

## CERTIFICATION AGREEMENT

**BY ACCEPTING THIS AGREEMENT YOU ACKNOWLEDGE THAT YOU ARE FULLY AWARE OF AND AGREE TO ALL OF THE FOLLOWING TERMS, CONDITIONS AND PROVISIONS AND YOU ARE ENTERING INTO A LEGALLY BINDING AGREEMENT.**

This Certification Agreement (this “Agreement”) is entered into by You (as defined below), Canada Green Building Council/Conseil Du Batiment Durable Du Canada, Inc. (“CAGBC”) and Green Business Certification Inc. (“GBCI”), and constitutes a binding agreement between You, on the one hand, and CAGBC and GBCI, on the other hand. As used herein, the terms “You”, “Your”, “Yourself” and “Owner” refer to the individual(s) or entity(ies) that holds the legal right to possess and control or that has authority to fulfill the obligations herein, in each case with respect to, the real and personal property associated with the Project (defined below) and that is executing this Agreement.

The Parties hereto stipulate that, when You have only a leasehold interest as a tenant, You are considered the ‘Owner’ herein and that Your authority is limited to the terms and conditions of Your leasehold interest. CAGBC acknowledges and agrees that all of the covenants, representations and warranties You make in this Agreement are being made by You, as a tenant, and that these covenants, representations and warranties do not bind the owner of the building in which Your leasehold interest is located as a party to this Agreement.

This Agreement may be executed on Your behalf by a third party such as an architect, property manager or consultant who has been granted authority to act on Your behalf (Your “Agent”). (See Section 12.3 for more information)

If more than one person or entity constitutes an Owner as defined herein, such parties must irrevocably designate You as the sole Owner with the authority to accept this Agreement and work directly with CAGBC for the purpose of administering the certification process (the “Primary Owner”), by completing a “Confirmation of Primary Owner’s Authority” (which is available upon request) and providing this form to CAGBC upon execution of this Agreement. CAGBC will only communicate with and take direction from You as the Primary Owner with regard to the performance of CAGBC’s obligations under this Agreement. (See Section 12.3 for more information)

**1. THE PROGRAM.** The Standards (defined below) are a menu of design standards aimed at a variety of possible improvements relating to sustainability. Across all Standards, each Program consists of the process whereby owners of a Project may apply to CAGBC for Certification. Applicable LEED rating systems are found here: <https://www.cagbc.org/our-work/certification/leed/>, with additional information concerning the LEED v4.1 system, each incorporated by reference hereto, and the rating system selected for the project in the application is, hereinafter, the “Standard”. “Certification” refers to the determination of CAGBC and GBCI that a project has satisfied the requirements set forth in the relevant Standard, and has accumulated all prerequisites and the minimum number of points required to achieve a particular level of Certification if appropriate. CAGBC administers certain Programs discussed in this Agreement and with GBCI confers Certification based on certain terms and conditions.

From time to time, any of the Programs may include the administration of Certification pursuant to pilot versions of a particular Standard, which may not be widely publicly available and which CAGBC shall provide to You (“Pilot Standards”).

CAGBC, with GBCI, conducts certification of Projects in Canada pursuant to a license of the Standards, Marks, Platform, Programs and related products from GBCI. Unless specifically mentioned otherwise, each Program discussed herein is managed and operated by CAGBC in Canada, pursuant to a license from GBCI, pursuant to applicable Canadian laws and the terms and conditions of this Agreement, for Projects (defined below) located in Canada.

**2. THE PROJECT.** As used herein, the term “Project” refers to the real and personal property as defined within the Rating System which You register under this Agreement for the purpose of seeking Certification. The format of Your Project and the land area, number of buildings, and amount of interior space which encompass Your Project, and to which this Agreement will apply, may vary depending on the manner in which, and the Program under which You pursue Certification. CAGBC also offers You the option of pursuing certification for projects under the Campus Group Approach and/or a Campus Credit Approach (included in each relevant Guide to Certification found here: <https://new.usgbc.org/cert-guide>, and incorporated by reference herein). In addition to the applicable Guide to Certification, more information on the Campus Group Approach and Campus Credit Approach is found here and incorporated by reference hereto: <http://www.usgbc.org/resources/leed-campus-guidance>. Further, CAGBC also offers the option of Volume Certification (detailed in the Guide to Certification) for a number of similar projects, based on a prototype project. In addition to the Guide to Certification, more information and guidance on Volume Certification is available here: <https://new.usgbc.org/cert-guide/volume>.

### **3. APPLICATION REQUIREMENTS.**

- 3.1 Upon registering any Project, You will gain access to an application, electronic or otherwise (the “Application”) for such Project to be used for the sole purpose of applying for Certification. You are not required to submit an Application and may exit the Program at any time.
- 3.2 Each Application is designed to elicit information necessary to determine if a Project complies with the requirements of the current Standards in place for the Program. The full text of the applicable Standard is published and available for review online (excepting some Pilot Standards, in which instance a copy will be provided to You). You hereby represent and warrant that You have fully reviewed and understand the Standard under which Your Project is to be reviewed.
- 3.3 Any of the Standards may be revised and updated from time to time. Major updates will be represented by the number before the first decimal (i.e., Versions 1.0, 2.0, 3.0, etcetera). Minor updates will be represented by the decimal (i.e., Versions 1.1, 1.2, 1.3, etcetera). You hereby agree to check for updates often. However, Your Project will be expected to comply with, and will be reviewed under the version of the applicable Program’s Standard current as of the date on which You register Your Project. Notwithstanding the foregoing, to the extent one or more new versions are published after the date on which You register Your Project, You may elect to have that Project reviewed under any subsequently published version, at Your sole option. The last date upon which You may submit Your Project for certification (the “sunset date”) is established upon the close of the applicable version of the Standard under which You registered, provided that it shall occur no sooner than six (6) years after the close of registration for that rating system.

**4. GUIDE TO LEED CERTIFICATION.** As used herein, the term “Guide to LEED Certification” refers to the Program’s certification guide, incorporated by reference herein, which is available for review online here: <https://new.usgbc.org/cert-guide>. The Guide to LEED Certification contains extensive information and instructions related to the Program including associated policies, processes and guidelines. You agree to comply at all times with the Guide to LEED Certification, including all updates and changes provided to You or made available by GBCI or CAGBC from time to time (note that fees are as provided in Section 8 of this Agreement). Please note: additional guidance for certification under LEED for Residential Design and Construction is available here: <https://www.usgbc.org/tools/leed-certification/homes>. Additional guidance for certification under LEED Zero is available here: <https://www.usgbc.org/resources/leed-zero-program-guide>.

