



LEED CERTIFICATION AGREEMENT

BY ACCEPTING THIS AGREEMENT, YOU ACKNOWLEDGE THAT YOU HAVE READ THE AGREEMENT AND FULLY ACCEPT ITS TERMS, CONDITIONS, AND PROVISIONS, AND YOU ARE ENTERING INTO A LEGALLY BINDING AGREEMENT.

This LEED Certification Agreement ("Agreement") is entered into by and between You and Green Business Certification Inc. ("GBCI") and constitutes a binding legal agreement. As used herein, the terms "You," "Your," and "Yourself," refer to the individual(s) or entity(ies) that have the legal authority to fulfill the obligations set forth in this Agreement, whether as the property owner or the property owner's authorized agent. If You have only a leasehold interest as a tenant in the Project (defined below), Your authority is limited to the terms and conditions of Your leasehold interest. In such a case, GBCI 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 or project in which Your leasehold interest is located as a party to this Agreement.

1. THE PROGRAM. The LEED Rating Systems are a menu of leadership standards to promote sustainability in the built environment. Applicable LEED rating systems are found here: <https://www.usgbc.org/leed>, each incorporated by reference hereto, and the rating system selected for the project in the application is, hereinafter, the "Standard". The "Program" includes all operations for GBCI's assessment of Your Project (defined below) according to a Standard offered by GBCI and selected by You. "Certification" refers to GBCI's determination that a Project has satisfied the requirements set forth in the relevant Standard and has accumulated all prerequisites and the minimum number of credits required to achieve a particular level of Certification (and "Certification" encompasses recertification under any LEED Rating System). From time to time, GBCI may administer LEED Certification pursuant to a pilot version.

2. THE PROJECT. As used herein, the term "Project" refers to the property as defined within the Standard under 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 that 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.

3. APPLICATION REQUIREMENTS.

3.1 Upon registering any Project, You will gain access to an application (“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. If you do not complete any portion of Your Application within one year of registering Your Project, GBCI will have no further obligations under this Agreement, but may choose to perform this Agreement in its discretion.

3.2 Each Application is designed to elicit information necessary to determine if a Project complies with the requirements of the current Standard in place for the Program. The full text of the applicable Standard is published and available for review online (excepting certain 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 (e.g., Versions 1.0, 2.0, 3.0, 4.0, 5.0). Minor updates will be represented by the decimal (e.g., Versions 1.1, 1.2, 1.3, 4.1). 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 the version subsequently published, 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 all LEED rating systems other than LEED V5 Operations and Maintenance and no sooner than three (3) years after the close of registration for LEED V5 Operations and Maintenance.

4. CERTIFICATION GUIDEBOOK. As used herein, the term “Certification Guidebook” refers to the Program’s relevant certification guide, incorporated by reference, which is available for review online here: <https://www.usgbc.org/guide-LEED-certification>. The Certification Guidebook contains extensive information and instructions related to the Program under which certification may be sought including associated policies, processes and guidelines. You agree to comply at all times with the applicable Certification Guidebook (noted that fees are as provided in Section 8 of this Agreement). 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, GBCI 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). During its review, GBCI may request additional documentation, resubmission of calculations and any other information or factors that GBCI deems relevant, including, at GBCI's discretion, a site visit to confirm the accuracy of the documentation which You will allow, provided GBCI has given You advance notice and made a reasonable attempt to conform to Your schedule. GBCI will use all reasonable efforts to meet any review timelines set forth in the Certification Guidebook (each, a "Review Timeline"); however, such Review Timelines are estimates only. The failure of GBCI 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 GBCI commensurate with any delay related to GBCI'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 Certification Guidebook 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 GBCI.

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 GBCI, acting reasonably, based on GBCI's interpretation of the Standard, the sufficiency of the submitted Project Information (defined below), the results of any necessary on-site visits, and any other information that GBCI deems relevant.

