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# ENERGY PERFORMANCE PROGRAM

## PROGRAM REQUIREMENTS

### 1. PROGRAM DESCRIPTION

The Energy Performance Program (the “**Program**”) is offered, administered and centrally delivered by the Independent Electricity System Operator (the “**IESO**”) and its service provider(s) under the 2021-2024 Conservation and Demand Management Framework. The Program provides financial incentives through a multi-year, pay-for-performance incentive structure for lasting operational and maintenance energy efficiency measures and equipment retrofits. The Program encourages a whole-building approach to facility energy management, moving away from the more transactional nature of individual energy efficiency improvements commonly encouraged through traditional energy efficiency programs.

Subject to the terms of the Agreement, the Program is anticipated to last until December 31, 2027 and Participants may add new Facilities until December 31, 2024. Each Facility enrolled in the Program will be eligible to participate in three Pay-for-Performance Periods; however, the Participant must realize the Minimum Savings by the end of the second Pay-for-Performance Period.

These Program Requirements are effective as of February 27, 2024.

### 2. PROGRAM INCENTIVES

Subject to the terms of the Agreement, the following Performance Incentives are offered. Any Performance Incentive payable under the Energy Performance Program will be paid by the IESO to the Participant as a lump sum within a reasonable period of time of the Participant submitting an invoice to the IESO for the Performance Incentive and all other applicable documentation.

#### 2.1 PRE-PROJECT INCENTIVES

Upon acceptance of the Baseline Energy Model generated via the EPP Portal and issuance of a Notice of Approval, the Facility will be deemed accepted into the Program and the Participant shall be entitled to receive a one-time advance of part of its anticipated Performance Incentive, calculated as follows:

Baseline Energy Consumption \* 2.5% \* \$0.04/kWh (the “**Pre-Project Incentive**”)

## 2.2 PERFORMANCE INCENTIVES

Subject to the terms and conditions of the Agreement, the IESO will pay the Performance Incentives for each Facility less the amount of the Pre-Project Incentive(s) received by the Participant until exhausted, provided the IESO has received all supporting documentation and evidence as required by the Agreement or as otherwise requested by IESO. The Performance Incentives shall be calculated for each Pay-for-Performance Period as follows:

- (i) Off-Peak Energy Incentive Rate of \$0.04/kWh multiplied by the Off-Peak Electricity Savings; and
- (ii) On-Peak Energy Incentive Rate of \$0.15/kWh multiplied by the On-Peak Electricity Savings.

The Performance Incentive for each Facility shall not exceed the Off-Peak Energy Incentive Rate multiplied by 20% of the Baseline Energy Consumption (the **"Incentive Cap"**).

## 3. PROGRAM ELIGIBILITY CRITERIA

### 3.1 PARTICIPANT ELIGIBILITY CRITERIA

To be an eligible Participant under the Program, a Person must:

- (i) be an electricity consumer with one or more commercial, institutional, or industrial Facilities located in Ontario;
- (ii) commit to achieve at least five percent (5%) Total Electricity Savings per Facility by the end of the second Pay-for-Performance Period;
- (iii) have the required rights and authority to have the Eligible Measures installed at a Facility; and
- (iv) not be Insolvent.

### 3.2 FACILITY ELIGIBILITY CRITERIA

To be an eligible Facility, the proposed Facility must:

- (i) have access to hourly interval meter data from an Approved Meter;
- (ii) have a minimum of 12 months of the most recent contiguous hourly interval data and, if requested, provide further data if any insufficiencies are found;
- (iii) have a >50kW commercial account with an Approved Meter;
- (iv) have the Baseline Energy Models meeting the minimum standards stated in the EPP Technical Guide;
- (v) be connected to, or behind the meter of, an electricity consumer connected to the IESO-Controlled Grid or a Distribution System; and
- (vi) meet any other eligibility programs as outlined in the EPP Technical Guide.

### 3.3 MEASURE ELIGIBILITY CRITERIA

Eligible Measures means any Measures implemented in a Facility, but specifically excluding:

- (i) any Measures that are behind-the-meter generation projects;
- (ii) any Measures involving fuel-switching; or
- (iii) activities or measures promoted or funded through a different program or initiative designed to incentivize electricity savings and/or peak demand savings undertaken by the Government of Ontario or the IESO. Any projects receiving such electricity saving incentives will trigger a Baseline Adjustment at the discretion of the IESO.

### 3.4 PAST PROGRAM PARTICIPATION

For greater certainty, past participation in previous Energy Performance Programs or other programs or initiatives undertaken by the Government of Ontario or the IESO pursuant to Ministerial Directives other than the Ministerial Directive dated September 30, 2020, as amended ("**Past Programs**") does not exclude the Participant from being eligible to participate in the Program, provided that any agreements in relation to Past Programs have expired or been terminated and new Baseline Energy Models are prepared for the Program which incorporate any energy or peak demand savings realized under Past Programs, in accordance with the EPP Technical Guide.