### **5. CERTIFICATION REVIEW.**

- 5.1 Upon receipt of Your Application for a Project, CAGBC will initiate its review, which includes review of the Application, and all accompanying documentation You submit therewith to determine if the Project

is eligible for Certification (and if so, the appropriate level of Certification to be conferred). During a review, CAGBC may request additional documentation, resubmission of calculations and any other information or factors that CAGBC deems relevant, including, at CAGBC's discretion, a site visit to confirm the accuracy of the documentation which You will allow, provided CAGBC has given You advance notice and made a reasonable attempt to conform to Your schedule. CAGBC will use all reasonable efforts to meet any review timelines set forth in the Guide to Certification (each, a "Review Timeline"); however, such Review Timelines are estimates only. The failure of CAGBC to meet any Review Timeline will not be considered a material breach of this Agreement and You will not be entitled to any refund of any portion of any Fees paid by You under this Agreement as a result of such failure, provided, however, You will be accorded additional time to respond to CAGBC commensurate with any delay related to CAGBC's failure to meet a Review Timeline.

- 5.2 While some certifications are valid continuously once achieved, other certifications are valid only for a definite number of years. Please consult the Guide to LEED certification to ensure that You are aware of any necessary recertification. Failure to maintain certification will cause the Project's certification to expire and the Project will either be listed as having expired certification within the Project Directory (defined below) or be removed from the Project Directory at the discretion of CAGBC.
- 5.3 You recognize and acknowledge that the Program, while regulated by specific policies and standards, also requires discretion and judgment. The decision whether to grant or deny Certification to a Project will be made in the discretion of CAGBC, acting reasonably, based on interpretation of the Standard by CAGBC and GBCI, the sufficiency of the submitted Project Information (defined below), the results of any necessary on-site visits, and any other information that CAGBC and GBCI deem relevant.
- 5.4 You recognize and acknowledge that the Certification review will be documented in English.

**6. GBCI ONLINE PLATFORM.** Through GBCI, CAGBC offers access to an online platform of GBCI which hosts applications for and submittals relating to the Program (the "Platform"). The Platform is expected to be available to You in general twenty-four hours a day, seven days a week, other than when unavailable for maintenance. However CAGBC does not guarantee the availability of the Platform or that access to the Platform will be uninterrupted or error free. CAGBC, on behalf of GBCI reserves the right to interrupt, limit, or suspend functions on the Platform from time to time for purposes of maintenance, upgrades, modifications, or similar reasons. You understand and agree that GBCI may upgrade or otherwise modify the Platform at any time in its reasonable discretion and that neither CAGBC nor GBCI shall be held responsible or liable for any damages arising from any interruption, suspension, or termination of the Platform, regardless of the cause.

**7. OPTIONAL SERVICES.** Through GBCI, CAGBC may make available certain optional services to assist You to complete the Application, apply the Standard requirements to Your Project, confirm Your status as a participant in the Program and/or confirm the status or progress of Your Project, including without limitation, the review of and/or response to requests for alternative adherence paths and/or innovation features, the review and approval of curative action plans, the undertaking of appeals, and other services related to the Program (collectively, "Optional Services"). You acknowledge and agree that the performance of all Optional Services shall be governed by the terms of this Agreement, including without limitation, all provisions herein related to the indemnification and limitations of liability.

## **8. FEES.**

- 8.1 In consideration for the review of Your Project and the provision of any Optional Services that You request under this Agreement, You agree to pay CAGBC, via the relevant Program, certain fees in accordance with the applicable fee schedule (the "Fee Schedule"), (collectively, the "Fees"). The Fee Schedule is available for review online at the following webpage: <https://www.cagbc.org/our-work/certification/leed/>. The Fees that You will incur will vary depending on the Program, the applicable Standard, and other relevant factors such as Project square footage, the number and type of Optional

Services You request, and other factors particular to Your Project. CAGBC will issue an invoice to You for all applicable Fees as they are incurred. All Fees must be paid to CAGBC within sixty (60) calendar days of the date of the applicable invoice. CAGBC will collect, and You hereby agree to pay, any and all applicable sales or use taxes required by law. You hereby represent and warrant that You have fully reviewed and understand the Fee Schedule, and You agree to check for updates often.

- 8.2 Except as provided in Sections 8.3 and 8.4 below, all Fees are calculated on the dates on which they are incurred. The Fees may be increased from time to time at the discretion of CAGBC by no more than twenty-five percent (25%) per calendar year. You agree to pay the then-current Fees as they are incurred. You will be provided with no less than sixty (60) days prior written notice of any Fee increases.
- 8.3 You may elect to pay any Fees pertaining to the initial certification of Your Project in advance. If You pay any such Fees in advance, You will not be charged for the difference should a subsequent increase occur. Notwithstanding the foregoing, You will not have the option to make advance payment of any Fees pertaining to any recertification of Your Project.
- 8.4 If You do not agree to any of CAGBC's Fee increases, Your sole remedy is to terminate this Agreement pursuant to Section 11.1(a). In the event You elect to terminate this Agreement, You will forego any benefit for which You have paid in advance, and none of the Fees will be refunded.
- 8.5 For the avoidance of doubt, Sections 8.3 and 8.4 do not apply to Fees pertaining to any recertification of Your Project. All Fees associated with the recertification of any certified project will be calculated on the dates on which they are incurred and invoiced as they are incurred and may require the submission of a new agreement.

## **9. PROJECT INFORMATION.**

- 9.1 License to Use for Purpose of Assessment. In order to complete the Certification application process, You must submit extensive information to CAGBC related to each Project, including without limitation, any information related to You or any Project provided prior to executing this Agreement, information contained within the Application(s) and any additional information or data provided to CAGBC at any time in connection with the Project (collectively, "Project Information"). You hereby grant GBCI, CAGBC, CAGBC's Affiliates (as defined below) and subcontractors a perpetual, non-exclusive, royalty-free, fully paid-up license to access, view, reproduce and otherwise use all Project Information submitted to CAGBC, including all copyrighted materials, tradenames and other proprietary information, solely for the limited purposes of assessing each Project. For the purposes of this Agreement, CAGBC's Affiliates shall include GBCI, U.S. Green Building Council, Inc. ("USGBC"), Canada Green Building Council/Conseil Du Batiment Durable Du Canada (CAGBC) and other affiliated entities of CAGBC as that term is defined in the Canada Business Corporations Act ("Affiliate(s)").
- 9.2 "Public" Project. Unless You affirmatively select the option for Your Project to be "Private" (see Section 9.3, below), Your Project will be considered a "public" project and, will be included in a public directory of Projects specific to the Program (the "Project Directory"). (*See Guide to Certification as mentioned above for illustration.*) Inclusion in the respective Program's Project Directory allows the general public and members of the media to look up specific project listings and the following details: project name, project type, building type, project address, registration date, identity of the owner, owner organization type, project team information, project gross square footage, and other similar project information which You expressly permit CAGBC, GBCI and USGBC to publish, and, to the extent that the Project achieves certification, date of certification, identification of which credits were sought and which and how many were achieved, and level of certification achieved (collectively, "Public Project Information"). CAGBC shall not distribute or publish any submitted plans, drawings or schematics pertaining to any project without Your express written permission except to CAGBC's Affiliates, employees, agents, representatives and subcontractors for the purpose of assessing the relevant Project. By virtue of this

section, CAGBC may share the identity of Your certified Project in order to promote the Certification of Your Project.