6. GBCI ONLINE PLATFORM. GBCI offers an online platform that 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, GBCI does not guarantee the availability of the Platform or that access to the Platform will be uninterrupted or error free. 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 GBCI shall not 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. GBCI 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 compliance paths and/or innovation credits, the review and approval of remediation 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 by GBCI shall be governed by the terms of this Agreement (including, without limitation, all terms concerning 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 GBCI certain fees in accordance with the applicable fee schedule (the “Fee Schedule”), (collectively, the “Fees”) as referenced in your application. The Fee Schedule for LEED is available for review online at the following webpage: <https://www.usgbc.org/tools/leed-certification/fees>. 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. GBCI will issue an invoice to You for all applicable Fees as they are incurred. All Fees must be paid to GBCI within thirty (30) calendar days of the date of the applicable invoice. GBCI will collect, and You hereby agree to pay, 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. The Fees are exclusive of all sales tax, value added tax, or any other relevant assessment, tax, duty or withholding that may be required under any applicable laws. All such taxes, assessments, duties and/or withholdings shall be Your sole responsibility.

8.2 Except as provided in Section 8.3 below, all Fees are calculated on the dates on which they are incurred. The Fees may be increased 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 any subsequent fee increase.

8.4 If You do not agree to any of GBCI's Fee increases, Your sole remedy is to terminate this Agreement pursuant to Section 11.1. 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, Section 8.3 does 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.

9. PROJECT INFORMATION.

9.1 In order to complete the Certification application process, You must submit extensive information to GBCI related to Your 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 GBCI at any time in connection with the Project (collectively, "Project Information"). You hereby grant GBCI, GBCI's subsidiaries and GBCI's related party, U.S. Green Building Council, Inc. ("USGBC"), (collectively, "Affiliates") and their subcontractors a perpetual, non-exclusive, royalty-free, fully paid-up license to access, view, reproduce and otherwise use all Project Information including all copyrighted materials, tradenames and other proprietary information to assess Your Project.

9.2 Unless You affirmatively select the option for Your Project to be a Private Project (see Section 9.3, below), Your Project will be considered a "Public" project and will be included in a public directory of Project specific to the Program (the "Project Directory"). Inclusion in the Project Directory allows the public to find specific project listings, including the following details: project name, project address, registration date, identity of the owner, owner organization type, project team information, project gross square footage, and, to the extent that the Project achieves certification, date of certification, identification of which credits, options, and compliance paths were sought and which and how many were achieved, and level of certification achieved (collectively, "Public Project Information"). GBCI shall not distribute or publish any submitted plans, drawings or schematics pertaining to any project without Your express written permission except to GBCI's employees, agents, representatives and subcontractors for the purpose of assessing the relevant Project.

9.3 You may choose to opt out of allowing certain information relating to Your Project from being included in the Project Directory and publicity opportunities by electing at the time of registration that Your Project be a "Private Project." By electing the Private Project option,

the Project's name, street address and identity of the owner will not appear within the Project Directory. However, certain other non-project identifying information may be disclosed, including, but not limited to, the city and state 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 Certification, 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.

For so long as You elect 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 of certification, using functionality in the Platform. Notwithstanding any of the above, if it is determined in GBCI's 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 Whether or not You elect for Your Project to be Private, You hereby confer the right to GBCI and GBCI's Affiliates to publish, display, sell, and exploit the Project Information in aggregated, anonymized and non-identifying form (the "Aggregated Project Information") for any purpose, including developing new products or enhancing existing products.

9.5 You agree that GBCI and GBCI's Affiliates may make internal use of any anonymized Project Information submitted to GBCI, including, and not limited to, project performance data.

9.6 You further agree that GBCI 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 Each party to this Agreement agrees that it shall not furnish any company logo or 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 Nothing in this Agreement shall prevent GBCI or GBCI's Affiliates from disclosing information when legally compelled to do so. Unless prohibited by law, GBCI will provide prompt notice of any compelled disclosure to You so that You may seek to limit or prevent such disclosure at Your sole expense. Without limitation, GBCI and/or GBCI'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 Neither GBCI nor GBCI's Affiliates wish to receive classified information. Any information or materials submitted to GBCI or GBCI's Affiliates will be deemed to be not classified. 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. By submitting information to GBCI, You represent that such information, be it submitted in connection with an Application for Certification or otherwise, is not controlled for export under the International Traffic in Arms Regulations, 22 C.F.R. Part 120 et seq., or the Export Administration Regulations, 15 C.F.R. Part 730 et seq.

9.10 Despite anything to the contrary set forth in this Agreement relating to changes or modifications in the Certification Guidebook(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.