## 4. PARTICIPANT OBLIGATIONS, ELIGIBLE MEASURES, AND SAVINGS SUBMISSION

In addition to the other obligations contained in the Agreement, the Participant will fulfill the following obligations in order to maintain its eligibility in the Program and as a condition of receiving any Performance Incentives:

- (i) The Participant will implement Eligible Measures for each Facility before the end of the second Pay-For-Performance Period.
- (ii) After the generation of the Baseline Energy Model for a Facility via the EPP Portal, the Participant will not enroll in any program or initiative incentivizing electricity savings and/or peak demand savings undertaken by the Government of Ontario or the IESO to receive any incentives for that Facility. The Participant will inform IESO if any projects receiving electricity saving incentives and/or peak demand savings are commissioned after the Baseline Energy Model has been accepted by the Participant, and this will trigger an NRA at the discretion of the IESO.
- (iii) Each Facility shall achieve a minimum of five percent (5%) of the Total Electricity Savings by the end of the second Pay-for-Performance Period (the "**Minimum Savings**"). Further, and notwithstanding any renewal or extension of the Program, a Facility may participate in a maximum of three (3) consecutive Pay-for-Performance Periods.

- (iv) Any Facility that does not achieve the Minimum Savings, may be eliminated from further participation in the Program at the sole discretion of the IESO, upon written notice by the IESO or Service Provider, and the Participant shall not be entitled to any further Performance Incentive with respect to such Facility and the Participant shall, at the IESO's sole discretion, reimburse the IESO for any Pre-Project Incentive the IESO provided but which the Participant did not subsequently earn in respect of the Facility. Any Facility that does not achieve the Minimum Savings and is not eliminated from further participation pursuant to this section shall, at the IESO's sole discretion, reimburse the IESO for any Pre-Project Incentive provided but which the Participant did not subsequently earn upon completion of the third Pay-for-Performance Period for the Facility.
- (v) The Participant must submit to the IESO the Facility energy data and associated information required by the Savings Submission via the EPP Portal within 30 days following the expiration of the Pay-for-Performance Period in respect of each such Facility. The Participant shall notify the Service Provider of any Measures that are not Eligible Measures and which it has implemented during the Pay-for-Performance Period.

## 5. PROGRAM SPECIFIC DEFINITIONS

The following terms have the meanings stated below when used in these Program Requirements:

**"Agreement"** means the Energy Performance Program Agreement, including all recitals and Schedules, the Application and any additional documents approved by IESO thereunder, as it or they may be amended, restated or supplemented from time to time.

**"Baseline Energy Consumption"** means the actual electricity consumption for a Facility in the absence of Eligible Measures that is used to establish the Baseline Models.

**"Baseline Energy Model"** means a Facility-specific model or set of models, submitted with the Participant's Facility Application Form, as approved by IESO, that predicts the electricity consumption and peak demand of a Facility over a set period of time in the absence of Eligible Measures, using the Baseline Model Requirements.

**"Baseline Energy Model Requirements"** are the requirements for the Baseline Models as set out in the EPP Technical Guide.

**"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.

**"Eligible Measures"** means any Measure as defined in the Eligibility Criteria.

**"EPP Portal"** means the IESO's online portal for the Energy Performance Program used for, but not limited to, applying to the Program, enrolling Facilities, Baseline Energy Model generation,

Savings Submissions, savings and incentive determination, Interim Savings Reports and invoice submissions.

**"EPP Technical Guide"** means a document provided by the IESO that may be updated from time to time that outlines program methodologies, specifications, and guidelines, including but not limited to, the determination of the baseline energy model, goodness of fit of the model, treatment of adjustments, and estimated energy savings used within the EPP Portal.

**"Facility"** means the building(s), premises or lands, or part thereof, occupied by the Participant, and over which the Participant has all required authorization and consents to carry out its obligations under the Agreement and meeting the requirements in Schedule "B" of the Agreement.

**"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, without limitation, the IESO in its capacity as the operator of the IESO-Controlled Grid, the OEB, 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.

**"IESO"** means the Independent Electricity System Operator of Ontario established under Part II of the *Electricity Act, 1998* (Ontario), or its successor.

**"IESO-Controlled Grid"** has the meaning ascribed to it by the IESO Market Rules.

**"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.

**"Incentive Cap"** has the meaning given to it in Section 4(c) of the Agreement.

**"Insolvent"**, in respect of a Person, means a Person:

- a) who is for any reason unable to meet its obligations as they generally become due or otherwise acknowledges its insolvency,
- b) who has ceased paying its current obligations in the ordinary course of business as they generally become due,
- c) who has ceased to carry on business in the ordinary course,
- d) who institutes any proceeding, takes any corporate action, or executes any agreement to authorize its participation in or the commencement of any proceeding seeking:
  - i. to adjudicate it a bankrupt or insolvent;
  - ii. liquidation, dissolution, winding-up, reorganization, arrangement, protection, relief or composition of it or any of its property or debts or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or

- iii. appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its properties and assets, or
- e) the aggregate of whose property is not, at a fair valuation, sufficient, or, if disposed of at a fairly conducted sale under legal process, would not be sufficient to enable payment of all its obligations, due and accruing due.

