

Participation Agreement

This Agreement is effective on _____, BETWEEN the
Date

Rick Hansen Foundation (“RHF”) AND _____
Company Name

(the “Participating Organization”) WHEREBY the Participating Organization is engaging RHF to conduct a Rick Hansen Foundation Accessibility Certification™ (“RHFAC”) ratings for _____ (the “Site”).

Site Name and Full Address

1.0 SERVICES

The Participating Organization acknowledges that RHF has received funding from the Province of Ontario for the purposes of providing complimentary RHFAC ratings within the province (the “**Program**”). In consideration of RHF performing the Proposed Services, the Participating Organization agrees to the terms and conditions of this Participation Agreement.

1.1 Complimentary RHFAC Ratings in Ontario Terms

(a) The Participating Organization represents and warrants that it has not made any donation or provided any financial contribution to the RHFAC in the 5 years since the effective date of this Agreement.

(b) The Participating Organisation acknowledges and agrees that:

1.1.2.1 the Site must have a public entrance and all its key functional spaces and amenities must be physically accessible for everyone.

1.1.2.2 the entire Site will be rated, including all occupied and common spaces;

1.1.2.3 the Participating Organization and Site will be publicly shared on rickhansen.com as a recipient of a complimentary RHFAC rating, no matter the certification level achieved;

1.1.2.4 the RHFAC rating does not have any legal weight, and is not a replacement for any permit, or governmental approval or other legal obligation required by applicable law, including with respect to accessibility with respect to the Site;

1.1.2.5 the Program is dependent on continued funding from the Government of Ontario, and that RHF may terminate this Agreement at any time if such funding is terminated; and

- 1.1.2.6 RHF may publicize the Participating Organization's participation in the Program.
- (c) The Participating Organisation will:
 - 1.1.3.1 publicly list the result of their rating on the RHFAC Registry if the Site achieves RHF Accessibility Certified or RHF Accessibility Certified Gold rating;
 - 1.1.3.2 will order and install the recognition label (decal or plaque) provided by RHF prominently at its Site if the Site achieves RHF Accessibility Certified or RHF Accessibility Certified Gold rating; and
 - 1.1.3.3 complete any follow-up survey conducted by RHF or the Province of Ontario (or any entity contracted by either to complete such survey); and
 - 1.1.3.4 not rely on the results of the program in any regulatory matters, claims or other proceedings that are covered by Ontario laws.

1.2 Mandatory Registration on the Registry

- (a) The Participating Organization agrees to complete registration on the RHFAC Registry hosted by CSA Group (<https://rhfac.csaregistries.ca>), for the Site before an RHFAC Professional within two (2) weeks of the execution of this Agreement. The Participating Organization confirms that it has reviewed the terms and conditions of Registry and that those terms and conditions are acceptable to it.
- (b) The Participating Organization must use the promotional code received from RHF to waive the registration fee during the registration process on the RHFAC Registry.

1.3 Conducting onsite visit

The Participating Organization will contact its assigned RHFAC Professional to complete an onsite visit within 3 months of the execution of this Agreement. An RHFAC Professional selected by RHF in its discretion will conduct an onsite visit for the purposes of completing an RHFAC Rating for the Site at a mutually agreed date/time, within that 3-month period.

1.4 Submission of RHFAC rating survey

Upon completion of the onsite visit, the designated RHFAC Professional will submit rating survey results to the RHFAC Registry for the Site, where these results will be independently adjudicated and assessed according to the guidelines of the RHFAC program.

1.5 Receipt of rating results

The Participating Organization will be notified by CSA Group through e-mail to download the resulting certification level through the RHFAC Registry. The Participating Organization will also receive key areas of success and improvement through the RHFAC Registry for the Site. For more information regarding the results and certification levels, please see the RHFAC Guide to Certification (<https://www.rickhansen.com/RHFAC-Certification-Guide>).