- 9.3 “Private” Project. You may choose to opt out of allowing certain information relating to Your Project to be included in the Project Directory and publicity opportunities by electing that Project to be a “private project” at the time of registration. By electing to remain “private”, the Project’s name, street address and identity of the owner will not appear within the applicable Project Directory. However, certain other non-project identifying information may be disclosed, including, but not limited to, the city and province or territory in which the project is located and the total project square footage and, to the extent the Project achieves certification, the date of certification, identification of which credits were sought and which and how many were achieved, and level of certification achieved (the “Directory Private Project Information”). All private projects that achieve Certification are typically prompted upon issuance of award, if any, to transition to be a Public Project, meaning that should You wish for Your Project to remain private, You must re-confirm the election to remain a private project at the time of certification.

*Nota bene:* For so long as You elected for Your Project be a “private project”, You agree that You will not market or allow Your Project to be represented to the general public as having registered or applied for certification, or as being certified, and no intellectual property including the Marks (defined in Section 10 below) may be utilized or displayed in relation to the project. You may change the privacy setting for a project at any time before acceptance of the final award, using functionality in the Platform. Notwithstanding any of the above, if it is determined in our reasonable discretion that despite its election as a private project, Your Project has been/ is marketed to the public as having registered for or received certification under this Agreement, You agree that You have deemed Your Project to be a Public Project.

- 9.4 License to Aggregated, Non-Identifying Information. Whether or not You elect for Your Project to be private, You hereby confer the right to CAGBC, and CAGBC’s Affiliates to publish, display and exploit the Project Information only in aggregated, anonymized and non-identifying form (the “Aggregated Project Information”).
- 9.5 License for Internal Use. You agree that CAGBC, and CAGBC’s Affiliates may make internal use of any anonymized Project Information submitted to CAGBC, including, and not limited to, project performance data.
- 9.6 License for Public Use. You further agree that CAGBC, and GBCI’s Affiliates may access, publish, reproduce, display and exploit Public Project Information (from a public project) and Directory Private Project Information (from a private project) and Aggregated Project Information, to, *inter alia*, educate and provide resources for the relevant project teams and others, showcase project strategies and promote the Program’s Standard on a global scale.
- 9.7 No Public Endorsement. Each party to this agreement agrees that it shall not furnish any logo, trademark (except tradename to identify the Project(s)) or proprietary indicia of the other or any affiliate in any press release, testimonial, quotations, case study, or endorsement without the other party’s prior written consent (which may be withheld in either party’s absolute discretion).
- 9.8 Disclosure When Legally Compelled. Nothing in this Agreement shall prevent CAGBC or CAGBC’s Affiliates from disclosing information, including where legally compelled to do so by duty, order or command under color of law. Unless prohibited by law, prompt notice of any compelled disclosure will be provided to You to facilitate an opportunity to limit or prevent such disclosure at Your sole expense. Without limitation, CAGBC and/or CAGBC’s Affiliates may disclose Project Information if such disclosure, in any of its reasonable discretion, is deemed to be in the interest of public safety.
- 9.9 Classified Information. Neither CAGBC nor CAGBC’s Affiliates wish to receive classified information. For the purposes of this Agreement, “Classified Information” is considered sensitive information to

which access is restricted by law or regulation to particular classes of people. A formal security clearance is required to handle classified documents or access classified data.

Any information or materials submitted to CAGBC or CAGBC's Affiliates by You or Your agents, employees or consultants will be deemed to be not classified. By submitting information to CAGBC, You represent that such information, be it submitted in connection with an Application for Certification or otherwise, is not classified information pursuant to any applicable laws, regulations or other governmental requirements.

- 9.10 **Changes in the Guide to Certification.** Despite anything to the contrary set forth in this Agreement relating to changes or modifications in the Guide to Certification(s), the ways in which Your Project Information may be used and license herein granted shall be governed by the provisions of this Section 9, unless You so consent to any change in use in a signed writing.
- 9.11 **PIPEDA.** The parties expressly acknowledge and agree to the application of The Personal Information Protection and Electronic Documents Act ("**PIPEDA**") to personal information of the Owner. The Owner also expressly acknowledges and confirms that the information provided to CAGBC hereunder in regards to the Project and related items, is not "Personal Information" as that term is defined in PIPEDA.
- 9.12 **CASL.** As a part of this Agreement, the Owner expressly acknowledges and consents, pursuant to the provisions of Canada's Anti-Spam Legislation ("**CASL**"), to receipt of commercial electronic messages in regards to events, products, services or other information from CAGBC and CAGBC's Affiliates, subject to any exercise of its rights to unsubscribe, from time to time.

## **10. TRADEMARKS.**

- 10.1 GBCI owns, and or has license to, worldwide, all right, title and interest in and to several proprietary trademarks, service marks, certification marks, logos, trade dress, and other graphic images, including, but not limited to the marks listed out in the respective Guide to Certification (collectively, the "Marks"). The Marks constitute valuable intellectual property owned by GBCI and their licensors and are protected by law. You acknowledge and agree that any unauthorized use of both the applicable and inapplicable Marks constitutes both intellectual property infringement and a material breach of this Agreement. GBCI may, from time to time, acquire new Marks and they are incorporated by reference herein. Their lack of specific inclusion in this Agreement does not invalidate GBCI's ownership or CAGBC's license of the associated intellectual property rights. You agree to check for any updated Marks and that this Agreement covers Your use of any such Marks. GBCI may or will have submitted certification mark or trademark applications or obtained registrations for, some or all of the Marks in several jurisdictions worldwide. You acknowledge that GBCI is the owner of all right, title and interest in and to each of the Marks worldwide superior to You, in every jurisdiction pursuant to applicable statutes, common law or otherwise, regardless of whether each Mark has been applied for or registered in each jurisdiction. You acknowledge and agree that You shall not make any claim of, or seek any right to, title or ownership in and to any of the Marks, nor shall you submit any trademark or other intellectual property application anywhere in the world covering, in whole or in part, any of the Marks or any terms, designs or logos confusingly similar to any of the Marks. CAGBC represents and warrants that it has the right and authority to enter into this Agreement and the right to grant the limited rights of use of the Marks, Programs and Standards to You as provided for herein.
- 10.2 **Grant of license.** While a Project is under review, CAGBC grants You the limited right to indicate that You are applying for Certification of the Project; provided however, that You are prohibited from using the relevant Marks in any manner that indicates or implies (as determined by CAGBC in its sole and absolute discretion) that the Project has achieved, or will achieve, Certification at any level. You are prohibited from using the Marks in any manner prior to receipt of an award of certification. In the event



that a Project is awarded Certification, then, subject to the terms and conditions of this Agreement, CAGBC grants You a non-exclusive, non-sub-licensable, non-transferable, revocable (as set forth below), royalty-free, limited sublicense to use, during the period of time during which the Project's Certification remains valid, the Marks for the purposes of indicating the level of Certification granted in relation to the Project. For the avoidance of doubt, the license granted herein shall automatically terminate with respect to a Project, without notice, upon (i) the expiration or revocation of the Project's Certification, (ii) Your misuse of trademark in violation of the Trademark Usage Policy, or (iii) the complete or material demolition or renovation of the Project.