10. TRADEMARKS.

10.1 GBCI owns, and/or has license to, worldwide, all right, title and interest in several proprietary trademarks, service marks, certification marks, logos, trade dress, and other graphic images, including, but not limited to the marks listed in the respective Certification Guidebooks (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 the 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 of the associated intellectual property rights. You agree to check for any updated GBCI 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.

10.2 Grant of License.

10.2.1. While Your Project is under GBCI review, GBCI grants You the limited right to state 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 GBCI 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.

10.2.2. In the event that Your Project is awarded Certification, then, subject to the terms and conditions of this Agreement, GBCI grants You a non-exclusive, non-sub-licensable, non-transferable, revocable (as set forth below), royalty-free, limited license 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. The license granted herein shall automatically terminate with respect to Your 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 complete or material renovation of the Project.

10.2.3. 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 the Trademark Usage Policy, as referenced in your application, 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 GBCI in writing to You. You represent and warrant that You have fully reviewed such Trademark Usage Policy. The Trademark Usage Policy for LEED is available at: <https://support.usgbc.org/hc/en-us/articles/11941118063891-USGBC-Trademark-Policy-and-Branding-Guidelines>.

10.2.4. You understand and acknowledge that, should Your Project be awarded Certification, such Certification is specific to that certified property. The Certification is not awarded to (i) an individual, including any of Your officers, directors, employees, or agents, or (ii) any other property. Upon any sale or transfer of the certified property to a new owner of such property,

the Certification shall remain with said property, provided that the property continues to meet applicable recertification requirements. Further, the license to the Marks granted to You under Section 10.2.2 above and access to all information that You submitted to GBCI related to the Project shall automatically transfer to the new property owner.

10.2.5. All rights not expressly granted herein are reserved by GBCI, 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 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.

10.2.6. 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 would sustain as a result of Your unauthorized use of the Marks. You recognize that GBCI 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.

11. TERM AND TERMINATION. The term of this Agreement begins on the date You accept this Agreement in accordance with Section 29 below, and shall continue in effect unless terminated as follows:

11.1. You or GBCI may terminate this Agreement in whole or in part at any time upon thirty (30) days' written notice.

11.2. 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 GBCI ("Notice of Abandonment") in the event GBCI reasonably determines that You have failed to submit information within a reasonable period or have abandoned the Application.

11.3. This Agreement shall terminate 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 thirty (30) days from the date of notice of material breach. Such breach shall include, without limitation, Your failure to pay any Fees invoiced, Your misuse of any Marks or other intellectual property held by GBCI or its Affiliates, and any misstatement, whether intentionally or unintentionally made, in the Project Information that You submit in connection with the Program. If You initiate a new Agreement following termination of the Agreement, such new Agreement shall be subject to then-current rates.

11.4. This Agreement will automatically terminate if GBCI 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.

11.5. This Agreement will automatically terminate upon: (i) the complete or material demolition or complete or material renovation of the Project (as determined by GBCI); (ii) Your failure or unwillingness to comply with any applicable conditions of Certification; or (iii) the revocation or expiration of Certification for the Project as set forth in the Certification Guidebook.

11.6. 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 and GBCI, that the Project registered under this Agreement embodies the highest standards and reputation connected with GBCI 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 GBCI Indemnitees (defined below), the Standard and/or the Program, in GBCI's reasonable discretion, then at the time of any such act or at any time after GBCI learns of any such act, GBCI will have the right, at its sole option, to terminate this Agreement by written notice to You.

11.7. Upon termination of this Agreement:

11.7.1. Your access to the Application(s) for the associated Project (or, in the event the Agreement is terminated, the Project registered under this Agreement) will be revoked by GBCI, and GBCI may, in its reasonable discretion, delete or destroy any such Application(s) and Form(s) and all data therein.

11.7.2. 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.

11.7.3. 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.

11.7.4. 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.

11.8. It is expressly understood and agreed that the parties' respective obligations under this Agreement in Articles 9, 10, 12 through 16, and 18 through 29 shall survive any termination of this Agreement.

11.9. After Certification of Your Project and/or after the sunset of the relevant Standard for which You applied but did not seek Certification, GBCI may delete any or all data submitted.

12. REPRESENTATIONS AND WARRANTIES.

12.1. Each Party hereby warrants and represents that:

12.1.1. 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.

