Program documents, the Participant may not receive a Project Incentive.

In addition, a Participant may be required to reimburse ERA if at any time within five (5) years from the end date of this Acceptance, the recipient sells, leases, or otherwise disposes of, directly or indirectly, any Asset purchased, acquired, constructed, rehabilitated or renovated, in whole or in part, as a result of or in connection with this Program other than to the Government of Canada, the Government of Alberta, a local government, or with Canada’s consent.

This section 6.7 will survive termination of the Participant Acceptance.

7. Representations, Warranties and Covenants

7.1 Representations, Warranties and Covenants

The Participant represents, warrants and agrees as follows:

- (a) The Participant is duly constituted, validly existing and in good standing under the laws of its jurisdiction of constitution. The Participant is registered or otherwise qualified to carry on business in the Province of Alberta.
- (b) All information in the Application and Application Summary (including any attached documentation) is true, correct and complete, and will remain materially true, correct and complete for the term of this Participant Acceptance.
- (c) The Participant is an Eligible Participant.
- (d) The facility is an Eligible Facility.
- (e) The Eligible Projects consists only of Measures that meet all eligibility requirements to be Eligible Measures.
- (f) The Participant is solely responsible for all costs and expenses associated with the Eligible Project, including any taxes.

- (g) Except as set out in the Application Summary, the Participant has not received, is not receiving nor will receive any financial incentives, funding, subsidies, or grants or other monies from any other third party.
- (h) The Participant has not received and is not receiving financial incentives, funding, subsidies, grants or other monies as a result (directly or indirectly) of the TIER Regulation, the repealed Climate Leadership Act, or the Pan-Canadian Framework programs.
- (i) The Participant has made full disclosure of Project Incentives payable and paid to all direct and indirect “affiliates” as defined under the *Alberta Business Corporations Act*.
- (j) The Participant has all rights, permits, licenses, approvals and authorizations required to carry out the Eligible Project in the Eligible Facility, and to carry out all other obligations in this Participant Acceptance.
- (k) Any equipment replaced by an Eligible Measure is in operation and current at the Application Date and the Participant Acceptance Date.
- (l) The Participant would not otherwise have undertaken the Eligible Project(s) without the financial support and participation of this Program.
- (m) The Participant has the authority and capacity to enter into this Participant Acceptance.
- (n) This Participant Acceptance has been duly authorized, executed and delivered by the Participant and is a valid and binding obligation of the Participant enforceable in accordance with its terms.
- (o) There are no bankruptcy, insolvency, insolvency-related reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by the Participant or, to the knowledge of the Participant, threatened against the Participant.
- (p) The Participant is not a non-resident for the purposes of the *Income Tax Act*.
- (q) The execution and delivery of this Participant Acceptance and the consummation of the transactions contemplated in it by the Participant will not result in a material breach or violation of (i) any contract or obligation by which the Participant is bound, (ii) any constating documents of the Participant, or (iii) any applicable laws or regulations.
- (r) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Public Authority or arbitrator, or to the knowledge of the Participant, threatened against the Participant that could have a material adverse effect on the Participant.
- (s) The Participant is in material compliance with all applicable laws and regulations.

8. Changes to Application Summary

8.1 Application Change Requests

Prior to the Project Completion Documentation Submission Deadline, the Participant may make any of the following amendments to the Application Summary by providing written notice to ERA:

- (a) An increase in the quantity of Eligible Measures listed in the Application Summary, where the Pre-Project Estimated Incentive increases by 10 percent or less;
- (b) A decrease in the quantity of Eligible Measures to be installed;
- (c) A change to the model number of an Eligible Measure provided that the new model number meets the same Specifications for that Eligible Measure; or
- (d) A change to the Eligible Contractor.

The Participant may request any other change to the Participant Acceptance not listed above by submitting a written request (“Change Request”) to ERA 60 days prior to the Project Completion

Documentation Submission Deadline. ERA will consider each Change Request on a case-by-case basis and either approve or deny the Change Request in ERA's sole discretion.

Where ERA approves the Change Request, ERA will issue an Application Change Approval Notice setting out the amended Pre-Project Estimated Incentive. For clarity, ERA will not pay any Incentive for any Measure not listed in the Application Summary or Application Change Approval Notice.