10.3 In connection with all use of the Marks as set forth herein, You agree to use the Marks in accordance with all applicable laws, rules and regulations, and You will comply at all times with GBCI Trademark Usage Policy available here: <http://www.gbci.org/sites/default/files/gbci-trademark-policy-guidelines.pdf>, and as may be updated from time to time (the "Trademark Usage Policy"), and any other related standards associated with the use of the Marks as provided by CAGBC in writing to You. You acknowledge and agree that in the event the Program and/or the Marks which are the subject of this Agreement are not owned by GBCI, but is under license, You will comply at all times with the Trademark Usage Policy of the registered owner of the Program and Marks as provided by CAGBC and/or GBCI. You represent and warrant that You have fully reviewed the GBCI Trademark Usage Policy.

10.4 All rights not expressly granted herein are reserved by GBCI and CAGBC, and no license is granted hereunder for the use of any of the Marks for any purpose beyond the uses set forth in this Section 10, or to any other intellectual property of GBCI, CAGBC or its licensors. You agree not to contest the validity of any of the Marks and not to voluntarily become a party to any litigation in which others contest the validity of any of the Marks.

10.5 You acknowledge that the Marks and the goodwill associated therewith possess special, unique and extraordinary characteristics, which make difficult the assessment of monetary damages that GBCI and CAGBC would sustain as a result of Your unauthorized use of the Marks. You recognize that GBCI and CAGBC would suffer irreparable injury by such unauthorized use and agree that injunctive and other equitable relief is appropriate in the event of a material breach by You of any of the terms of this Section 10. Such remedy shall not be exclusive of any other remedies available to GBCI and CAGBC. You expressly acknowledge that GBCI shall be entitled, pursuant to this Agreement and any statutory or common law rights to directly enforce all of the rights provided hereunder or in respect of statutory or common law rights in favour of GBCI relating to the intellectual property of GBCI, including, without limitation, the Marks, Standards, Programs and other intellectual property.

## **11. TERM AND TERMINATION.**

11.1 The term of this Agreement begins on the date on which You accept this Agreement in accordance with Section 29 below, and shall continue in effect unless terminated as follows:

- (a) You or CAGBC may terminate this Agreement in whole or in part at any time upon thirty (30) days written notice.
- (b) Termination shall occur on the expiry of a 60 (sixty) day period from the date of service of a written notice of abandonment of the Application from CAGBC ("Notice of Abandonment") in the event CAGBC reasonably determines that you have failed to file information within a reasonable period of time or have abandoned the Application.
- (c) This Agreement shall terminate in full (or as it relates to any Project registered under this Agreement), if You materially breach Your obligations under this Agreement including Your failure to make Fee payments due and as agreed under this Agreement, and You fail to cure such breach within sixty (60) days from the date of notice of material breach provided to You by CAGBC. Such breach of

obligations shall include, without limitation, Your failure to pay any Fees invoiced, Your misuse of any Marks or other intellectual property the limited use of which is granted to You pursuant to this Agreement, and any misstatement, whether intentionally or unintentionally made, in the Project Information that You submit in connection with the Program.

- (d) This Agreement will automatically terminate in full (or as it relates to any Project registered under this Agreement) if CAGBC delivers notice to You that Your Project has failed to achieve Certification (whichever is applicable), and You (i) indicate, through the use of the Platform or by other written notice, Your acceptance of such written notice of this determination, or (ii) have exhausted all opportunities to appeal this determination.
- (e) This Agreement will automatically terminate in full to the extent You sell, transfer, assign any right or delegate any responsibilities under this Agreement, or otherwise dispose of all or substantially all of Your interest in the Project, unless the recipient of such interest agrees to assume Your obligations as a party to this Agreement by submitting CAGBC's "Change of Owner" form to CAGBC (form available at: <https://www.cagbc.org/news-resources/technical-documents/change-of-owner-agreement/>).
- (f) This Agreement will automatically terminate in full upon: (a) the complete or material demolition or renovation of the Project; (b) Your failure or unwillingness to comply with any applicable conditions of Certification; (c) the expiry of a 60 day period from the date of service of a written notice of abandonment of the Application from CAGBC ("Notice of Abandonment") in the event CAGBC reasonably determines that you have failed to file information within a reasonable period of time or have abandoned the Application; or (d) the revocation or expiration of Certification for the Project as set forth in the Guide to Certification.
- (g) You acknowledge that GBCI has established prestige and goodwill in the Program and the Marks, which are well recognized in the minds of the public throughout the world. It is of great importance, and in the mutual interest of You, GBCI and CAGBC, that the Project registered under this Agreement embodies the highest standards and reputation connected with GBCI, CAGBC and the Standard. Therefore, You agree that if You use the Marks in any manner that could or does disparage, tarnish or dilute the distinctive quality of the Marks or the reputation and goodwill embodied in the Marks, or which would reflect adversely on the Marks, any of the CAGBC Indemnitees (defined below), the Standard and/or the Program, in CAGBC's reasonable discretion, then at the time of any such act or at any time after CAGBC learns of any such act, CAGBC will have the right, at its sole option, to terminate this Agreement by written notice to You.

#### 11.2 Upon termination of this Agreement pursuant to Section 11.1 above:

- (a) Your access to the Application(s) for the associated Project (or, in the event the Agreement is terminated in full, the Project registered under this Agreement) will be revoked by CAGBC, and CAGBC may, in its reasonable discretion, delete or destroy any such Application(s) and Form(s) and all data therein.
- (b) All of Your rights to use the Marks pursuant to the license granted under Section 10, will terminate and You must immediately discontinue all use and display of the Marks.
- (c) All Fees owed by You as of the effective date of such termination must be paid in full within thirty (30) days of the effective date of such termination. There shall be no refund of any fees paid or owed under this Agreement.
- (d) Upon the expiration or earlier termination of this Agreement, You agree that You shall not seek or be entitled to any remuneration, fees, costs, damages or any other relief (legal or equitable) or



compensation whatsoever, except as set forth in this Section 11.2.

- (e) Upon the expiration or earlier termination of this Agreement, both parties agree that they shall not seek or be entitled to any remuneration, fees, costs, damages or any other relief (legal or equitable) or compensation whatsoever, except as set forth in this Section 11.2.

11.3 It is expressly understood and agreed that the parties' respective obligations under this Agreement in Articles 9 and 10, Sections 11.1, 11.2, Articles 12 through 16, and Articles 19 through 29 shall survive any termination of this Agreement.