**“Measures”** means

- a) any activity undertaken for the primary purpose of obtaining or effecting, directly or indirectly, conservation and demand management, including the installation, retrofit, replacement, modification, commissioning or re-commissioning of equipment, systems, processes or behaviours that consume or result in the consumption of electricity; or
- b) any equipment, system or product related to the foregoing.

**“Minimum Savings”** has the meaning given to it in Section 2(c) of the Agreement.

**“Non-Routine Adjustment” or “NRA”** means a change to the Baseline Energy Models necessitated by a Non-Routine Event.

**“Non-Routine Event” or “NRE”** means certain changes to the Facility that significantly impact energy consumption but are unrelated to the Measures implemented and not otherwise addressed by the Baseline Energy Model. These changes could include modifications in the Facility size or the addition of new equipment, as further detailed in the EPP Technical Guide.

**“Notice of Approval”** means the notice issued by the Service Provider on behalf of IESO when the Participant has accepted the Baseline Energy Model for a Facility generated by the EPP Portal.

**“Off-Peak Electricity Consumption”** means electricity consumption that is not On-Peak Electricity Consumption.

**“Off-Peak Electricity Savings”** means the difference between the Off-Peak Electricity Consumption predicted for a Facility by the Baseline Energy Models over a Pay-for-Performance Period and the annual Off-Peak Electricity Consumption recorded by the Facility’s Approved Meter for the same Pay-for-Performance Period in accordance with the EPP Technical Guide. In the event of a dispute, the IESO’s evaluation of Off-Peak Electricity Savings will be final and binding.

**“Off-Peak Energy Incentive Rate”** means the dollar per kWh rate paid to the Participant for Off-Peak Electricity Savings as set out in Section 3(a)(i) of the Agreement.

**“On-Peak Electricity Consumption”** means electricity consumption, measured in kWh, during peak period hours, as defined in the IESO’s Evaluation, Measurement and Verification Protocol V4.0. For clarity, this means energy consumed during Business Days between June 1 and August 31 (inclusive), during the hours of 1 pm and 7pm (EDT).

**“On-Peak Electricity Savings”** means the difference between the On-Peak Electricity Consumption predicted for a Facility by the Baseline Energy Models over a Pay-for-Performance Period and the annual On-Peak Electricity Consumption recorded by the Facility’s Approved Meter for the same Pay-for-Performance Period in accordance with the EPP Technical Guide. In the event of a dispute, the IESO’s evaluation of On-Peak Electricity Savings will be final and binding.

**“On-Peak Energy Incentive Rate”** means the dollar per kWh rate paid to the Participant for On-Peak Electricity Savings as set out in Section 3(a)(ii) of the Agreement.

**“OEB”** means the Ontario Energy Board or its successor.

**“Participant”** has the meaning given to it in the preamble of the Agreement.

**“Party”** and **“Parties”** have the meanings given to them in the preamble of the Agreement.

**“Past Programs”** has the meaning given to it in Section 3.4 of these Energy Performance Program Requirements.

**“Pay-for-Performance Period”** means each 12-month period during which the Participant implements and/or maintains Eligible Measures for a Facility and during which Off-Peak Electricity Savings and On-Peak Electricity Savings will be measured, with the first such period for a Facility commencing on the date that the Participant accepts the Baseline Energy Model for a Facility and the next such period commencing immediately after the expiration of 12 months.

**“Performance Incentive”** means the amount to be paid to the Participant for each Pay-for-Performance Period as defined in Section 3(a)(i) and 3(a)(ii) of the Agreement.

**“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.

**“Pre-Project Incentive”** has the meaning given to it in Section 1(a) of the Agreement.

**“Program”** has the meaning given to it in Section 1 of these Energy Performance Program Requirements.

**“Savings Report”** means a report generated by the EPP Portal based on the Facility energy data submitted annually by Participants evidencing the Total Electricity Savings achieved for a Facility during a given Pay-for-Performance Period.

**“Savings Submission”** means the Facility energy data provided by the Participant through the EPP Portal for each Pay-for-Performance Period in order for an annual Savings Report to be generated.

**“Service Provider”** means a third party retained by the IESO.

**“Term”** has the meaning given to it in Section 6(a) of the Agreement.

**“Total Electricity Savings”** means the sum of the Off-Peak Electricity Savings and the On-Peak Electricity Savings.