

STRATEGIC ENERGY MANAGEMENT PROGRAM APPLICATION FORM

1. APPLICANT INFORMATION

Full Legal Name of Organization:	
Address:	
City:	
Postal Code:	
Business Types?	Commercial Institutional Industrial
Is your business currently Insolvent?*	Yes No

2. CONTACT INFORMATION

Primary Contact Name:	
Title:	
Phone:	
Email:	

*i.e. have any proceedings been initiated, taken, or authorized by you or any of your shareholders, partners, or affiliates, as applicable, or by any other person, with respect to the bankruptcy, insolvency, receivership, restructuring, liquidation, termination, dissolution, or winding up of your organization.

Sceondary Contact Name:	
Title:	
Phone:	
Email:	

3. FACILITY(IES) (ONTARIO) INFORMATION

Total Facility(ies) (Ontario) Annual Electricity (MWh)	
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Facility Name	Facility Street Address, City, Postal Code	Total Facility Annual Electricity (MWh)

If more than five (5) facilities please include an additional document listing all facility information as requested above when submitting this Application. Please submit a minimum of 12 months of consecutive Energy Data for each Facility.

4. APPLICATION DECLARATION AND CONSENT

The Applicant declares that:

- (a) the information in this application ("**Application**") is accurate and complete in all material respects; and
- (b) prior to submitting an Application, the Applicant has not entered into an agreement with an individual, a contractor or consultant, or ordered or purchased any equipment for use in relation to the Strategic Energy Management Program ("**SEM Program**") without the prior written consent of the Independent Electricity System Operator (the "**IESO**").

The Applicant acknowledges and agrees that the IESO may reject its Application for any reason at its sole discretion.

If this Application is accepted, the IESO will issue the Applicant a written "**Notice of Approval**". The Applicant must submit a completed, signed Application and receive a Notice of Approval to participate in the SEM Program and be eligible to receive any incentive(s). Prior to receiving Notice of Approval from the IESO, no binding obligations are created, and the IESO is not bound in any way to the SEM Program Terms and Conditions and has no obligation to provide the Applicant with any incentives under the SEM Program.

5. RELEASE AND WAIVER

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, the Applicant hereby, for itself and its successors and assigns:

- (a) releases and forever discharges the Independent Electricity System Operator ("**IESO**") and its representatives, affiliates, third party service providers and agents (collectively, the "**Program Operators**") and all of the respective past, present and future officers, directors, employees, owners, shareholders, agents, successors and assigns of the Program Operators (collectively, the "**Representatives**") (the Program Operators and the Representatives hereinafter collectively referred to as "**Releasees**") from any and all actions, causes of action, suits, complaints, disputes, debts, liabilities, obligations, damages, legal fees, costs, disbursements, expenses, claims and demands of every nature or kind whatsoever and howsoever arising, at law or in equity, or under any statute, including without limitation, claims for property damage, business interruption and personal injury of the Applicant's employees, officers, directors or licensees, which it can, will or may have by reason of any matter, cause or thing arising as a result of, in relation to or in connection with the initiatives funded by the IESO for electricity conservation and demand management and directed at one of the commercial, institutional or industrial electricity consumer groups (collectively referred to as the

"**CDM Program**"), other than in the case of the gross negligence or willful misconduct of such Releasees;

- (b) agrees that the Applicant will not make any claim or take any proceedings against any other person or entity with respect to any matter released and discharged in Section 5(a) which may result in any claim arising against any of the Releasees for contribution or indemnity or other relief;
- (c) without limiting the foregoing, the Applicant acknowledges, agrees and consents that by submitting an application ("**Application**") to participate in a CDM Program (including the Strategic Energy Management Program) or any initiative thereof, whether or not its Application is ultimately accepted:
 - (i) it hereby consents to the collection, use, disclosure and other handling of any information it provides to the Program Operators, including all reports, data, personal information, records showing historical energy use and consumption, and other information of the Applicant or its subcontractors or representatives (collectively, the "**Applicant Information**") by the Program Operators for purposes relating to the operation, administration or assessment of the CDM Program, any initiative thereof or the Application, and in connection with any reporting activities relating to the CDM Program, which shall include, without limitation: (i) sharing of Applicant Information among the Program Operators; (ii) use by the Program Operators of the Applicant Information provided by the Participant to process any of the Applicant's Applications and to conduct, analyze and report on the results of surveys and modify the CDM Program based on such surveys; and (iii) disclosure to the Ontario Energy Board, local distribution or utility companies, Department of Natural Resources Canada, the Ministry of Energy (Ontario), the office of the Auditor General of Ontario or their respective successors. The Participant agrees that the IESO may contact the Participant directly including by email and other electronic communication for purposes of follow-up surveys, studies and audits, future conservation programs, customer satisfaction surveys and other related purposes. The Participant may withdraw its consent at any time by contacting the IESO at customer.relations@ieso.ca;
 - (ii) it hereby consents to the disclosure by the IESO of information regarding the Participant's past participation in other IESO funded conservation and demand management programs for the purpose of processing the Participant's Application;
 - (iii) it hereby consents to the disclosure by local distribution or utility companies to the IESO of information regarding the Participant's past participation in other IESO or government-funded conservation and demand management programs

for the purpose of processing the Participant's Application and administering CDM Programs;

- (iv) the Program Operators are committed to protecting the personal information in its custody or control in accordance with applicable privacy laws. The Participant may access the IESO's privacy policy at <http://www.ieso.ca/Privacy>; and
- (v) this Release, Waiver and Consent and all Applicant Information, in the possession or control of the IESO are subject to applicable laws that include the access provisions of the *Municipal Freedom of Information and Protection of Privacy Act* (Ontario) ("**MFIPPA**") or the *Freedom of Information and Protection of Privacy Act* (Ontario) ("**FIPPA**"), as the case may be, and that as a result, third parties may obtain access to the Applicant Information;
- (d) the foregoing Release, Waiver and Consent will continue in full force and effect for the benefit of the Releasees and will apply to each Application submitted by the Applicant to the IESO and to the extent of any conflict between this Release, Waiver and Consent and the terms of any agreement or other document entered into by the Applicant and one or more of the Program Operators pursuant to or in connection with the CDM Program or any part thereof, or any initiative under any CDM Program, the terms of this Release, and Waiver and Consent will prevail; and
- (e) this Release, Waiver and Consent will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

6. AUTHORIZED SIGNATURE (APPLICANT)

Authorized Signature: (I have the authority to bind the Applicant)	
Name:	
Title:	
Date:	
Signature:	

STRATEGIC ENERGY MANAGEMENT PROGRAM TERMS AND CONDITIONS

References to “you” or “your” or “Participant” in these Terms and Conditions are references to the Applicant.