## **12. REPRESENTATIONS AND WARRANTIES.**

12.1 Each Party hereby warrants and represents that:

- (a) It has the power and authority and the legal right to enter into this Agreement and to grant the rights and perform the obligations set forth herein.
- (b) It has taken all necessary action required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder.
- (c) No rights granted by one Party to the other pursuant to this Agreement are in violation of any other agreement.

12.2 You further represent and warrant that:

- (a) You have the right to provide all Project Information provided to CAGBC by You or on Your behalf, to grant the licenses to CAGBC and CAGBC's subcontractors and Affiliates as purported to be granted pursuant to this Agreement and to otherwise grant the rights granted under this Agreement.
- (b) The Project Information, as well as any information contained in Your Application or any other documents You submit to CAGBC, is and will be to the best of Your knowledge true, correct and complete, and accurate in all respects, and does not and will not infringe upon or misappropriate the intellectual property rights of any third party.

12.3 Owner's Additional Representations and Warranties.

- (a) If Your Agent is entering into this Agreement on Your behalf, You represent and warrant that You have completed a "Confirmation of Agent's Authority" (the form is available at: <https://www.cagbc.org/news-resources/technical-documents/confirmation-of-agents-authority/>), and that You or Your Agent will provide this form to CAGBC upon execution of this Agreement. To the extent an agent signs this Agreement on Your behalf, CAGBC will have no obligation to make any recommendation or render any decision or provide any other information or services with respect to any Project registered under this Agreement until You have provided this form to CAGBC. CAGBC agrees that Your Agent has no responsibility for the breach of any contractual obligations arising from the Agent's authorized conduct on Your behalf. Any attempt to modify the terms of the Confirmation of Agent's Authority shall render the form invalid.
- (b) If this Agreement is executed by Your Agent, the Agent has the power and authority and the legal right to enter into this Agreement and to grant the rights and perform the obligations set forth herein on Your behalf and this Agreement constitutes a legal, valid and binding obligation on You that is enforceable against You in accordance with its terms.
- (c) If more than one person or entity constitutes an Owner as defined herein, You represent and warrant

that all other persons or entities constituting an Owner under this Agreement, if any, have each completed a “Confirmation of Primary Owner’s Authority” form confirming Your authority to act on their behalf, and that these forms will be provided by You upon execution of this Agreement by written notice (the form is available at: <https://www.cagbc.org/news-resources/technical-documents/confirmation-of-primary-owners-authority/>). You therefore represent and warrant that You have been irrevocably, explicitly and actually granted the power and authority and the legal right by all Owners, as the Primary Owner, to enter into this Agreement and to grant the rights and perform the obligations set forth herein on behalf of all Owners, including Yourself, as necessary to render this Agreement a legal, valid and binding obligation against all Owners, including Yourself, and that is enforceable against all Owners, including Yourself, in accordance with its terms. The obligations of all Owners, including Yourself, shall be joint and several and the CAGBC Indemnitees (defined in this Agreement) may enforce their rights against any Owner in any order.

### **13. INDEMNIFICATION.**

- 13.1 You agree to indemnify, defend and hold harmless CAGBC and its officers, directors, employees, agents, representatives, affiliates, subcontractors, subsidiaries, Affiliates (including GBCI, and USGBC) and independent contractors (collectively, the “CAGBC Indemnitees”) from and against all claims, actions, suits, losses, costs, liabilities, judgments, damages and expenses, including reasonable attorneys’ fees, court costs, litigation expenses and related expenses (collectively, “Claims”) arising out of or relating to (i) Your material breach of any of the representations, warranties or obligations set forth herein; (ii) any incompleteness or inaccuracy of the Project Information provided by You or any person or persons under Your direction and control; (iii) Your use of the Marks other than as set forth in Section 10; (iv) Your use of, and/or reliance upon, the Certification awarded under this Agreement; and/or (v) Your intentional acts and negligence with regard to Project (whether or not any individual building(s) or individual interior space(s) comprising Your Project has received Certification); all of the foregoing applies only to the extent that such Claims are due or claimed to be due to the acts or omissions of You or any person or persons under Your direction and control. To the extent You are required to indemnify any of the GBCI Indemnitees, You shall not enter into any settlement without obtaining CAGBC’s prior written consent. Such consent shall not be unreasonably withheld. Without limitation of the foregoing, any or all of the CAGBC Indemnitees may elect to participate in any cause of action with counsel of their choosing at their own expense. To the extent You are required to indemnify any of the CAGBC Indemnitees, You shall not enter into any settlement without obtaining CAGBC’s prior written consent, which CAGBC shall not unreasonably withhold. Without limitation of the foregoing, any or all of the CAGBC Indemnitees may elect to participate in any cause of action with counsel of their choosing at their own expense. Regardless of anything to the contrary in this Agreement, the indemnity offered by You under this clause shall not exceed one (1) million dollars (CAD) per claim per Project, or five (5) times the Fees paid by You, per Project, whichever is greater. However, You agree that this limit shall not be applicable in the event of any misappropriation, infringement or material breach of CAGBC’s intellectual property rights, including but not limited to violation of the Marks, by You or Your Indemnitees.
- 13.2 CAGBC agrees to indemnify, defend and hold harmless You and Your respective officers, directors, employees, agents, representatives, affiliates, subcontractors, subsidiaries and independent contractors (collectively, the “Your Indemnitees”) from and against all claims, actions, suits, losses, costs, liabilities, judgments, damages and expenses, including reasonable attorneys’ fees, court costs, litigation expenses and related expenses (collectively, “Claims”) arising out of or relating to (i) CAGBC’s material breach of any of the representations, warranties or obligations set forth herein. To the extent CAGBC is required to indemnify any of Your Indemnitees, CAGBC shall not enter into any settlement without obtaining Your prior written consent, which You shall not unreasonably withhold. Without limitation of the foregoing, any or all of Your Indemnitees may elect to participate in any cause of action with counsel of their choosing at their own expense. Regardless of anything to the contrary in this Agreement, the indemnity offered to You under this clause shall not exceed one million dollars

(CAD) per claim per Project, or five (5) times the Fees paid by You, per Project, whichever is greater. However, CAGBC agrees that this limit shall not be applicable in the event of any misappropriation, infringement, or material breach of Your intellectual property rights by CAGBC or CAGBC Indemnitees.

- 13.3 Pursuant to Section 12.3, if, subsequent to the acceptance of this Agreement, it is determined that such acceptance was by an unauthorized individual or entity purportedly acting on the behalf of the party (or parties) that holds all legal right to possess and control the real and personal property associated with the Project, the person or entity that accepts this Agreement acknowledges and agrees that, as between such person or entity and CAGBC, such person or entity shall be responsible for all liability to, and incurred by, the CAGBC Indemnitees and all third parties, and such person or entity hereby agrees to indemnify, defend and hold harmless the GBCI Indemnitees for any and all Claims arising out of or relating to this Agreement. No settlement shall be entered into without CAGBC's prior written consent and any or all of the CAGBC Indemnitees may elect to participate in any cause of action with counsel of their choosing at their own expense.

