

## BEACON TERMS OF USE

### Purpose

The Beacon Contract Management Portal (“**Beacon**”) is owned and operated by the Independent Electricity System Operator (the “**IESO**”) for the purpose of administering the Feed-In Tariff (“**FIT**”) Program and micro Feed-In Tariff (“**microFIT**”) Program. Only a FIT/microFIT Contract holder (“**Supplier**”), registered prospective FIT/microFIT contract holder (“**Assignee**”), local distribution company (“**LDC**”) (collectively, “**you**” or “**User(s)**” in the context of these Terms of Use) and their authorized representative(s) (“**Beacon Representative(s)**”) may access Beacon to view and manage FIT/microFIT Contracts online (the “**Purpose**”).

### Terms and Conditions

By signing up for and using Beacon you agree to follow and be bound by the terms and conditions of these Terms of Use. You also agree to bind any company or organization on behalf of whom you are accessing Beacon. **If you do not agree to these Terms of Use, do not use Beacon or download, access or use any materials from it. The IESO may change these Terms of Use at any time and without notice. Any changes will be effective immediately upon posting or as otherwise indicated. Your use of Beacon following any such change constitutes your agreement to follow and be bound by the Terms of Use, as modified.**

**Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Supplier’s FIT/microFIT Contract, and “including” means “including without limitation”.**

### Acceptable Use

You agree to use and access Beacon only in accordance with these Terms of Use, applicable law and the terms of Supplier’s FIT/microFIT Contract. With the exception of any terms and conditions contained in Supplier’s FIT/microFIT Contract that are intentionally amended as agreed between the Supplier and the IESO, you agree that to the extent these Terms of Use, any text displayed on Beacon, or any IESO communications or IESO website content related to Beacon, are inconsistent with any terms or conditions contained in Supplier’s FIT/microFIT Contract, the terms and conditions contained in Supplier’s FIT/microFIT Contract shall prevail.

As a condition of accessing Beacon, you agree:

1. That you are a User as defined above;
2. That all information uploaded to or modified by you in Beacon is true, complete and accurate;
3. Not to use Beacon in a manner that is unlawful, misleading or fraudulent;
4. Not to upload viruses or malicious code or do anything that could disable, overburden or impair the proper working or appearance of Beacon;
5. To only access or attempt to access information on Beacon that you have permission to access; and
6. If you are entering or modifying information in Beacon as a Beacon Representative, that you will only do so with such Supplier’s consent.

## **User Account**

You are solely responsible for the activity that occurs on your Beacon account and must keep your account password secure. You agree to use commercially reasonable efforts to prevent unauthorized access to or use of Beacon through your account, and will notify the IESO immediately of any such unauthorized access or use. The IESO will not be liable for damages or losses caused by any unauthorized use of your account.

## **Beacon Representatives**

Beacon is provided for the benefit of a Supplier under the FIT/microFIT Program. Suppliers are fully responsible to ensure their Beacon Representatives comply with these Terms of Use, and will be responsible for all actions of their Beacon Representatives while using Beacon. If you are a Beacon Representative, you shall provide the following to the Supplier that you are representing:

- a) the username and password for the account, and you shall advise the Supplier of any changes to such username and password; and
- b) a copy of these Terms and Conditions.

If you are a Beacon Representative, or the IESO believes you to be a Beacon Representative, in its sole discretion, the IESO may, at its sole option, and without limiting any other rights or remedies available to the IESO:

- a) limit or terminate your access or use of Beacon upon request by a Supplier whose FIT/microFIT Contract is created and/or managed by you through Beacon;
- b) provide access and use of your Beacon Account to a Supplier that you are representing; and
- c) migrate or move any of the Beacon content, including, without limitation, any FIT/microFIT Contracts, from your Beacon account to another Beacon account that a Supplier you are representing will be able to access and use.

If you are a Beacon Representative with respect to a microFIT Contract, you are only authorized to access or use Beacon for the Purpose with respect to one Supplier. Without limiting the generality of the foregoing, you shall not use your Beacon account to create, submit and/or manage microFIT Contracts for more than one Supplier which, for clarity, may consist of more than one Eligible Participant.