2.0 FEES

2.1 Rating Fee

Subject to continued availability of funding and as otherwise set out in this Agreement, and provided the on-site visit is conducted on or prior to **[insert date]**, funding from the Government of Ontario will cover fees associated with Registration on the RHFAC Registry, the RHFAC Professionals and one label for the Site.

3.0 CONDITIONS OF SERVICE

3.1 Optional Publically Listing & Labelling Fees

In addition to the one complimentary label funded by RHF as part of the Program, the Participating Organization may elect to order additional labels (window decals or plaques) directly from the CSA Group through the RHFAC Registry. For more information regarding labelling options and fees, please see the RHFAC Guide to Certification (<https://www.rickhansen.com/RHFAC-Certification-Guide>).

3.2 Participation Rules

The Participating Organization acknowledges the Participation Rules listed in Schedule A in this Agreement. All capitalized terms not defined herein shall have the same meaning as given to them in the Participation Rules.

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4.0 SIGNATURES

Participating Organization

The undersigned represent that they have authority to sign this Agreement on behalf of the Participating Organization:

<input type="text"/>	<input type="text"/>
Print Name	Title
<input type="text"/>	<input type="text"/>
Signature	Date
<input type="text"/>	<input type="text"/>
Phone Number	Email

Rick Hansen Foundation

The undersigned represent that they have authority to sign this Agreement on behalf of the Rick Hansen Foundation:

<input type="text"/>	<input type="text"/>
Print Name	Title
<input type="text"/>	<input type="text"/>
Signature	Date
<input type="text"/>	<input type="text"/>
Phone Number	Email

SCHEDULE A: PARTICIPATION RULES

1. Overview and Purpose

The Rick Hansen Foundation Accessibility Certification™ (“RHFAC”) program promotes and advances RHF’s purposes of removing and reducing social and physical barriers to participation in all aspects of community life. The primary focus is to resolve issues around public accessibility and improve access in the built environment for those with a physical disability.

2. Key Terms/Concepts

“**Agreement**” means the Participation Agreement, including all Schedules and the Participation Rules, between RHF and the Participating Organization;

“**Built Environment**” means the physical built environment, including but not limited to all buildings regulated by the National Building Code of Canada, public spaces, commercial and institutional buildings;

“**Confidential Information**” has the meaning provided in section 12 of these Rules;

“**Consultants**” means third-party consultants contracted by RHF to complete the duties and obligations of RHF pursuant to this Agreement;

“**Fees**” means any fees (hourly or retainer) owing by the Participating Organization to RHF for the Proposed Services provided pursuant to this Agreement;

“**Losses**” means any costs, losses, damages, and expenses, including those caused by personal injury, death, property damage, loss, and economic loss;

“**Participation Rules**” means these provisions set forth in RHFAC Participation Rules in Schedule A;

“**Physical Disability**” means a physical condition (for example mobility, visual, or hearing impairment) that may require consideration to ensure full participation in all aspects of community life;

“**Proposed Services**” means those services described in this Agreement under the RHFAC Ratings & Certification section;

“**Purpose**” has the meaning provided in section 10 of these Rules;

“RHF Accessibility Trademarks” means the registered and unregistered trademarks specifically relating to the RHFAC program which are owned by RHF;

“RHFAC Professional” means an employee or Consultant of RHF who has completed the requirements to receive an RHFAC Professional designation and is providing the Proposed Services;

“RHFAC Rating” means an assessment that is conducted utilizing drawings and other project planning documents and/or on-site visits to complete a RHFAC rating survey, the results of which will be transmitted through the RHFAC Registry;

“RHF Report(s)” means any one or more reports that contain the results of the RHFAC rating survey in the form of a ratings scorecard, which includes a list of key areas of success and improvement, from the RHFAC Rating in addressing accessibility for those with physical disabilities in the Sites;

“Rick Hansen Foundation Accessibility Certification™” or “RHFAC” means a rating program that measures and certifies accessible Built Environments to assist property owners and managers measure the accessibility of their buildings and sites, and promote increased access through the adoption of Universal Design principles; and

“Sites” means the facilities designated by the Participating Organization for rating surveys, as described on the first page of this Agreement.