#### **14. DISCLAIMER OF WARRANTIES.**

- 14.1 CAGBC makes no (and CAGBC, hereby disclaims, to the greatest extent allowed by law, any and all) warranties, representations and conditions, whether written, oral, express, implied or statutory, including any warranties of accuracy, completeness, title, against infringement, merchantability or fitness for a particular purpose, with respect to the program, the standard, any application or form, the certification review process, and any optional services provided by or on behalf of any CAGBC Indemnitee. CAGBC explicitly disclaims any and all liability arising from your use of the standard, platform and any application or form for any purpose other than for the pursuit of certification from CAGBC.

- 14.2 All determinations related to a project's certification under any and all of the programs incorporated herein, are in the sole and absolute discretion of CAGBC and in no event shall any CAGBC indemnitee have any liability as a result of any decision to grant or not to grant certification to your project (or any portion of a project) for any reason.

- 14.3 Without limiting the broad scope of this section 14, you agree and acknowledge that:

- (a) A grant of certification is not a representation, and does not mean that your project (or any individual building or interior or outside space(s) comprising a project) is structurally sound or safe, constructed in accordance with applicable laws, regulations or codes, free of mold or mildew, or free of bacteria, viruses, pathogens, volatile organic compounds, allergens, or toxins;
- (b) CAGBC's services, the program and the respective program standards are intended to educate and assist project owners in their efforts to *inter alia*, create healthier, more resilient and sustainable real estate, including but not limited to, new and existing buildings, parking lots and sites, and minimize waste, and nothing therein should be considered, or used as a substitute for, medical advice, diagnosis or treatment. CAGBC's services, the program and any of the standards do not constitute the practice of medicine/the provision of any professional healthcare services, diagnosis or treatment. Nor do they constitute the practice of engineering, provide financial advice or legal advice. Certification is not a guarantee of structural stability or energy savings.
- (c) Any grant of certification does not in any way guarantee, certify, warrant or imply that such project will make occupants healthy or healthier, or provide any benefit to occupants whatsoever, nor is it a guarantee of cost savings;
- (d) Any grant of certification does not mean that either CAGBC or GBCI endorses, verifies or agrees with any project information that has been provided or represented to CAGBC;

- (e) Except as expressly set out otherwise herein, CAGBC makes no representation or warranty whatsoever with respect to the validity or strength of any of the marks, or any other intellectual property that CAGBC licenses, owns or uses. In the event that any of the marks is abandoned, cancelled or otherwise determined or claimed to be invalid, or becomes the subject of any challenge, you shall not be entitled, and hereby waive and surrender any and all rights, to advance any claims against GBCI, that may arise from the same, or to otherwise seek or obtain any resulting damages, including, without limitation, any refund of fees paid, due or owing under this agreement.
- (f) CAGBC makes no representation or warranty that it will continue any program for any definite period of time. CAGBC may discontinue any program, any subset thereof, or any similar program it may hereafter offer at any time (including but not limited to pilot programs), for any reason or no reason at all; provided, however that CAGBC shall endeavor to give you at least one year notice of its intention to discontinue the program under which your project has registered. In the event that CAGBC discontinues the program and/or determines not to continue the program, or any subset thereof, you shall not be entitled, and hereby waive and surrender any and all rights, to advance any claims that may arise from the same, or to otherwise seek or obtain any resulting damages, including, without limitation, any refund or fees paid, due or owing under this agreement.

## **15. LIMITATION OF LIABILITY.**

- 15.1 CAGBC INDEMNITEES.** Except as otherwise required by law, in no event shall any of the CAGBC Indemnitees be liable to You or any third party, with respect to any and all claims, rights, claims for indemnification or otherwise, for any direct, special, indirect, incidental, punitive, or consequential damages, including damages or costs due to loss of profits, tax credits, economic benefits, data, loss of goodwill, or personal or other property damage regarding this Agreement or resulting from or in connection with the performance of this Agreement by CAGBC or in connection with any program, any optional service, any published requirements, any Guide to Certification, the Platform or any application or form, regardless of the cause of action or the theory of liability, whether in tort, contract, or otherwise, even if such Party has been notified of the likelihood of such damages occurring. Regardless of the foregoing, and without limiting any other provision herein, (i) Your sole remedy shall be as against CAGBC and shall be limited to a return of five (5) times the fees paid by You under this Agreement; and (ii) in no event shall CAGBC be liable, in the aggregate, to You or any third party in excess of the total amount of five (5) times the fees paid by You under this Agreement. Further, while CAGBC takes reasonable efforts to ensure the functionality of the Platform, the application, and each form contained therein, any of the foregoing may contain calculative, programmatic or other errors, including errors that could result in the interruption of services or loss of data or potentially cause a form to misrepresent compliance or non-compliance with a feature and, accordingly, in no event shall any CAGBC Indemnatee be liable to You or any other third party for any such errors. You expressly acknowledge and agree that You shall have no rights or cause of action, complaint or claim of any nature against GBCI or CAGBC and that any and all such claims shall be limited to CAGBC.
- 15.2 OWNER INDEMNITEES.** Except as otherwise required by law, in no event shall You or any of Your indemnitees be liable to CAGBC or any third party, with respect to any and all claims, rights, claims for indemnification or otherwise, for any direct, special, indirect, incidental, punitive, or consequential damage regarding this Agreement or resulting from or in connection with the performance of this Agreement by You or any of Your Indemnitees. Regardless of the foregoing, and without limiting any other provision herein, CAGBC's sole remedy with respect to You and Your Indemnitees shall be limited to the sum not exceeding five (5) times the fees paid by You under this Agreement, provided, however that You agree that this limit shall not be applicable in the event of any misappropriation or infringement of GBCI's intellectual property rights, including but not limited to violation of the use restrictions applicable to the Marks, the Standards or the Program by You or Your Indemnitees.

## **16. MODIFICATION OF TERMS.**

16.1 Except as otherwise provided herein, CAGBC and/or GBCI may change any of the program policies or guidelines (including, without limitation, any applicable Guide to Certification, the Fee Schedule and the Trademark Usage Policy) at any time in its reasonable discretion. Your logging in to access or submit your application and following any required prompts, and/or your ongoing use of the marks, constitutes your irrevocable acceptance of all such changes which were made, and the legal amendment of this agreement.

16.2 In the event of any modification of any material terms in accordance with Section 16.1 to which You do not assent (other than the pricing changes allowed under Section 9.2), Your sole remedy shall be the right to terminate the Agreement and receive a refund of any Fees paid by You within the one hundred and eighty (180) days immediately preceding the date of termination.