## **Time Sensitive Features**

You acknowledge that the FIT/microFIT Program requires that Suppliers meet certain time deadlines, and the failure to do so may result in default, disqualification, termination of a FIT/microFIT Contract and/or monetary losses. Beacon is provided for convenience only and such provision does not relieve Suppliers of their obligation to track time deadlines. Users are solely responsible for monitoring any emails, communication or other updates posted to Beacon. The IESO shall not be responsible for any missed deadlines by Users or for any loss of priority attributable to lack of availability or error on Beacon.

## **Modifications to Beacon**

You agree that the IESO may, in its sole discretion and without prior notice or liability, at any time either temporarily or permanently discontinue or modify any aspect of Beacon, including, without limitation: (i) restricting the time Beacon is available; (ii) restricting the amount of use permitted; and (iii) restricting or

terminating any User's right to use Beacon. It is your responsibility to ensure that you are accessing the most current version of Beacon.

### **FIT and microFIT Programs Subject to Additional Terms**

In addition to these Terms and Conditions you acknowledge that in order to participate in the FIT and microFIT Programs, additional agreements, terms and rules apply. You are wholly responsible for obtaining (from Beacon or otherwise as provided or posted by the IESO), reviewing and complying with all such additional terms.

### **Beacon Contract Page for FIT Contract**

The Beacon Contract Page contains a representation of the current FIT Contract Cover Page for the Supplier's FIT Contract, including any contract amendments in effect as may have been incorporated at various times since the Contract Date. The terms set out on the FIT Contract Cover Page may be subject to amendment in accordance with the FIT Contract throughout its duration. Please note that the Beacon Contract Page does not display the wording of any original or former contract details, terms, or conditions once amended in accordance with the FIT Contract. The information displayed on the Beacon Contract Page does not vary or amend the FIT Contract. In the event there is any conflict or inconsistency between the information contained on the Beacon Contract Page and the executed copy of the FIT Contract (including any amendments), the provisions of the executed copy prevail. The Supplier is responsible for keeping accurate records of the FIT Contract, including any amendments, and supplementing the information set out in the Beacon Contract Page with any such amendment details in response to any third party request (including inquiries related to finance, tax, or legal matters) for its FIT Contract records.

### **Beacon Contract Page for microFIT Contract**

The Beacon Contract Page contains the current contract details for the Supplier's microFIT Contract, including any contract amendments in effect as may have been incorporated at various times since the Contract Commencement Date. The contract details may be subject to amendment in accordance with the microFIT Contract throughout its duration. Please note that the Beacon Contract Page does not display the wording of any original or former contract details, terms, or conditions once amended in accordance with the microFIT Contract. The Supplier is responsible for keeping accurate records of the microFIT Contract, including any amendments and assignments, and supplementing the contract details set out in the Beacon Contract Page with any such amendment or assignment details in response to any third party request (including inquiries related to finance, tax, or legal matters) for its microFIT Contract records.

### **Posted Documents**

Beacon may contain certain documents that are subject to their own terms and conditions (posted documents). All posted documents will be subject to these Terms of Use, except to the extent that the terms and conditions contained in the posted document are inconsistent with these Terms of Use, in which case the terms and conditions of the posted document will prevail to the extent of the inconsistency.

### **Reliance**

While the IESO endeavors to ensure that Beacon is complete, accurate and up to date, you should not rely on the statements contained within Beacon without referring to specific documentation or other supporting material relating to the Supplier's FIT/microFIT Contract.

## **Suspension or Termination of Account**

You agree that the IESO, in its discretion, for the purpose of emergency maintenance or reasons related to suspected security breaches, fraud or unauthorized access or misuse, including a breach of these Terms of Use, may suspend or terminate your access to your Beacon account and any portion of Beacon, without prior written notice to you. The IESO may also suspend or terminate your access to your Beacon account and any portion of Beacon in its discretion, without prior written notice to you, if the IESO reasonably believes you have or are suspected to have engaged in fraudulent or negligent activities or willful misconduct while participating in or providing services for the FIT and/or microFIT Program. In the event of suspension or termination, you will no longer be authorized to access or use Beacon and the IESO may take actions against you to ensure such access or use ceases.

## **Intellectual Property**

The IESO or its licensors own all intellectual property rights to Beacon and in all materials provided on or comprising Beacon.