These terms and conditions between the Independent Electricity System Operator (the “**IESO**”) and you (these “**Terms and Conditions**”) govern your participation in the Save on Energy Strategic Energy Management Program (the “**SEM Program**”). The SEM Program provides participants with assistance in implementing energy management practices at their respective facility(ies) and with adopting continuous energy improvement systems.

The SEM Program is offered, administered and centrally delivered by the IESO. By signing and submitting the Application, you confirm your consent to, and agree to comply with and be bound by these Terms and Conditions.

All capitalized terms not otherwise defined herein, will have the meanings given in **SCHEDULE “A”** of these Terms and Conditions.

These Terms and Conditions will only become binding on you and the IESO upon the issuance of a written Notice of Approval, which confirms the IESO’s acceptance of your application to participate in the SEM Program and its agreement to be bound to these Terms and Conditions. For certainty, the Applicant indicated on the Application will become the Participant for the purposes of these Terms and Conditions upon acceptance into the SEM Program by the IESO (as indicated by the IESO’s issuance of a written Notice of Approval).

The IESO may subcontract any of its responsibilities under these Terms and Conditions to its Program Delivery Agent(s).

In consideration of you participation in the SEM Program, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you agree to the following Terms and Conditions:

1. SEM PROGRAM ELIGIBILITY AND PARTICIPANT REPRESENTATIONS AND WARRANTIES

The Participant represents and warrants to the IESO as follows, and acknowledges that the IESO is relying on such representations and warranties:

- (a) the Participant has all required rights and authority to participate in the SEM Program and carry out its obligations set out in these Terms and Conditions;

- (b) the Participant and its participating Facility(ies) meet all Program Eligibility Criteria;
- (c) the Participant is not Insolvent;
- (d) the Participant has executed and delivered the Release, Waiver and Consent, and has not taken any actions to amend or suspend it or to terminate its existence and it continues in full force and effect as of the date hereof;
- (e) the Participant will only implement or install Energy Efficiency Measures that meet the Program Eligibility Criteria; and
- (f) the Participant is acting on its own behalf.

The representations made in this Section 1 will be continuing throughout the Term of these Terms and Conditions, and any change in the accuracy of such representations and warranties must immediately be communicated by the Participant to the IESO. The IESO reserves the right to verify your compliance with the Program Eligibility Criteria.

2. SEM PROGRAM PARTICIPATION

2.1 PARTICIPANT INCENTIVES

Subject to the Participant Incentive eligibility requirements set out in Section 3, the Participant will be eligible to receive following Participant Incentives under the SEM Program:

- (a) Support and training opportunities through SEM Support Services (including Cohort Activities and Coaching Support);
- (b) Performance Incentives for achievement of Confirmed Electricity Savings; and
- (c) Enabling Incentives for the successful completion of SEM Milestones.

2.2 PARTICIPANT OBLIGATIONS

As a condition of participating in the SEM Program and receiving Participant Incentives, the Participant agrees to perform the following activities:

- (a) No later than 30 days after the date of the Notice of Approval:
 - (i) designate an internal Energy Champion to lead the Energy Team; and
 - (ii) create an Energy Team to identify potential Energy Efficiency Measures;

- (b) Identify an Executive Energy Sponsor and demonstrate how this sponsor will support the Energy Team;
- (c) Participate in the Cohort Activities (for certainty, the Energy Champion must attend all Cohort Activities, unless the absence is excused by the IESO in advance in writing);
- (d) Members of the Energy Team actively meet and address energy issues at the participating Facility(ies);
- (e) Implement Energy Efficiency Measures identified in the Project Register;
- (f) Monitor Energy Metrics at the Facility against goals;
- (g) Complete and submit an Annual Report in accordance with the SEM Reporting Requirements, within the deadlines prescribed by the IESO; and
- (h) Demonstrate completion of the SEM Milestones.

3. PARTICIPANT INCENTIVE ELIGIBILITY

3.1 SEM SUPPORT SERVICES

The Participant agrees to participate in Cohort Activities and receive Coaching Support as part of its participation in the SEM Program. The Participant will be grouped by the IESO in a Cohort of other SEM Program participants, for the purposes of undertaking the Cohort Activities.

3.2 PERFORMANCE INCENTIVE ELIGIBILITY

To be eligible to receive a Performance Incentive pursuant to Section 4.1, the Participant must demonstrate the following:

- (a) Completion of all of the SEM Milestones;
- (b) Active participation in SEM Support Services, to the satisfaction of the IESO (for certainty the Participant must participate in SEM Support Services at least every ninety (90) days while enrolled in the SEM Program); and
- (c) Completion of the activities outlined in Sections 2.2(a)(ii), (d), (e), (f) and (g).

3.3 ENABLING INCENTIVE ELIGIBILITY

The Participant is eligible to receive an Enabling Incentive pursuant to Section 4.2, upon confirmed participation in the SEM Support Services (for certainty the Participant must participate in SEM Support Services at least every ninety (90) days while enrolled in the SEM Program) and completion of each

SEM Milestone. Upon confirmed completion of an SEM Milestone by the IESO, the Participant may select an item(s) from the Enabling Incentives List to be provided by the IESO.

4. PARTICIPANT INCENTIVES AND PAYMENTS

4.1 PERFORMANCE INCENTIVES

Upon confirmation by the IESO that the Participant has completed the requirements set out in Section 3.2 and Section 5 of these Terms and Conditions, the Participant will be eligible to receive the following Performance Incentives, up to a maximum of \$100,000.00 (exclusive of Applicable Taxes) in each Funding Period:

- (a) At the end of the first Funding Period, a First Year Performance Payment, calculated at \$0.02/kWh of Confirmed Electricity Savings for Projects implemented from the Project Register during the first 12-month Funding Period; and
- (b) At the end of the final Funding Period, an End of Funding Period Performance Payment, calculated at \$0.02/kWh of Confirmed Electricity Savings for Projects implemented from the Project Register during the final 12-month Funding Period.