12.1.2. It has taken all necessary action required to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder.

12.1.3. No rights granted by one Party to the other pursuant to this Agreement are in violation of any other agreement.

12.2. You represent and warrant that:

12.2.1. You have the right to provide all Project Information provided to GBCI by You or on Your behalf, to grant the licenses to GBCI and GBCI's subcontractors and Affiliates as purported to be granted pursuant to this Agreement and to otherwise grant the rights granted under this Agreement.

12.2.2. The Project Information, as well as any information contained in Your Application or any other documents You submit to GBCI, 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. Additional Representations & Warranties.

12.3.1. If You are not the owner of the Project, you represent and warrant that You have 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 behalf of the owner and that this Agreement constitutes a legal, valid and binding obligation on You and the owner that is enforceable against You and the owner in accordance with its terms.

12.3.2. If more than one person or entity owns the Project, You represent and warrant that You have the power and authority 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 GBCI Indemnitees (defined in this Agreement) may enforce their rights against any owner in any order.

12.3.3. By signing this Agreement, You commit that no aspect of the Project will utilize, in any respect, forced labor or child labor. If You violate this provision, You agree that GBCI may take any action that GBCI deems appropriate, in its sole discretion, including suspending or cancelling the certification process for Your Project or revoking Your Project certification. GBCI adopts the [definition of forced labor](#) utilized by the International Labour Organization: any and all work that is extracted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer themselves voluntarily. GBCI adopts the [definition of child labor](#) utilized by the International Labour Organization: work that is mentally, physically, socially or morally dangerous and harmful to children; and/or interferes with their schooling by: depriving them of the opportunity to attend school; obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.

13. INDEMNIFICATION.

13.1. You agree to indemnify, defend and hold harmless GBCI and its officers, directors, employees, agents, representatives, Affiliates, contractors, subsidiaries and independent contractors (collectively, the "[GBCI 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 caused 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 GBCI's prior written consent. Such consent shall not be unreasonably withheld. Without limitation of the foregoing, any or all of the GBCI 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 GBCI Indemnitees, You shall not enter into any settlement without obtaining GBCI's prior written consent, which GBCI shall not unreasonably withhold. Without limitation of the foregoing, any or all of the GBCI 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 (USD) 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 GBCI's intellectual property rights, including but not limited to violation of the Marks, by You or Your Indemnitees.

13.2. Pursuant to Sections 12.3.1 and 12.3.2, if, subsequent to the acceptance of this Agreement, GBCI determines that such acceptance was by an unauthorized individual or entity purportedly acting as an agent of the party (or parties) that hold the legal right to possess and control the property associated with the Project (Project owner), the person or entity that accepts this Agreement acknowledges and agrees that such person or entity shall be responsible for all liability to, and incurred by, the GBCI 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 GBCI's prior written consent and any or all of the GBCI 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 GBCI makes no (and GBCI 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 GBCI Indemnitee. GBCI explicitly disclaims 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 GBCI.

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 GBCI and in no event shall any GBCI 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:

14.3.1. 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.

14.3.2. GBCI's services, the Program and any of the Standards do not constitute the practice of medicine or 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.

14.3.3. 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.

14.3.4. Any grant of certification does not mean that GBCI endorses, verifies or agrees with any Project information that has been provided or represented to GBCI.

14.3.5. Except as expressly set out otherwise herein, GBCI makes no representation or warranty whatsoever with respect to the validity or strength of any of the Marks, or any other intellectual property that GBCI 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.

14.3.6. GBCI makes no representation or warranty that it will continue any Program for any definite period of time. GBCI 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 GBCI 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 GBCI 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. Except as otherwise required by law, in no event shall any of the GBCI 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 any GBCI Indemnitee or in connection with any Program, any optional service, any published requirements, any certification guidebook, 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 vis a vis GBCI, GBCI Indemnitees and subcontractors shall be limited to a return of the fees paid by You under this Agreement; and (ii) in no event shall GBCI, GBCI Indemnitees be liable, in the aggregate, to You or any third party in excess of the total amount of the fees paid by You under this Agreement. Further, while GBCI 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 GBCI Indemnity be liable to You or any other third party for any such errors.

16. MODIFICATION OF TERMS.

16.1. Except as otherwise provided herein, GBCI may change any of the Program policies or guidelines (including, without limitation, any applicable certification guidebook, the Fee Schedule and the trademark usage policy) at any time in its reasonable discretion. 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 8.2), 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) that 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 may choose 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 GBCI, in GBCI’s reasonable discretion).