3. **Acceptance of Proposed Services**

Execution of this Agreement by the Participating Organization confirms the Participating Organization’s acceptance of the Proposed Services and Participating Organization’s agreement to the terms, conditions, obligations, representations, and responsibilities set forth in this Agreement.

4. **Obligations of RHF**

RHF covenants and agrees to provide the Proposed Services and engage and work cooperatively with the personnel and authorized representatives of the Participating Organization to ensure the Proposed Services are delivered in a reasonable manner.

5. **Rick Hansen Foundation Accessibility Certification™**

A Rick Hansen Foundation Accessibility Certification™ is valid for five years from the date of the adjudication. RHF reserves the right to withdraw RHFAC

Certification at its own discretion. In order to maintain certification during the 5 year period, the Participating Organization must declare all substantial changes to the Site to RHF, and permit an RHFAC Professional to investigate any declared changes to determine if the Site continues to meet certification levels. In addition, the Participating Organization must complete a short mid-term questionnaire after two-and-a-half years to confirm there are no changes affecting the Site's accessibility.

6. RHF Representation and Warranty

- (a) RHF represents and warrants to the Participating Organization that it shall perform the Proposed Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement.
- (b) RHF shall not be liable for a breach of the warranty set forth in Section 6(a) unless the Participating Organization gives written notice of the defective Proposed Services, reasonably described, to RHF within 10 days of the time when the Participating Organization discovers or ought to have discovered that the Proposed Services were defective.
- (c) Subject to Section 6(b), RHF shall, in its sole discretion, either:
 - (i) re-perform such Proposed Services (or the defective part); or
 - (ii) credit or refund the price of such Proposed Services, but only to the extent that any Fees were actually paid by the Participating Organization.
- (d) except for the warranty set forth in section 6(a) above, RHF makes no warranty whatsoever with respect to the Proposed Services, including any (a) warranty or condition of merchantability; or (b) warranty or condition of fitness for a particular purpose; or (c) warranty of title; or (d) warranty against infringement of intellectual property rights of a third party; whether express or implied by law, course of dealing, course of performance, usage of trade or otherwise.

7. Obligations of Participating Organization

The Participating Organization covenants and agrees to:

- (a) promptly pay the Fees (if any) when due, as appropriate; and
- (b) acting reasonably, cooperate with RHF in respect of all matters contemplated by or within the scope of the Participation Agreement, including, without limitation, providing access to the Site during normal business hours to allow RHF to complete the RHFAC Rating, providing copies of any drawings and materials pertaining to the construction of the Site, and performing all other acts as are reasonably required by RHF in connection with the provision of the Proposed Services.

8. Participating Organization's Acts of Omissions

If RHF's performance of the Proposed Services is prevented or delayed by any act or omission of the Participating Organization or its agents, subcontractors, consultants or employees, RHF shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by the Participating Organization, in each case, to the extent arising directly or indirectly from such prevention or delay.

9. Intellectual Property

Except as the parties may otherwise agree in writing, RHF will own all materials created by RHF or its Consultants in connection with the Proposed Services. Subject to compliance to this Agreement by the Participating Organization, RHF hereby grants to the Participating Organization a non-exclusive, perpetual, irrevocable, worldwide, royalty-free license to use, reproduce, modify, publish and distribute the materials created by RHF or its Consultants in connection with the Proposed Services for the purposes of disclosing results of the RHFAC Rating to the public and circulating contents and excerpts of the RHF Report to the Participating Organization's employees, contractors, tenants, and customers.