The IESO's logos and certification marks and any other product or service name or slogan contained in Beacon are trade-marks of the IESO or its licensors and they may not be copied, imitated or used, in whole or in part, without the prior written permission of the IESO or the applicable trade-mark holder.

Beacon is protected by Canadian copyright law. Except as otherwise provided for under Canadian copyright law, all information in Beacon is Copyright © 2019 Independent Electricity System Operator, all rights reserved.

## **Disclaimer and Limitation of IESO's Liability**

**Your use of Beacon is exclusively at your own risk. You assume all responsibility for your access and use of Beacon and compliance with these Terms of Use. The IESO and its directors, officers, employees, agents and representatives (collectively, the "IESO Group") assume no responsibility whatsoever for the availability, accuracy, completeness or currency of any part of, or information in, Beacon. The IESO and each member of the IESO Group have no obligation, and disclaim any duty, to update or correct any part of, or information in, Beacon.**

**The IESO provides Beacon solely on an "as is" and "as available" basis. Neither the IESO nor any member of the IESO Group provides any representation, warranty, condition or guarantee whatsoever respecting Beacon, including: (a) any representation, warranty, condition or guarantee that any part of, or information in, Beacon is available, accurate, complete, current or free from viruses or other destructive features; or (b) any implied representation, warranty, condition or guarantee of merchantability, fitness for a particular purpose or use or non-infringement of any right of any third party.**

**In no event whatsoever will the IESO or any member of the IESO Group be liable, in respect of the use of Beacon, for any matter whatsoever, to any individual, partnership corporation or company, with or without share capital, trust, foundation, joint venture, governmental authority or any other incorporated or unincorporated entity or association of any nature for: (a) direct damages; (b) indirect, special, incidental, contingent or consequential damages (including for loss of actual or anticipated revenue or profits, loss of goodwill, loss or damage to data or any other information, failure to realize expected savings or loss of use arising in respect of the use of, or reliance on, any part of, or information**

in, Beacon or any website which Beacon may connect to by a hyperlink or pointer or for any other economic loss whatsoever), even if the IESO or a member of the IESO Group has been advised of the potential for such damages; (c) punitive, exemplary or aggravated damages; or (d) contribution or indemnity.

You will indemnify and hold harmless the IESO and each member of the IESO Group from and against all fines, penalties, claims, demands, liabilities, damages, costs and expenses on a dollar for dollar full indemnification basis (including legal fees and expenses) arising in respect of: (a) your use of Beacon; (b) the unauthorized use of your Beacon account; (c) any breach by you of any of these Terms of Use, including but not limited to, the applicable Confidentiality and Privacy obligations contained herein; (d) your failure to comply with any applicable laws, statutes, regulations, by-laws, rules, codes or treaties; or (e) any acts of fraud, negligence or willful misconduct.

### **Internet Software or Computer Viruses**

Internet software or transmission problems or technical difficulties could produce inaccurate or incomplete copies of information contained on Beacon. Computer viruses or other destructive programs may also be inadvertently downloaded from Beacon. The IESO will not be liable for Internet software, computer viruses or destructive programs and recommends that you install appropriate anti-virus or other protective software.

### **Hyperlinks**

Beacon may contain hyperlinks or pointers to websites located on servers maintained by third parties over which the IESO has no control. Accordingly, your use of any such other websites is entirely at your own risk and the IESO assumes no responsibility whatsoever for any use of any such website. None of the hyperlinks or pointers to such other websites implies that the IESO authorizes, endorses or sponsors any such other website or any information in any such other website.

### **Confidentiality and Privacy Obligations of the IESO and Users**

The IESO is committed to the accuracy, confidentiality, security and privacy of Personal Information (as outlined in the IESO's Privacy Policy at <http://www.ieso.ca/en/privacy>) and Confidential Information exchanged and provided through the use of Beacon.

#### Confidentiality and Privacy Obligations of Suppliers

All Privacy and Confidentiality provisions contained in a Supplier's FIT/microFIT Contract will continue to apply to information contained within and provided via Beacon.

Suppliers further agree not to knowingly use, retain or reproduce any Confidential Information or Personal Information of the IESO or other Users available or accessed on Beacon if Suppliers are not the intended audience.