Performance Incentive payments are calculated using Confirmed Energy Savings based on the Energy Baseline Model and are subject to Technical Review by the IESO. If the development of a Energy Baseline Model to the satisfaction of the IESO is not feasible, the IESO will conduct an alternative M&V approach to determine the Confirmed Energy Savings.

In no event will the IESO be obliged to pay any additional amounts to the Participant under the SEM Program for Performance Incentives pursuant to these Terms and Conditions.

4.2 ENABLING INCENTIVES

Upon confirmation by the IESO that the Participant continues to meet the Program Eligibility Criteria and has completed the requirements set out in Section 3.3 and Section 5 of these Terms and Conditions, the Participant will be eligible to select an Enabling Incentive from the Enabling Incentives List for each SEM Milestone confirmed as completed, up to a maximum value of \$5000.00 total for all Enabling Incentives received under the SEM Program.

- (a) All payments hereunder will be made in Canadian dollars by cheque or by electronic funds transfer to the Participant's account or such other mode of payment at the sole discretion of the IESO.
- (b) All payments hereunder are conditional on the Participant providing an invoice to the IESO together with sufficient documentation to support and substantiate the payment of the Enabling Incentive and/or Performance Incentive.

- (c) In addition to the Enabling Incentive and/or Performance Incentive, the IESO will pay any Applicable Taxes on the Participant Incentive. The Participant will provide to the IESO sufficient supporting documentation, as requested by the IESO, to facilitate and support claiming input tax credits in respect of the Participant Incentive. In addition, if the IESO has reasonable grounds to commence a discussion, negotiation or challenge, in any manner whatsoever, with a tax authority regarding the validity of any Applicable Taxes imposed on the Participant Incentive, the Participant will provide such reasonable assistance as may be required by the IESO with such discussion, negotiation or challenge. For greater certainty, in no event shall the IESO be relieved of its obligations under these Terms and Conditions, including the IESO's obligation to pay Applicable Taxes as provided hereunder, pending the outcome of any discussion, negotiation or challenge with a tax authority.

5. REPORTING OBLIGATIONS

- (a) The Participant will prepare and deliver the following documents to the IESO for Technical Review:
 - (i) A Project Register for the Facility in accordance with the SEM Reporting Requirements. The Participant will deliver an updated Project Registry at the start of each subsequent Funding Period, as applicable;
 - (ii) an Annual Report in accordance with the SEM Reporting Requirements; and
 - (iii) any other information requested by the IESO in accordance with the SEM Reporting Requirements, including but not limited to, information or documentation demonstrating the Participant's ability to confirm Confirmed Electricity Savings and/or in-service dates.
- (b) The IESO will review the Project Register and the Annual Report (collectively, the "**Reports**") to ensure timely filing and completeness and to assess Electricity Savings and progress from the previous Reports. If the IESO does not approve a Report, the IESO will provide comments and such document must be revised by the Participant in order to address the noted deficiencies and obtain the IESO's approval of such revised Report.
- (c) The Participant is not eligible to receive the Performance Incentive or any portion thereof, until each Report required to be submitted by the Participant for such payment is approved.

6. COMMUNICATION WITH TECHNICAL REVIEWER

The Participant will cooperate and provide, on a timely basis, any requested information to the IESO as well as any clarifications required by the IESO from the Participant related to any Reports or information required for Technical Review and as otherwise required under these Terms and Conditions.

7. TERM, TERMINATION AND SURVIVAL

- (a) The term of these Terms and Conditions commences as of the Effective Date and expires on the end of the second Funding Period, (the "**Term**"), unless terminated earlier in accordance with the terms of these Terms and Conditions.
- (b) The first Funding Period commences as of the date on which the Participant is enrolled in an active SEM Program Cohort and expires on the date which is 12 months from the start date, unless terminated earlier in accordance with the terms of these Terms and Conditions. After the expiry of the first Funding Period, the IESO, acting in its sole and absolute discretion, may extend funding to the Participant for second 12-month Funding Period, or shorter, upon written notice. This extension is subject to the Participant being in compliance with its obligations herein, provided the SEM Program remains available, and subject to the expiration or termination of these Terms and Conditions. For certainty, after each Funding Period expires or is earlier terminated, the IESO will not be required to pay and the Participant will not be eligible for an Enabling Incentive or a Performance Incentive, in part or in full, for Confirmed Energy Savings achieved or SEM Milestones completed in any period during the Term following such date if the IESO has not extended funding to the Participant for an additional Funding Period pursuant to this Section 7(b).
- (c) The IESO may terminate these Terms and Conditions or a Funding Period immediately, or withhold the Enabling Incentive or Performance Incentive, in part or in full, where any of the following occurs:
 - (i) the Participant fails to participate in any SEM Support Services for a period of ninety (90) calendar days;
 - (ii) the Participant fails to observe or perform any obligation required to be observed or performed under these Terms and Conditions and such failure continues for a period of thirty (30) calendar days after the delivery of written notice by the IESO to the Participant to cure such failure; or
 - (iii) the Participant becomes or is declared Insolvent, becomes the subject of any proceeding related to its liquidation or insolvency which is not dismissed within ninety (90) calendar days, or makes an assignment for the benefit of creditors.

- (d) The IESO may also terminate these Terms and Conditions or any Funding Period upon sixty (60) calendar days' notice by the IESO.
- (e) Sections 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 19, and such other provisions as are necessary for the interpretation thereof and any other provisions hereof, the nature and intent of which is to survive termination or expiration of these Terms and Conditions, will survive the expiration or termination of these Terms and Conditions.

8. ENVIRONMENTAL ATTRIBUTES

All right, title and interest in and to all benefits or entitlements associated with Environmental Attributes arising in relation to the electricity savings funded by an amount paid under these Terms and Conditions are hereby unconditionally and absolutely transferred and assigned, or to the extent transfer or assignment is not permitted, held in trust for, by the Participant to, or in favour of, the IESO. The Participant acknowledges that the IESO 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, assigning, or holding in trust, such Environmental Attributes to and for the IESO and the Participant shall comply with such directions, and the Participant will be entitled to reimbursement of the cost of complying with such direction, provided that the IESO, acting reasonably, has approved such cost in writing prior to the cost being incurred by the Participant.