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

Notices to GBCI – You must provide written notice to GBCI by email with delivery confirmation. Such communications shall be effective when actually received and must be addressed to legal@gbci.org, with the subject line reading “LEGAL NOTICE” with the name and id # of Your Project.

19. NOTICE OF CLAIM; MEDIATION; ARBITRATION.

19.1. If a dispute arises from or relates to this contract or the alleged breach thereof by act or omission, each party agrees to provide to the other party written notice in accordance with Section 18 as soon as reasonably practical and no later than 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").

19.2. 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 to try and settle the dispute by mediation, administered by the American Arbitration Association ("AAA") under its Mediation Rules.

19.3. 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 AAA (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 the Washington, D.C., 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 arbitrators in any Arbitration shall enforce, and not modify, the terms of this Agreement. The award or decision of the arbitrators 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 arbitrators. Nothing herein shall permit the arbitrators 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 state and/or federal court located in Washington, D.C., 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 Washington, D.C., 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.**

19.4. It is understood and acknowledged that during the pendency of a Dispute, all terms and conditions of this Agreement shall remain in effect and the parties shall continue to perform all of their respective obligations hereunder.

19.5. 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.

19.6. Without limiting the confidentiality requirements of Section 19.5 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 GBCI Indemnitees.

20. GOVERNING LAW. This Agreement, and all of the rights and duties of You and the GBCI Indemnitees arising out of or related to the Program shall be governed by and construed in accordance with the laws of Washington D.C., without regard to its conflicts of laws provisions.

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 GBCI Indemnitee for any purpose whatsoever. As an independent

contractor, GBCI is solely responsible for determining the means and methods for providing the benefits described herein.

23. THIRD PARTIES AND ASSIGNMENT OF RIGHTS. Nothing in this Agreement shall be deemed to confer any benefit or rights on or to any person or entity other than You and GBCI; provided however, that the GBCI Indemnitees shall be intended third-party beneficiaries to this Agreement. GBCI 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 assign Your rights and obligations under this Agreement to an entity or individual that acquires ownership of the Project and thereby becomes the new owner, provided You complete and submit to GBCI the Change of Owner Agreement, available at <https://www.usgbc.org/sites/default/files/2023-03/GBCI-change-of-owner.pdf>.

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 and 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 GBCI 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 GBCI’s then-current President & CEO or GBCI’s General Counsel. No other individual has the authority to modify this Agreement on GBCI’s behalf, unless expressly authorized to do so. No action or inaction by GBCI 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 GBCI 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. GOVERNMENT ENTITIES. If You are a Government Entity (meaning an agency or instrumentality operating under color of federal law, and/or an agency or instrumentality operating under state law or municipal ordinance, including all agencies, boards and commissions in the executive branch of such government), the foregoing provisions of this Agreement regarding limitations of liability, indemnification, equitable relief, disputes and choice of law, to which You are prohibited from agreeing to as a matter of law, are hereby waived.

28. ANTICORRUPTION/OFAC. 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 GBCI 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, GBCI; and (vii) any first, second or third degree family relative of any of the persons listed in (i) through (vi) above. GBCI and You 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 on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury ("OFAC") pursuant to Executive Order number 13224, 66 Federal Register 49079

(September 25, 2001) (the "Order"); (ii) is listed on any other list of terrorists or terrorist organizations maintained pursuant to the Order, the rules and regulations of the OFAC or any other applicable requirements contained in any enabling legislation or other executive orders in respect of the Order (the Order and such other rules, regulations, legislation or orders are collectively called the "Orders"); (iii) is engaged in activities prohibited in the Orders; or (iv) has been convicted, pleaded nolo contendere, indicted, arraigned or detained on charges involving money laundering or predicate crimes to money laundering.

29. EXECUTION. By selecting "I AGREE" You hereby agree to the terms, conditions and provisions in this Agreement. You acknowledge that You have read and understood this Agreement and all referenced materials whether by URL or otherwise set forth in this Agreement, including the applicable Standard, Certification Guidebook, Fees, and the Trademark Usage Policy, and that You have been provided the opportunity to maintain a record of this Agreement and all referenced materials. Further, You understand that by agreeing to these terms You will be bound to a legally enforceable contract no different than a contract expressed on paper and physically signed by You.