#### Confidentiality and Privacy Obligations of LDCs and Assignees

The LDC and the Assignee each acknowledge that Beacon will contain and provide Confidential Information and Personal Information (as defined below). The LDC and the Assignee each agree to keep all Confidential Information and Personal Information secure using measures appropriate to the nature and sensitivity of such information and in accordance with applicable privacy laws.

The LDC and the Assignee each further agree not to knowingly use, retain or reproduce any Confidential Information or Personal Information available or accessed on Beacon if you are the unintended recipient.

#### *Personal Information*

“Personal Information” means information about an identifiable individual, in accordance with the *Freedom of Information and Protection of Privacy Act*, RSO 1990 (as amended).

The LDC and the Assignee each agree to:

- (a) comply with all applicable privacy laws in connection with its collection, use and disclosure of any Personal Information contained within Beacon and perform its obligations so as to enable the IESO to also comply;
- (b) promptly notify the IESO if it experiences or becomes aware of any data breach or receives notice from any person or authority alleging that the LDC or Assignee (including any of their service providers), as applicable, failed or may fail to comply with any applicable privacy laws;
- (c) cooperate and comply with any requests or instructions issued by any privacy regulatory authority or any other governmental authority with respect to Personal Information it receives or accesses through Beacon; and
- (d) provide reasonable assistance to the IESO in responding to and addressing any complaint relating to the collection, use or disclosure of Personal Information.

#### *Confidential Information*

"Confidential Information" means, with the exception of information that is in the public domain at the time of its disclosure or which thereafter enters the public domain otherwise than by breach of these Terms of Use; or was independently developed by the LDC or the Assignee itself, as applicable, without breach of any of these Terms of Use:

- i) any information contained and provided through Beacon in connection with a FIT or microFIT Contract; or
- ii) any other information marked or otherwise identified by another party within Beacon (i.e. being one or more of the IESO, a Supplier, an Assignee, or an LDC) as "confidential", whether disclosed to you before or after your receipt of these Terms of Use, as well as all information generated by you that contains, reflects or is derived from such information.

The LDC and the Assignee each agree that:

- (a) it will keep the Confidential Information in confidence and will not disclose it to any other person except in accordance with these Terms of Use;
- (b) it will keep the Confidential Information secure and in confidence and will promptly notify the IESO of any data breach it experiences or becomes aware of;
- (c) it will promptly notify the IESO upon receiving any request for disclosure made under any applicable legislation, regulation or policy in respect of 'freedom of information', which contains any Confidential Information, whether or not exempt from disclosure; and

(d) it will not at any time use the Confidential Information for any purpose that is not necessary for its responsibilities as an LDC or Assignee, as applicable; and

(e) the Confidential Information will be made available only to those of its employees and advisors who need access to the Confidential Information and who have agreed to be bound by these Terms of Use, and (ii) it will direct any such employee or advisor not to disclose the Confidential Information to any other person.

The LDC and the Assignee will each be permitted to disclose Confidential Information to the extent that:

(a) it is required to be disclosed by a court or other regulatory or legal authority;

(b) it is required to be disclosed under any applicable legislation, regulation or policy in respect of 'freedom of information' and is not exempt from disclosure under such legislation, provided that the LDC or the Assignee, as applicable, has given reasonable advance notice to the IESO of any such request for disclosure, whether or not exempt from disclosure; or

(c) the IESO, Supplier, LDC, or Assignee, as applicable, have consented to the disclosure of its Confidential Information in writing.

### **Governing Law and Forum**

The laws of Ontario and the laws of Canada applicable in Ontario will govern these Terms of Use and your use of Beacon and any suit, action or other proceeding, or dispute or other controversy respecting Beacon. You irrevocably submit to the exclusive jurisdiction of the courts of Ontario in respect of any suit, action or other proceeding made or brought by you in respect of Beacon for any matter whatsoever. You may not commence any suit, action or other proceeding in respect of Beacon for any matter whatsoever, except in Toronto, Canada.

### **Severability**

If any provision of these Terms of Use is deemed unlawful, void or for any reason unenforceable, then that provision will be deemed severable from these Terms of Use and will not affect the validity and enforceability of any remaining provisions.

### **Inquiries**

Inquiries regarding these Terms of Use should be addressed to Beacon Support at [beacon.support@ieso.ca](mailto:beacon.support@ieso.ca).

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