9. EVALUATION, MONITORING AND VERIFICATION; AUDIT

- (a) The performance and administration of these Terms and Conditions will be subject to the IESO EM&V Protocols, which will include evaluation of the effectiveness of these Terms and Conditions in meeting the objectives of the SEM Program. In furtherance of the IESO EM&V Protocols, the Participant will cooperate with the IESO and will make available such information in the form and with the frequency as may be reasonably prescribed, including with respect to historical electricity consumption.
- (b) The Participant and the IESO will both keep complete and accurate books, accounts and records and all other data required by each of them respectively for the purpose of proper administration, monitoring and verification of these Terms and Conditions and all such records and data will be maintained during the Term of these Terms and Conditions and for the period of time thereafter which is the greater of seven years and the period of time specified under Applicable Law. On reasonable notice, at any time during normal business hours, the Participant will provide reasonable access to the IESO, and/or their respective designates to such books, accounts, records and data and: (A) at the reasonable request of the IESO, make available to the IESO and/or their respective designates, the personnel of the Participant and its subcontractors

involved in the operation of the Participant's business and the maintenance of such books, accounts, records and data referred to above for the purposes of this Section 9; and (B) permit the IESO and/or their respective designates to examine and audit and take copies and extracts from such documents.

- (c) The Participant will participate in any surveys, studies, audits, reporting, evaluations or verifications conducted by the IESO or its service providers related to the SEM Program and other energy conservation or efficiency programs, including those offered or administered by the IESO or another Governmental Authority.

10. NO WARRANTY

Except as specifically set forth or referenced in these Terms and Conditions, the IESO provides no representations, warranties, or conditions, express, implied, statutory or otherwise, regarding any matter, including any implied warranties or conditions of quality or fitness for a particular purpose with respect to the SEM Program. Without limiting the generality of the foregoing, the Participant acknowledges that its participation in the SEM Program hereunder is based on its own assessment of the SEM Program 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 is expressly disclaimed by the Participant.

11. LIMITATION OF LIABILITY AND INDEMNITY

- (a) NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY: (A) IN NO EVENT WILL THE PARTICIPANT BE ENTITLED TO RECOVER FROM THE IESO OR ANY OTHER INDEMNIFIED PARTY (AS DEFINED IN SECTION 11(b)) FOR ANY LIABILITIES, DAMAGES, OBLIGATIONS, PAYMENTS, LOSSES, COSTS OR EXPENSES UNDER OR IN RELATION TO THESE TERMS AND CONDITIONS: (I) ANY AMOUNT IN EXCESS OF THE ACTUAL COMPENSATORY DIRECT DAMAGES, COURT COSTS AND REASONABLE LAWYERS' AND OTHER ADVISORS' FEES SUFFERED OR INCURRED BY THE PARTICIPANT AND IN ANY EVENT LIMITED TO THE PARTICIPANT INCENTIVE PAID BY THE IESO HEREUNDER; OR (II) DAMAGES (WHETHER DIRECT OR INDIRECT, CONSEQUENTIAL OR OTHERWISE) FOR (X) LOSS OF PROFIT, OR (Y) DIMINUTION OF VALUE OR LOSS OF USE OF ANY PROPERTY; AND (B) THE IESO AND THE INDEMNIFIED PARTIES (AS DEFINED IN SECTION 11(b)) WILL NOT BE LIABLE TO THE PARTICIPANT, ITS SUCCESSORS OR ASSIGNS OR ITS DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS OR REPRESENTATIVES, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHICH MAY ARISE UNDER OR IN RELATION TO THESE TERMS AND CONDITIONS, REGARDLESS OF WHETHER SUCH LIABILITY ARISES UNDER CONTRACT, TORT OR ANY OTHER LEGAL THEORY.

- (b) The Participant (the "**Indemnifying Party**") will indemnify, defend and hold, the IESO and its directors, officers, employees, advisors, third party service providers and agents (collectively, the "**Indemnified Party**") harmless from and against any and all Claims, losses, damages, liabilities, penalties, obligations, payments, costs and expenses and accrued interest thereon (including the costs and expenses of, and accrued interest on, any and all actions, suits, proceedings for personal injury (including death) or property damage, assessments, judgments, settlements and compromises relating thereto and reasonable lawyers' fees and reasonable disbursements in connection therewith) (each, an "**Indemnifiable Loss**"), asserted against or suffered by the Indemnified Party relating to, in connection with, resulting from, or arising out of (i) any Claim by, or occurrence or event related to, any third party relating to these Terms and Conditions; and/or (ii) the negligence or wilful misconduct of the Participant, except in either case to the extent that any injury or damage related to such Claim, occurrence or event is attributable to the negligence or wilful misconduct of the Indemnified Party. For greater certainty, in the event of contributory negligence or wilful misconduct of the Indemnified Party, then such Indemnified Party will not be indemnified hereunder in the proportion that the Indemnified Party's negligence or wilful misconduct contributed to any Indemnifiable Loss. The IESO will hold the benefit the Participant's obligations under this Section 11 in the IESO's own right and, in trust, for the benefit of any other Indemnified Party.