**17. FORCE MAJEURE.** Neither Party shall be liable to the other Party for inadequate or non-performance to the extent caused by any Force Majeure Event, which wholly or partially prevents or delays the performance of any of the duties, responsibilities or obligations of such party. As used herein, the term “Force Majeure Event” shall mean any act, event or condition (except, in each case, for the payment of money) which is beyond the reasonable control of a party, including, but not limited to, an act of God; an act of the public enemy; civil disturbance or unrest; injunctions; lightning; fire, explosion or other serious casualty; water damage; terrorist attack (or threats thereof); epidemics; strike, lock-out or labor dispute (without regard to the reasonableness of any party’s demands or any party’s ability to satisfy such demands); accident or sabotage; unusually severe weather (including hurricane, earthquake, tornado, landslide or flood); war (whether declared or not) or threats thereof; blockades; embargoes; change in Law; or shortages or failures of sources of labor, material, energy, fuel, water, other vital utility, equipment or transportation. Either party shall have the right to terminate this Agreement if a Force Majeure Event lasts for a period of thirty (30) days or more. In such event, all prepaid fees for services not yet rendered shall be returned (such calculation to be made by CAGBC, in CAGBC’s reasonable discretion).

**18. NOTICES.** CAGBC expects to be in regular communication with You regarding Your participation in the Program. Such communications will occur via email exchange and/or through Your Application(s). However, notices required by this Agreement must be communicated as follows:

Notices to You – CAGBC shall send all notices to You at the email addresses provided by You to CAGBC in the Application with delivery confirmation. Such notices shall be effective when actually received. You agree to provide CAGBC with up-to-date contact information for the duration of this Agreement. Should Your email address be returned to CAGBC, CAGBC may instead send notices to You at the address provided at the time of registration of Your Project.

Notices to CAGBC – You must provide written notice to CAGBC by email with delivery confirmation. Such communications shall be effective when actually received and must be addressed to [leadcoach@cagbc.org](mailto:leadcoach@cagbc.org), with a copy to [legal@gbci.org](mailto:legal@gbci.org), with the subject line reading “LEGAL NOTICE” with the name and id # of Your Project.

## **19. NOTICE OF CLAIM; MEDIATION; ARBITRATION.**

(a) If a dispute arises from or relates to this contract or the alleged breach thereof by act or omission, each party agree to provide to the other party written notice in accordance with Section 18 within one hundred eighty (180) calendar days after the occurrence of each such act or omission, describing with reasonable detail (i) the act and/or omission; (ii) how it was damaging; and (iii) a reasonable estimate of the amount of monetary damages suffered (each, a “Notice of Claim”).

(b) In the event of any controversy, claim or dispute arising out of or relating to this Agreement, or a

material breach thereof (each such event, a “Dispute”) the parties hereto agree to seek to resolve the dispute through open and good faith discussions in the first instance. If the Dispute cannot be resolved through these discussions, the parties agree second to try and settle the dispute by mediation, administered by the Canadian Arbitration Association (“CAA”) under its Mediation Rules.

- (c) If settlement is not reached within sixty (60) calendar days after service of a written demand for mediation, such Dispute shall be finally resolved under the Rules of Arbitration of the CAA (the “Rules”) by one (1) arbitrator mutually appointed by the Parties. If the Parties fail to mutually agree, they may then appoint three (3) arbitrators in accordance with the Rules (each such arbitration, an “Arbitration”). Each Arbitration will be conducted in English and all foreign language documents shall be submitted in the original language and, if so requested by any arbitrator or party, shall also be accompanied by a translation into English. The place of arbitration, and the location for all hearings and meetings in an Arbitration, shall be in Ottawa, Ontario, Canada, which location cannot be changed, and any Arbitration may be initiated by either party in accordance with the Rules. For each Arbitration, the governing law set forth in Section 20 shall be applied to the merits of the Dispute. Each party shall present its case in a pre-hearing memorial accompanied by all of its evidence in support of its position. The arbitrator in any Arbitration shall enforce, and not modify, the terms of this Agreement. The award or decision of the arbitrator shall be final and binding on each party and its respective successors and assigns, and judgment may be entered thereupon and enforced in any court of competent jurisdiction. All costs and expenses of any Arbitration, including reasonable attorneys’ fees and expenses and the administrative and arbitrator fees and expenses, shall be borne by the parties as determined by the arbitrator. Nothing herein shall permit the arbitrator to award any damages, which are disclaimed in this Agreement, including those in Section 15. Notwithstanding the foregoing, nothing in this Section 19 shall be construed as limiting the right of a party to seek, at any time, in the Ontario Superior Court located in Ottawa, Ontario, an injunction or other temporary, preliminary or permanent equitable relief (including to maintain the status quo or preserve the subject matter of the arbitration) with respect to any actual or threatened material breach of this Agreement or otherwise, to prevent or avoid irreparable harm. Each party hereby expressly and irrevocably consents to the exclusive jurisdiction and venue of such courts located in Ottawa, Ontario, and waives all defenses and arguments that these courts constitute an inconvenient forum and other similar objections. **THE PARTIES AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY AND ALL ACTIONS OR PROCEEDINGS ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT.**
- (d) It is understood and acknowledged that during the pendency of a Dispute, all of the terms and conditions of this Agreement shall remain in effect and the parties shall continue to perform all of their respective obligations hereunder.
- (e) Except to the limited extent necessary to comply with any applicable law, legal process, or a court order or to enforce a final settlement agreement or secure enforcement of the arbitrators’ award, the parties agree that the existence, terms and content of any Arbitration, all information and documents disclosed in any Arbitration or evidencing any arbitration results, award, judgment or settlement, or the performance thereof, and any allegations, statements and admissions made or positions taken by either party in any Arbitration shall be treated and maintained in confidence and are not intended to be used or disclosed for any other purpose or in any other forum.
- (f) Without limiting the confidentiality requirements of Section 19 (e) above, the parties agree that during the pendency of a Dispute neither party will publicly or privately disparage the other party in any way, make or give any comments, statements, or opinions which may be harmful to the goodwill and reputation of the other party, or directly or indirectly cause or encourage the making of such comments, statements, or opinions, or the taking of such actions, by anyone else. For the purposes of this Agreement, the term “disparage” includes, without limitation, comments or statements to the press and/or media, or to any individual or entity with whom the applicable party has a business or



personal relationship which would adversely affect in any manner (i) the conduct of the business of the party; (ii) the business reputation of the party; or (iii) the personal reputation of the CAGBC Indemnitees.

**20. GOVERNING LAW.** This Agreement, and all of the rights and duties of You and the CAGBC Indemnitees arising out of or related to the Program shall be governed by and construed in accordance with the laws of Canada and Ontario, as applicable, without regard to its conflicts of law rules.

**21. REMEDIES.** Except as otherwise expressly provided in this Agreement, all remedies shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity, or otherwise.