If ERA rejects the Change Request, the Participant may terminate the Participant Acceptance and re-apply into the Program. In these circumstances, the Participant will be required to re-enter the queue and ERA shall have no liability to the Participant whatsoever.

9. Repayment of Project Incentive

If any of the below-listed events occur, (i) ERA may terminate the Participant Acceptance, and (ii) ERA shall have no obligation to pay any Project Incentive whatsoever. Additionally, if ERA has already issued payment of the Project Incentive (either to the Participant or to the Eligible Contractor), then the Participant shall promptly repay the Project Incentive to ERA:

- (a) The Participant is not in material compliance with any term or condition of the Participant Acceptance, and has not remedied such non-compliance within 30 days after notice from ERA;
- (b) Any statement made by the Participant in the Participant Acceptance or in any other communication from the Participant to ERA is materially incorrect, untrue or incomplete at the time it is made, or becomes incorrect, untrue or incomplete; or
- (c) If any Eligible Measure is modified or removed or ceases to be operational for the lifetime of the Measure.

ERA reserves all other rights available to it at law and at equity.

10. Freedom of Information and Disclosure of Information

10.1 Personal Information

Any Personal Information collected by ERA in connection with the Program is subject to compliance with FOIP. Personal Information will only be used to administer the Participant's participation in the Program, including to ensure that the Participant is in compliance with the Participant Acceptance.

10.2 Participant Information

- (a) ERA and its contractors will collect and store Participant Information in accordance with applicable laws in Alberta.
- (b) The Participant consents to ERA publishing Participant Information (including but not limited to the Participant's name, address and Eligible Project details) to highlight the benefits derived to Albertans from the Program. In addition, ERA may disclose Participant Information to any Public Authority for the purposes of verifying such Participant Information, determining the Participant's eligibility for and compliance with this Program, and/or determining the Participant's compliance with section 6.3 (Funding from Other Sources).
- (c) The Participant expressly authorizes ERA to obtain information from any third party for the purposes of verifying any information submitted by the Participant, determining the Participant's eligibility for this Program, and/or determining the Participant's compliance with section 6.3 (Funding from Other Sources).

11. Environmental Attributes

The Participant agrees to convey ownership to ERA, or its successors, all environmental attributes and environmental products that are created or otherwise arise from any Eligible Project in any jurisdiction, including but not limited to carbon offset credits. ERA retains the right to adjust Program guidelines in accordance with amendments to the Government of Alberta's legislation, policies, or protocols surrounding greenhouse gas emissions, carbon accounting or the carbon offset system. The Participant further attests that said attributes have not been claimed, sold or otherwise transferred to another party. ERA will be entitled, unilaterally and without Participant consent, to deal with such environmental attributes and environmental products in any manner it determines.

12. Evaluation, Measurement and Verification

The Participant agrees that it will participate in any or all of the below-listed evaluation, measurement and verification activities as may reasonably be requested by ERA for the purposes of monitoring and verifying the Eligible Project, assessing energy savings and GHG reduction, and administering and verifying compliance with the Participant Acceptance:

- (a) The Participant will participate in any surveys, studies, audits or evaluations.
- (b) The Participant will provide reports as requested by ERA.
- (c) At any time during the term of this Participant Acceptance, ERA may access (either on-site or virtually) the Eligible Facility, the Eligible Measures and any equipment decommissioned or replaced as part of the Eligible Project.
- (d) ERA may install any energy-monitoring equipment and/or to take photographs at no charge to the Participant.
- (e) ERA may verify Eligible Expenses with any applicable third parties.
- (f) The Participant will provide access to its records relating to the Eligible Project.
- (g) ERA may survey staff involved in the Eligible Project.
- (h) For a period of one year after payment of the Project Incentive, the Participant will provide photographs or other information related to the Eligible Project or its performance.
- (i) ERA or its contractor may contact the Participant by e-mail or by other electronic means.

13. Record Keeping

- (a) Participants will maintain recordkeeping relevant to the Eligible Project and/or required by the Eligible Measures List.
- (b) Participants will keep photographs of any equipment replaced or decommissioned as part of the Eligible Project and of the installed Eligible Measure. Photographs must show, at minimum, the equipment prior the Application Date, including a close up of the equipment nameplate showing key technical characteristics.