12. CONFIDENTIALITY

- (a) Each party will, in its capacity as a Receiving Party:
- (i) not use or reproduce Confidential Information of the Disclosing Party for any purpose, other than as and to the extent expressly permitted under these Terms and Conditions or as may be reasonably necessary for the exercise of its rights or the performance of its obligations set out in these Terms and Conditions;
 - (ii) not disclose, provide access to, transfer or otherwise make available any Confidential Information of the Disclosing Party except as expressly permitted in these Terms and Conditions; and
 - (iii) take all measures reasonably required to maintain the confidentiality and security of all Confidential Information of the Disclosing Party that it handles.
- (b) The Receiving Party may disclose Confidential Information of the Disclosing Party:
- (i) to a third party that is not a Representative of the Receiving Party if and to the extent required by a Governmental Authority or otherwise as required by Applicable Laws, provided that the Receiving Party must first give the Disclosing Party notice of such compelled disclosure (except where prohibited by Applicable

Laws from doing so) and must use commercially reasonable efforts to provide the Disclosing Party with an opportunity to take such steps as it desires to challenge or contest such disclosure or seek a protective order. Thereafter, the Receiving Party may disclose the Confidential Information of the Disclosing Party, but only to the extent required by Applicable Laws and subject to any protective order that applies to such disclosure; and

- (ii) to:
 - A. its accountants, internal and external auditors and other professional advisors if and to the extent that such Persons need to know such Confidential Information in order to provide the applicable professional advisory services relating to the Receiving Party's business;
 - B. potential permitted assignees or successors of the Receiving Party if and to the extent that such Persons need to know such Confidential Information in connection with a potential sale, merger, amalgamation or other transaction or transfer involving the business, assets or services provided by the Receiving Party; and
 - C. employees of each party and its other Representatives if and to the extent that such Persons need to know such Confidential Information to perform their respective obligations under these Terms and Conditions;

provided that any such Person is aware of the provisions of this Section 12 and has entered into a written agreement with the Receiving Party that includes confidentiality obligations in respect of such Confidential Information that are no less stringent than those contained in this Section 12.

- (c) Without limiting the foregoing, each party acknowledges and agrees that:
 - (i) the IESO will Handle reports, data and other information, including Confidential Information of the Participant or its subcontractors or Representatives, disclosed, provided or made available to the IESO on an ongoing basis as part of its participation in the SEM Program or other CDM program offered by the IESO and may do so without further notice to or further consent of the Participant; and the IESO may disclose and provide reports, data and other information, including Confidential Information of the Participant or its subcontractors or Representatives, to the OEB, local distribution or utility companies, the Department of Natural Resources Canada, the Ministry of Energy (Ontario), the Office of the Auditor General of Ontario and their respective successor entities for Handling by such entities provided that the IESO, as the case may be, has in place with any such Person a written agreement that includes confidentiality

obligations in respect of such Confidential Information that are comparable to those contained in this Section 12;

- (ii) the IESO (or its service providers) may disclose information of the Participant, including Confidential Information, to or receive such information from other third parties administering or implementing conservation and demand management (CDM) programs funded by a Governmental Authority (whether administered via the IESO, a local electricity or gas distributor, the Provincial or Federal Government or any other party), and may do so without further notice to or further consent of the Participant, the for the purpose of administering the Strategic Energy Management Program and determining Participant eligibility for an Enabling Incentive and/or Performance Incentive in the Strategic Energy Management Program;
- (iii) these Terms and Conditions and all Confidential Information in the possession or control of the IESO or the Participant are subject to Applicable Laws that include the access provisions of FIPPA and that as a result, third parties may obtain access to each party's Confidential Information. Moreover, the IESO and its Representatives are subject to FIPPA, which applies to and governs all recorded information in any form or medium that is provided by the IESO, respectively, or its Representatives to the Participant or provided by the Participant to the IESO, respectively, or its Representatives for the purposes of these Terms and Conditions, or created by the Participant in the performance of these Terms and Conditions, and that is in the custody or control of the IESO, as the case may be (collectively, the "Records"), and may require the disclosure of such Records to third parties;
- (iv) each party is responsible for ensuring that its agreements with Representatives contemplate and permit such potential access or disclosure, and will be fully liable to any such Representatives for any Claim arising out of or relating to such access;
- (v) the IESO may at any time make public the Participant's participation in the SEM Program and data relating to the Participant, including the achievement of electricity savings and demand savings, a description of the Projects identified by the Participant and the implementation of such Projects by the Participant, aggregated with other studies in a manner intended to report on the Strategic Energy Management Program; and
- (vi) the Participant may acknowledge the assistance provided by the IESO in all public communications, provided that the IESO will have the right to approve in writing all such public communications in advance.

- (d) Each party acknowledges that any violation of the provisions of Section 12 may cause irreparable damage or injury to the other party (including, in the case of the IESO, any of the other Indemnified Parties), the exact amount of which may be impossible to ascertain, and that, for such reason, in addition to any other remedies available to such party (including, in the case of the IESO, any of the other Indemnified Parties), such party (including, in the case of the IESO, any of the other Indemnified Parties) is entitled to proceed immediately to court in order to obtain, and the other party will consent to, interim, interlocutory, and final injunctive relief restraining the other party from breaching, and requiring the other party to comply with, its obligations under Section 12, without a requirement that a finding of irreparable harm or other criteria for the awarding of injunctive relief be made. Nothing in this Section 12 will be construed to limit the right of a party (including, in the case of the IESO, any of the other Indemnified Parties) to obtain injunctive relief in any other circumstance in which it may be otherwise entitled to such relief.

13. FIPPA COMPLIANCE

To the extent that the IESO must comply with disclosure obligations under FIPPA, the Participant agrees (without limiting its obligation set out in Section 13):

- (a) to keep the Records in its possession secure;
- (b) to provide the Records to the IESO, as the case may be, within seven calendar days of being directed to do so by the IESO, as the case may be, for any reason under FIPPA, including an access request or privacy issue; and
- (c) to implement other specific security measures that in the reasonable opinion of the IESO, as the case may be, would improve the adequacy and effectiveness of the Participant's measures to ensure, for the purposes of FIPPA, the security and integrity of the Records held in the Participant's possession.

14. DISPUTE RESOLUTION

If any dispute arises under or in connection with these Terms and Conditions that the Parties cannot resolve, each of the Parties will promptly advise its senior management, in writing, of such dispute. Within ten (10) Business Days following delivery of such notice, a senior representative from each party will meet, either in person or by telephone, to attempt to resolve the dispute. Each senior Representative will be prepared to propose a solution to the dispute. If, following such efforts, the dispute is not resolved, the dispute will be settled by arbitration before a single arbitrator pursuant to the Arbitration Act, 1991 (Ontario) and otherwise in accordance with the laws of the Province of Ontario. The arbitration will be conducted in English in the City of Toronto (unless otherwise agreed to by the Parties).