**22. RELATIONSHIP OF THE PARTIES.** The relationship between the parties to this Agreement is that of independent contractors with respect to the benefits described herein. This Agreement is not intended to, and does not, create any association, partnership, joint venture, employment, or agency relationship between the parties. You agree that You will not hold Yourself out as, an agent, affiliate, legal representative, joint-venture, partner, employee or servant of any CAGBC Indemnatee for any purpose whatsoever. As an independent contractor, we are solely responsible for determining the means and methods for providing the benefits described herein.

**23. THIRD PARTIES AND ASSIGNMENT OF RIGHTS.** Subject to the express provisions below, nothing in this Agreement shall be deemed to confer any benefit or rights on or to any person or entity other than You, CAGBC and GBCI; provided however, that the CAGBC Indemnitees shall be intended third-party beneficiaries to this Agreement and GBCI shall be entitled at all times to enforce its rights respecting its intellectual property, including, without limitation, the Marks, Standards and Programs. CAGBC reserves the right to assign and/or delegate any of its rights and/or obligations in its reasonable discretion, including, and without limitation, the right to subcontract the performance of any services associated with the Program. You may not assign and/or delegate any of the rights and/or obligations under this Agreement except as set forth in Section 11.1(e) above. Any unauthorized assignment or delegation shall be null and void. In the event that CAGBC shall cease to administer the Program, all rights and obligations of CAGBC hereunder, shall at the option of GBCI, be assigned to and assumed by GBCI.

**24. ENTIRE AGREEMENT; ORDER OF PRECEDENCE.** This Agreement (including all other documents and information referenced and thereby incorporated herein and accessible through hyperlink or referencing a URL, collectively the “Ancillary Documents”), which are hereby incorporated herein and made a part hereof) constitutes a fully integrated agreement that supersedes any and all prior agreements between You, GBCI and CAGBC concerning the Project. You agree to comply with and be bound by the terms, conditions and provisions of all the Ancillary Documents whether or not any particular condition or provision is referenced in this Agreement. The Ancillary Documents are intended to be complementary and interpreted in harmony. In the event of any conflict, the terms of this Agreement shall take precedence over the terms of any the Ancillary Document, provided however, that the terms and conditions for the use of the website hosting the Application are not superseded by this Agreement.

**25. MODIFICATION AND WAIVER.** The Ancillary Documents may be amended by CAGBC as described in this Agreement, and You may be allowed to upgrade to a new version of the Platform as provided in Section 6 above. Otherwise, this Agreement may only be modified in writing and all such written modifications must be signed by You and CAGBC’s then-current CEO. No other individual has the authority to modify this Agreement on CAGBC’s behalf, unless expressly authorized to do so. No action or inaction by CAGBC will be construed as a waiver of this or any other provision of this Agreement. To be enforceable, any waiver of this Agreement (excluding the Ancillary Documents) must be in writing and signed by You and CAGBC, and shall be limited to the specific terms of the waiver.

**26. SEVERABILITY AND INTERPRETATION.** The invalidity of any part of this Agreement shall not

impair or affect the validity or enforceability of the rest of this Agreement, which shall remain in full force and effect. Any provision found to be invalid shall be more narrowly construed so that it becomes legal and enforceable. The headings used in this document are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision. Any rule that ambiguities are construed or interpreted against the drafter of a document, or against the party for whose benefit the document is made, shall not apply. As used in this Agreement, the plural shall include the singular and the singular shall include the plural whenever appropriate.

**27. ANTICORRUPTION.** Each party agrees that, in performing its duties hereunder, it shall not directly or indirectly, promise, offer or give anything of value to any “Covered Person” (as defined below) for the purpose of influencing any act or decision of such Covered Person, including a decision to do or omit to do any act in violation of the duties of such Covered Person, or inducing such Covered Person to use his or her influence with any other person or entity of any kind whatsoever to improperly affect or influence any act or decision of such person or entity, in order to assist You or CAGBC to obtain or retain business, directing business to any person or obtaining any improper advantage.

For purposes hereof, the term “Covered Person” shall mean any of the following: (i) an officer, employee, agent or representative of any government (including any department, agency, instrumentality or subdivision thereof); (ii) an officer, employee, agent or representative of any public international organization; (iii) an officer, director, employee, agent or representative of an entity owned or controlled, in whole or in part, by any government (including any department, agency, instrumentality or subdivision thereof); (iv) a person acting in an official capacity on behalf of any of the persons or entities listed in (i) through (iii) above; (v) a political party, an official of a political party or a candidate for political office; (vi) any officer, director, employee or agent of a private commercial entity in a position to render, supervise or influence procurement decisions of that private commercial entity with respect to purchases from, or sales to, You, CAGBC, or GBCI; and (vii) any first, second or third degree family relative of any of the persons listed in (i) through (vi) above.

CAGBC and the Owner each represent and warrant to the other that neither it nor any of its affiliates or agent(s) acting on behalf of it with respect to this Agreement (i) is listed or identified on any statutory or regulatory list respecting terrorist or other designated prohibition list by any authority maintained by any authorized level of the government of the United States of America or the government of Canada (“Governmental Security Requirements”); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to a Governmental Security Requirement or any other applicable requirements contained in any enabling legislation or other executive orders in respect of such matters; (iii) is engaged in activities prohibited by Government Security Requirements; or (iv) has been convicted, pleaded nolo contendere, indicted, arraigned or detained on charges involving money laundering or predicate crimes to money laundering.

**28. EXECUTION.** By placing your signature on the signature line below, whether handwritten or electronic, you hereby agree to the terms, conditions and provisions represented in this agreement. You acknowledge that you have read and understood this agreement and all exhibits and schedules hereto, all program policies and guidelines, including certification guide, fee schedule and trademark usage policy, and that you have been provided the opportunity to maintain a record of this agreement, all such ancillary documents, and all program policies and guidelines.

---

(Owner Name)

---

(Date)

_____	_____
<b>(Owner Signature)</b>	<b>(Date)</b>

_____	_____
<b>(Signatory Name)</b>	<b>(Signatory Title)</b>

## EXHIBIT A

You confirm that the following information constitutes the registration details pertaining the Project:

Project Name: \_\_\_\_\_

Project ID #: \_\_\_\_\_

Project Type: \_\_\_\_\_

Rating System: \_\_\_\_\_

Gross Floor Area (m<sup>2</sup>): \_\_\_\_\_

Anticipated Start Date: \_\_\_\_\_

Anticipated End Date: \_\_\_\_\_

Project Address: \_\_\_\_\_

Project Country: \_\_\_\_\_

Private\* (confidential) or Public: \_\_\_\_\_

Owner Organization: \_\_\_\_\_

Owner's Representative: \_\_\_\_\_

Email Address of Owner's Representative: \_\_\_\_\_

**\* If you indicate your project is "private," it will not be listed in the publicly available LEED project directories. Private projects may not be presented to the general public as being registered or certified and thus You may not display a plaque on a certified project that is "private." The private status of your project may be changed at any time. Please refer to the [Guide to LEED Certification](#) for more details.**