14. Compliance

The requirements set out in the Eligible Measures List are in addition to any requirements of applicable laws and regulations. For clarity, where a higher standard is required by an applicable law or regulation, the Participant shall comply with the higher standard. The Participant shall make itself aware of all applicable laws and regulations.

15. Publicity & Branding

- (a) ERA may publish the following, but is not limited to: Participant's name, address, and Eligible Project details, including the savings the Participant has achieved as a result of the Program.
- (b) The Participant may not use ERA, or the Energy Savings for Business™ name or logo in any marketing, advertising, or promotional materials without ERA's prior written permission.
- (c) Participants may be required to display a funding plaque that recognizes contribution from the Low Carbon Economy Leadership Fund.

16. Disclaimer and Limitation of Liability

- (a) ERA does not expressly or implicitly warrant, endorse or make any representation or other guarantee whatsoever as to any Eligible Contractor, including as to their suitability, ability to perform the work, quality of work, or compliance with applicable laws. The Participant agrees and acknowledges that it is responsible for the Eligible Contractor's performance of the work and compliance with all applicable laws.
- (b) Participant acknowledges and agrees that any Eligible Contractor or other market provider selected by the Participant is not an agent, contractor or subcontractor of ERA.
- (c) As it relates to any Eligible Measure and Eligible Expenses, ERA does not expressly or implicitly warrant, endorse or make any representation or other guarantee whatsoever as to any particular manufacturer, product, or equipment nor to the performance, adequacy, safety, merchantability and fitness thereof and the Participant agrees and acknowledges that it is responsible for all matters relating thereto.
- (d) ERA does not expressly or implicitly warrant, endorse or make any representation or other guarantee whatsoever as to GHG or energy savings or any other result from installing the Eligible Measures.
- (e) ERA's sole liability is limited to paying the Project Incentive subject to the terms and conditions of the Participant Acceptance.
- (f) ERA shall have no obligation to maintain, remove or perform any work whatsoever in connection with the Eligible Measures or the Eligible Project.

In no circumstance will ERA, its contractors, their affiliates and their respective directors, officers and employees be liable to a Participant, an Eligible Contractor, or to any other party for any losses, costs, damages, obligations or liabilities arising from the Participant's participation in the Program, including without limitation resulting from any change to, suspension, termination or cancellation of the Program, any act or omission of an Eligible Contractor, any failure or damage caused by an Eligible Measure, any failure of an Eligible Measure to achieve energy or GHG savings, or any property damage or personal injury suffered by a Participant, an Eligible Contractor, or any of their contractors and employees or other third parties as a result of participating in this Program. Without limiting the foregoing, in no circumstance will ERA, its contractors, their affiliates and their respective directors, officers and employees be liable to a Participant, an Eligible Contractor, or to any other party for any consequential, or incidental damages, including lost profits or lost business opportunities, or for any damages caused by or resulting from any activities in connection with the installation, operation or use of the equipment or Measures for which the incentives are awarded or as a result of a Participant or Eligible Contractor participating in this Program.

17. Indemnity

The Participant will indemnify and save harmless ERA and its contractors, and their respective directors, officers and employees from any and all liability, claims, losses, damages (including indirect or consequential damages), expenses and proceedings for personal injury (including death) or property damage of any person, including but not limited to an Eligible Contractor, relating to, in connection with, resulting from, or arising out of the Program, including by reason of the actual or alleged implementation of the Eligible Project and its operation or any other matter contemplated by the Participant Acceptance.

18. Miscellaneous

- (a) No joint venture, partnership or agency between ERA and the Participant is created or implied by this Participant Acceptance.
- (b) This Participant Acceptance constitutes the entire agreement between the Participant and ERA 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 Participant Acceptance.
- (c) This Participant Acceptance will be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.
- (d) The invalidity, unenforceability or illegality of any provision in this Participant Acceptance will not, to the extent permitted by applicable laws, affect the validity, enforceability or legality of any other provision of this Participant Acceptance, which will remain in full force and effect.
- (e) The Participant Acceptance may be executed and delivered by electronic means.
- (f) Throughout the Program, any electronic transmissions, including but not limited to any contract formation on the Program Portal, record-keeping through electronic means, attestations and electronic acceptances, may be relied upon by the parties, and shall have the same legal effect, as a manually executed document or acceptance as the case may be.