15. SCHEDULES

The following schedules are hereby incorporated in and form part of these Terms and Conditions:

Schedule "A" – Definitions

Schedule "B" – Program Eligibility Requirements

Schedule "C" – SEM Milestones

16. HEADINGS

The insertion of headings is for convenience of reference only and will not affect the interpretation of these Terms and Conditions. The terms "hereof", "hereunder", and similar expressions refer to these Terms and Conditions and not to any particular Article, Section, Schedule or other part hereof. Unless otherwise indicated, any reference in these Terms and Conditions to an Article, Section or Schedule refers to the specified article or section of, or schedule to, these Terms and Conditions.

17. ENTIRE AGREEMENT

Except as otherwise provided, these Terms and Conditions, together with the Release, Waiver and Consent and the Program Requirements, 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 these Terms and Conditions. To the extent of any conflict between these Terms and Conditions and the Program Requirements and/or the Release, Waiver and Consent, the terms of these Terms and Conditions will prevail.

18. AMENDMENTS

These Terms and Conditions may not be varied, amended or supplemented except by an agreement in writing signed by both of the Parties.

19. GOVERNING LAW AND ATTORNMENT

These Terms and Conditions will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. For the purpose of all legal proceedings, these Terms and Conditions will be deemed to have been made and performed in the Province of Ontario and the courts of the Province of Ontario will have exclusive jurisdiction to entertain any action arising under these Terms and Conditions. The IESO and the Participant each hereby attorns to the exclusive jurisdiction of the courts of the Province of Ontario.

20. SUCCESSORS AND ASSIGNS

These Terms and Conditions will enure to the benefit of and be binding upon the Parties and their respective successors and assigns. These Terms and Conditions may not be assigned by the Participant except with the prior written consent of the IESO, which consent may be unreasonably withheld or delayed.

21. FURTHER ASSURANCES

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 these Terms and Conditions.

22. SEVERABILITY

The invalidity, unenforceability or illegality of any provision in these Terms and Conditions will not, to the extent permitted by Applicable Law, affect the validity, enforceability or legality of any other provision of these Terms and Conditions, which will remain in full force and effect.

23. NO PARTNERSHIP, ETC.

Nothing in these Terms and Conditions will be deemed to constitute a partnership or joint venture or create any fiduciary relationship between the IESO and the Participant.

24. FORCE MAJEURE

The IESO shall not be in default and shall not be deemed to be in default, of its obligations in these Terms and Conditions by reason of delay or of failure or inability to perform its obligations hereunder where the said delay, failure or inability is due solely to any cause which is unavoidable or beyond the reasonable control of the IESO, including without limitation any act of God or other cause which frustrates the performance of the IESO's obligations in these Terms and Conditions.

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SCHEDULE "A"

DEFINITIONS

In this Program Terms and Conditions, the following terms will have the following meanings:

"50001 Ready" describes a process designed by the US Department of Energy and Natural Resources Canada to guide users through a discovery process to determine an organization's readiness to implement and certify Facilities under the global energy management standard ISO 50001.

"Annual Report" means the report of energy management activities of a Participant, including documentation to substantiate Confirmed Electricity Savings, completed by the Participant in accordance with the SEM Reporting Requirements and delivered to the IESO within 60 days after the end of each 12-month Funding Period, or shorter, in the form made available by the IESO from time to time.

"Applicable Law" means any applicable law, including any statute, legislation, treaty, regulation and any applicable guideline, directive, rule, standard, requirement, policy, order, judgment, injunction, award or decree of a Governmental Authority.

"Applicable Taxes" means any applicable HST and any other applicable sales or use taxes.

"Applicant" means a Person (as indicated in the Application) that has submitted an Application to participate in the SEM Program.

"Application" means a completed and signed application form submitted to the IESO by the Applicant to participate in the SEM Program, in the form specified on the Save on Energy website.

"Baseline Energy Consumption" means the actual annual electricity consumption for a Facility in the absence of EEMs that is used to establish the Energy Baseline Model.

"Business Day" means a day, other than a Saturday or a Sunday or statutory holiday in the Province of Ontario or any other day on which banking institutions in Toronto, Ontario are not open for the transaction of business.

"CDM" means electricity conservation and demand management.

"Claim" means any actual, threatened or potential civil, criminal, administrative, regulatory, arbitral or investigative demand, allegation, action, suit, investigation or proceeding or any other claim or demand, whether in contract, tort or otherwise.

“Coaching Support” means the 1-on-1 support offered by the IESO to Participants and their Executive Sponsor, Energy Champion, and Energy Teams to assist the Participant in achieving the objectives of the SEM Program and to more effectively meet their energy goals.

“Cohort” means a set of Participants in the SEM Program who are grouped together by the IESO for the purposes of undertaking the Cohort Activities. The IESO will engage Participants (approximately 7-15 Participants per Cohort) simultaneously through the Cohort and encourage these Participants to work together on certain tasks to facilitate peer-to-peer learning and networking opportunities.

“Cohort Activity(ies)” means workshops, conference calls, site visits and other activities offered by the IESO through Cohorts to assist Participants in achieving the objectives of the SEM Program.

“Confidential Information” of a party means any and all information of such party or any of its affiliates, licensors, customers and employees or other service providers, and information in the Application, and, in the case of the IESO, includes the Governmental Authorities (the **“Disclosing Party”**) that has or will come into the possession or knowledge of the other party, or any of their respective affiliates, licensors, customers and employees or other service providers and, in the case of the IESO, includes the Government Authorities (the **“Receiving Party”**) in connection with or as a result of entering into these Terms and Conditions, including information concerning the Disclosing Party’s past, present or future customers, suppliers, technology, electricity usage or business. Notwithstanding the foregoing, “Confidential Information” does not include information that is:

- (a) publicly available when it is received by or becomes known to the Receiving Party or that subsequently becomes publicly available other than through a direct or indirect act or omission of the Receiving Party (but only after it becomes publicly available);
- (b) established by evidence to have been already known to the Receiving Party at the time of its disclosure to the Receiving Party and is not known by the Receiving Party to be the subject of an obligation of confidence of any kind;
- (c) independently developed by the Receiving Party without any use of or reference to the Confidential Information of the Disclosing Party as established by evidence that would be acceptable to a court of competent jurisdiction; or
- (d) received by the Receiving Party in good faith without an obligation of confidence of any kind from a third party who the Receiving Party had no reason to believe was not lawfully in possession of such information free of any obligation of confidence of any kind, but only until the Receiving Party subsequently comes to have reason to believe that such information was subject to an obligation of confidence of any kind when originally received;

provided, however, that, for the purposes of these Terms and Conditions, all personal information concerning any Participant will constitute Confidential Information, whether or not it falls into one of the exceptions set out in clause (a) through (d) of this definition.

“Confirmed Electricity Savings” means the kilowatt hour reduction in electricity consumption attributable to Projects implemented from the Project Register and in service while the Participant is enrolled in the SEM Program, as determined by the IESO, based on an Energy Baseline Model, or, where the IESO determines an Energy Baseline Model is not feasible, using an alternative M&V approach. These savings must be confirmed by Technical Review as in-service during the SEM Program and persisting for at least one year.

“Customer” means an electricity consumer that is directly connected to, or behind the meter of another electricity consumer connected to: (a) the IESO-Controlled Grid; or (b) a Distribution System.

“Disclosing Party” has the meaning given to it in the definition of “Confidential Information”.

“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.

“Enabling Incentives” means the Participant Incentive the Participant may be eligible to receive pursuant to Sections 3.3 and 4.2 for participation in the SEM Support Services and the completion of the SEM Milestones. Upon completion of an SEM Milestone, the Participant may select an item(s) from the Enabling Incentives List.

“Enabling Incentives List” means a list describing the item(s) the Participant may be eligible to receive as a Enabling Incentive upon the completion of an SEM Milestone, in the form made available by the IESO, as updated from time to time. These tools are offered as a menu of options to help Participants manage energy at their Facility(ies) and are further described at <https://saveonenergy.ca/sem>.

“End of Funding Period Performance Payment” means the potential payment for Confirmed Electricity Savings for Projects implemented from the Project Register in the second (final) 12-month Funding Period for which the Participant is eligible to receive a Participant Incentive, calculated in accordance with Section 4.1.

“Energy Baseline Model” means a Facility-specific model or set of models that predicts the electricity consumption and peak demand of a Facility over a set period of time in the absence of EEMs. Under the SEM Program, the Energy Baseline Model will be created by the IESO with data and inputs from the Participant.

“Energy Data” means at a minimum, the utility billing data for electricity, natural gas, propane, and water provided by the Participant to the IESO through the SEM Reporting Requirements. This data may be supplemented with other more granular data or documentation to assist in verifying the success of EEMs at the request of the IESO. The Participant is required to collect historical Energy Data and to continue to monitor current Energy Data as long as it is participating in the SEM Program. Improving Participant Energy Data management processes is a fundamental component of the Program Cohort Activities and Coaching.

“Energy Efficiency Measure” or **“EEM”** means, subject to the Program Eligibility Criteria, an action taken which is intended to reduce electricity consumption at a Facility.

“Energy Champion” means an employee of the Participant who is responsible for ensuring the Participant is actively engaged with the SEM Program and that the SEM Reporting Requirements are completed, accurate and submitted in a timely fashion.

“Energy Management Assessment” means a structured process including a facilitated session with the Participant that assesses the Participant’s current state of energy management practices to identify areas for improvement.

“Energy Map” means a visual representation of which systems, equipment or zones in a building are consuming energy. Further details on the form and content of this map will be provided as part of the Cohort Activities.

“Energy Metric” means a series of measurements and data recorded over time by the Participant to track energy performance, with the objective of using the metrics to improve energy performance and/or take corrective actions, as needed, if the metrics go out of a normal range. Further details on the form and content of the metrics will be provided as part of the Cohort Activities.

“Energy Policy” means a written document that establishes the policies of the Participant with respect to decisions around energy use. Further details on the suggested form and content of the policy will be provided as part of the Cohort Activities.

“Energy Team” means a cross-functional team of two or more of the Participant’s employees (plus external contractors or consultants of the Participant, if applicable) who meet regularly with a mandate and budget to find energy/ electricity savings at the Facility(ies). One or more employee members of the Energy Team will participate in SEM Support Services, work to achieve the SEM Milestones and provide reports to IESO, as per the SEM Reporting Requirements. The Energy Team will be expected to engage other employees to fulfill its mandate as needed, and will report to the Executive Energy Sponsor.

“Executive Energy Sponsor” means an employee of the Participant, identified to the IESO as the individual to whom the Energy Team directly reports. This person should be an employee in a senior leadership position, and will be accountable for the success of the Energy Team, by providing adequate support and resources.

“Environmental Attributes” means all benefits and entitlements associated with a Facility or Measure having decreased environmental impacts resulting from the participation in the Strategic Energy Management Program, including:

- (a) all rights to any fungible or non-fungible attributes, whether arising from a Facility or Measure itself, from the interaction of a Facility or a measure with a Distribution

System or the IESO-Controlled Grid or because of Applicable Laws or voluntary programs established by any Governmental Authority;

- (b) all rights relating to the nature of the energy source as may be defined and awarded through Applicable Laws or voluntary programs; and specific Environmental Attributes include ownership rights to any applicable credits, entitlements or other instruments resulting from the interaction of a Facility or a Measure with a Distribution System or the IESO-Controlled Grid or as specified by Applicable Laws or voluntary programs;
- (c) all rights to quantify and register the foregoing with competent authorities; and
- (d) all revenues, entitlements, benefits, and other proceeds arising from or related to the foregoing.

“Facility” or **“Facilities”** means the buildings, premises or lands, or part thereof, owned or occupied by a Participant that satisfy the Program Eligibility Criteria and in respect of which such Participant is participating in the SEM Program.

“FIPPA” means the *Freedom of Information and Protection of Privacy Act* (Ontario), as may be amended.

“First Year Performance Payment” means the potential payment for Confirmed Electricity Savings for Projects implemented from the Project Register in the 12-month period beginning on the Funding Period start date, for which the Participant is eligible to receive a Participant Incentive, as calculated in accordance with Section 4.1.

“Funding Period” means a 12-month period in which a Participant is enrolled in an active SEM Program Cohort. The first Funding Period start date will be set by the IESO and communicated to the Participant following the issuance of the Notice of Approval.

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

“Handle” or **“Handling”** means to access, receive, collect, use, store, process, record, disclose, transfer, retain, dispose of, destroy, manage or otherwise handle.