Appendix 1 – Application Summary

The Pre-Project Application Summary will contain the following, but is not limited to:

- Application Name
- Applicant Address
- Project Address
- Facility Type
- Facility Owned or Leased
- Landlord Approval Checkbox Checked if Leased
- Application ID
- Application Submission Date
- Participant Acceptance Date
- Required Project Completion Documentation Submission Deadline
- Version Number of Terms and Conditions
- Other Funding Received by Applicant
- Is Eligible Contractor working on Project?
- If yes, Name of Eligible Contractor
- Measure Information
 - Measure Name
 - Quantity
 - Equipment Cost
 - Labour Cost
 - Amount of Expenses Incurred before Application Submission Date
 - Estimated Emission Reduction (tonnes)
 - Estimated Energy Savings (GJ)
 - Estimated Incentive (\$)
 - Total Emissions Reduction (tonnes)
 - If Solar Project, Solar Yield
- For PV Systems and CHP Systems, a signed copy of the Alberta Utilities Commission (AUC) required Form A - Micro-generation Notice and supporting documentation as submitted to the Wire Services Provider (WSP).
- Total Energy Savings (GJ)
- Total Pre-Project Estimated Incentive (\$)
- Total Equipment Cost (\$)
- Total Labour Cost (\$)
- Total Project Cost (\$)
- Estimated Project Completion Date (MM/DD/YYYY)

The Post-Project Application Summary will contain the following:

- Application Name
- Application ID
- Application Area
- Measure Information
 - Measure Name
 - Quantity
 - Estimated Emissions Reduction (tonnes)

- Estimated Energy Savings (GJ)
 - Estimated Incentive (\$)
- Documents
 - File Name Displayed
 - Ability to View
- Total Actual Project Cost (\$)
- Total Estimated Emissions Reduction (tonnes)
- Total Estimated Energy Savings (GJ)
- Total Estimated Incentive (\$)
- For PV Systems and CHP Systems, a copy of the final interconnection and operating agreement with the interconnecting wires service provider.

Schedule A

1. Participant Acceptance Form

By accepting the below, the Participant accepts to be bound by the Participant Acceptance. Without limiting the foregoing, the Participant confirms the following to ERA:

- (a) The Participant has reviewed the Application Summary, and represents and warrants that all information contained in the Application Summary is complete, true and accurate.
- (b) The Participant has reviewed the Terms and Conditions.
- (c) The Participant confirms that it meets the eligibility requirements to be a Participant and that the Facility meets the requirements to be an Eligible Facility.
- (d) The Participant confirms that the Measures set out in the Application Summary meet the requirements to be Eligible Measures, and that the project meets the requirement to be an Eligible Project.
- (e) The Participant has obtained or will have obtained all rights, permits, licenses and authorizations required to carry out the Eligible Project in the Eligible Facility.
- (f) If the Participant is not the owner of the Eligible Facility, then the Participant has obtained the owner's consent to carry out the Eligible Project.

PARTICIPANT		
Full Legal Name		
Participant Contact Name		
Business Address		
Business Phone	City	Postal Code
FACILITY INFORMATION (if different from Participant address)		
Facility Name		
Facility Address (where the equipment is installed)		
Business Phone	City	Postal Code

I represent and warrant to Emissions Reduction Alberta that I have authority to bind the Participant.

2. Project Incentive Payment to Eligible Contractor Authorization Form

Complete this form only if the Project Incentive should be paid to the Eligible Contractor.

By my attestation below, the Participant directs and authorizes ERA to pay the Project Incentive directly to the Eligible Contractor named below. The Participant confirms that the Eligible Contractor will receive the Project Incentive payable to the Participant under the Participant Acceptance, and that the Participant will not receive the Project Incentive.

This Authorization Form may be executed and delivered by electronic means with full legal effect.

PARTICIPANT		
Full Legal Name		
Address		
Business Phone	City	Postal Code
FACILITY INFORMATION (if different from Participant address)		
Facility Name		
Facility Address (where the equipment is installed)		
Business Phone	City	Postal Code
Project Number(s)		
ELIGIBLE CONTRACTOR INFORMATION		
First Name	Last Name	
Company Name		
Address		
Business Phone	City	Postal Code

I represent and warrant to Emissions Reduction Alberta that I have authority to bind the Participant.