“HST” means any tax payable under Part IX of the *Excise Tax Act* (Canada).

“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 given to it in the IESO Market Rules.

“IESO EM&V Protocols” means the methods and processes that the IESO develops for the evaluation, measurement and verification of CDM programs and initiatives, as such methods and processes may be amended from time to time.

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

“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: (a) to adjudicate it a bankrupt or insolvent; (b) 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 (c) 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.

“MWh” means a megawatt hour.

“Measurement and Verification (M&V)” is a process of analyzing energy and other data to estimate the amount of avoided energy use that can be attributed to EEMs. SEM Program M&V is based on the International Performance Measurement and Verification Protocol (IPMVP) Core Concepts, (March 22 edition), with IESO having final discretion on the detailed execution of M&V. Participants are obligated to collect, maintain and provide data to support M&V of their Facilities.

“Notice of Approval” means a notification issued by the IESO to the Applicant via email approving the Application.

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

“Participant” means, in respect of the SEM Program, an Applicant who meets the Program Eligibility Criteria, whose Application has been accepted by the IESO (as indicated by the issuance of a Notice of Approval), and has entered into these Terms and Conditions to be eligible to receive the Participant Incentives.

“Participant Incentive” means any incentives paid or payable to, or the discount received or receivable by, the Participant, and includes Performance Incentives, Enabling Incentives and SEM Support Services, as approved by the IESO in accordance with these Terms and Conditions.

“Performance Incentives” means the Participant Incentive the Participant may be eligible to receive for Confirmed Electricity Savings from Projects implemented from the Project Register, up to a maximum of \$100,000 in any 12-month period, pursuant to and calculated in accordance with Section 4.1.

“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.

“Program Eligibility Criteria” means the eligibility criteria that must be met by the Participant to participate in the SEM Program, as set out in Schedule B.

“Program Delivery Agent” means the service provider(s) under contract with the IESO to provide program delivery services for the Strategic Energy Management Program.

“Program Requirements” means the IESO Program Requirements for the SEM Program published online by the IESO, as may be amended from time to time.

“Project” means one or more EEMs implemented at a Facility, which are expected to deliver Confirmed Electricity Savings.

“Project Register” means the list of Projects implemented at the Facility(ies), maintained by the Energy Team and submitted to the IESO pursuant to the SEM Reporting Requirements during the Participant’s enrolment in the SEM Program.

“Receiving Party” has the meaning given to it in the definition of “Confidential Information”.

“Release, Waiver and Consent” means the release and waiver and consent executed by the Participant in favour of the IESO, among others, and submitted by the Participant as part of the Application.

“Reports” means, collectively, the set of reports to be submitted to the IESO including the Project Registry, the Annual Report, and those required for Technical Review, as further defined in Section 5(b).

“Representative” means, in respect of one of the Parties, any one of that party’s employees, officers, directors, shareholders, contractors, agents, representatives and advisors.

“SEM Milestone” means the SEM Program tasks listed in Schedule C, to be completed by Participants in order to be eligible to receive Performance Incentives and Enabling Incentives. Further details about the Milestones will be made available to Participants by the IESO during participant in the SEM Program.

“SEM Reporting Requirements” means the information the Participant must submit to the IESO, including details about EEMs, energy and demand savings and information to demonstrate its achievement of the SEM Program objectives. This includes: i) establishing continuous energy improvement processes within the Participant’s organization; and ii) implementing EEMs and demonstrating savings at a Facility. The SEM Reporting Requirements will be made available to Participants by the IESO.

“SEM Support Services” means the Cohort Activities, Coaching Services and any other supports or resources offered by the IESO to Participants in the SEM Program.

“Technical Review” means a review of an EEM or Project by the IESO for the purpose of delivering services such as, but not limited to, reviewing information submitted by Participants and determining Confirmed Electricity Savings.

SCHEDULE "B"

PROGRAM ELIGIBILITY CRITERIA

1.1. Participant Eligibility

The Participant must meet the following eligibility criteria:

- a) be a commercial, institutional, or industrial Customer;
- b) not be insolvent;
- c) not have participated previously in the SEM Program; and
- d) have identified an Executive Energy Sponsor and Energy Champion;

1.2. Facility Eligibility

To be an eligible Facility, the proposed Facility(ies) must:

- a) be connected to the IESO-Controlled Grid or a Distribution System.
- b) have a minimum of 12 months of consecutive Energy Data; and
- c) have consumed a minimum of 3,000,000 kWh per 12-month period within the 24 months prior to the date the Participant's Application is submitted (the Participant may combine up to five Facilities to reach this minimum annual electricity consumption criteria);

1.3. Measures Eligibility

To be an eligible EEM that may be included the Performance Incentive calculation, the measure(s) must:

- a) be listed in the Participant's Project Register and satisfy any other SEM Reporting Requirements that may be applicable;
- b) be undertaken with the intention of delivering Confirmed Electricity Savings; and
- c) not be funded by another IESO Save on Energy Program, or any other program funded by the Government of Ontario and or the ratepayers or taxpayers of Ontario.

The Participant must collect and maintain sufficient data to verify Confirmed Electricity Savings that may be attributable to an EEM, and all EEMs undertaken by a Participant while enrolled in the Program:

- a) may be subject to Technical Review to determine Performance Incentive eligibility; and
- b) may be subject to more detailed M&V by the Technical Reviewer.

In the absence of sufficient data to satisfy the IESO, certain measures may be deemed ineligible to be used to calculate the Performance Incentive.

SCHEDULE "C" **SEM MILESTONES**

To be eligible to receive the Performance Incentive and/or the Enabling Incentives, the Participant must demonstrate completion of the following "**SEM Milestones**":

- (i) Establish an Energy Policy and goals;
- (ii) Establish an Energy Champion and Energy Team;
- (iii) Complete an Energy Management Assessment (and/or a 50001 Ready);
- (iv) Establish the Facility Baseline Energy Consumption and monitoring plan;
- (v) Complete an Energy Map;
- (vi) Set Energy Metrics and goals;
- (vii) Establish a Project Register;
- (viii) Complete and submit information required for the purposes of the SEM Reporting Requirements within the deadline(s) prescribed by the IESO; and
- (ix) Complete any other milestones required by the IESO.