10. RHF Accessibility Trademarks

- (a) Subject to compliance to this Agreement by the Participating Organization and the Participating Organization receiving a level of certification which grants the Participating Organization the right to elect to use the RHF Accessibility Trademarks and if the Participating Organization makes such election at that time, the Participating Organization shall be granted a limited, non-exchangeable, royalty free licence to use the RHF Accessibility Trademarks pursuant to the RHFAC Registry Label & Trademark Usage Guidelines (copy of such terms to be provided at the time of election by the Participating Organization or in advance upon written request by the Participating Organization to RHF). Further to the rights and restrictions

pursuant the RHFAC Registry Label & Trademark Usage Guidelines, the Participating Organization shall not use, or publish (either in print or online), or disseminate to the public in any format any of the RHF Accessibility Trademarks without RHF having granted its prior written approval of the layout and design of the applicable publication.

- (b) The Participating Organization shall not dispute or contest for any reason whatsoever, directly or indirectly, the ownership, distinctiveness, or enforceability of the RHF Accessibility Trademarks or the validity of any registration or application for registration therefore, nor directly or indirectly dilute or depreciate or attempt to dilute or depreciate the value of the benefits and advantages attaching to the RHF Accessibility Trademarks, nor directly or indirectly impair or attempt to impair the distinctiveness of the RHF Accessibility Trademarks, nor counsel, procure, or assist anyone else to do any of such acts.
- (c) The Participating Organization may not use any of the RHF Accessibility Trademarks to distinguish or differentiate the Participating Organization's own wares and services.
- (d) The Participating Organization acknowledges and agrees that it shall not acquire, and disclaims, any right, title, or interest in or to the RHF Accessibility Trademarks.
- (e) Notwithstanding the foregoing, if the Participating Organization does acquire any right, title, or interest in or to the RHF Accessibility Trademarks, then the Participating Organization shall assign such right, title, or interest to RHF for no additional consideration and shall sign all such documents reasonably required by RHF regarding the same.
- (f) The Participating Organization shall ensure that each and every reproduction of the RHF Accessibility Trademarks bears such trademark notice as is required by RHF. The Participating Organization shall promptly comply with all reasonable instructions and directives issued by RHF in respect of the use of any of the RHF Accessibility Trademarks.

11. Third Party Consultants

RHF may carry out the Proposed Services using RHF employees, personnel, or Consultants. Notwithstanding the use of Consultants, RHF shall remain fully liable to satisfy all terms and conditions of the Participation Agreement. RHF shall not be required to seek approval from the Participating Organization to select Consultants. Consultants shall be selected or approved solely at the discretion of

RHF and RHF shall be solely responsible for the management, payment, and satisfactory performance of Consultants. RHF shall be fully responsible to the Participating Organization for the acts and omissions of subcontractors and of persons either directly or indirectly employed by Consultants.

For any Consultants retained by the RHF, as and when required, payment to said Consultants shall be the responsibility of RHF.

12. Withdrawal by Participating Organization

Any Fees that are paid are not refundable. If the Participating Organization chooses to cancel the Proposed Services, the Fees will not be refunded.

13. Right of Refusal and Withdrawal by RHF

RHF retains the right to refuse a request(s) for RHFAC rating(s), change dates or re-schedule RHFAC rating(s), change RHFAC Professionals assigned to conduct the RHFAC rating(s) or cancel the Proposed Services and terminate this Agreement.

14. Amendments to the Standards

The Proposed Services shall be carried out based on the standards developed and being used by RHF as of the date of service, as applicable. RHF may, in its sole discretion, amend the standards at any time and from time to time, RHF may, but is not obligated to, consult with the Participating Organization about substantive amendments to the standards themselves.

15. Confidentiality

- (a) All information provided by one party to the other party under the Participation Agreement, whether provided before execution or after, whether marked as confidential or which ought reasonably to be understood to be confidential in the circumstances shall be deemed to be “Confidential Information” of the disclosing party. All Confidential Information is and shall continue to be the exclusive property of the disclosing party. A receiving party will not, directly or indirectly, copy, transmit, reproduce, summarize, quote, make available, sell, or disclose any of the Confidential Information or recollections thereof to any third party without the express written consent of the disclosing party, or make any use whatsoever of the Confidential Information except to the extent necessary for the Participation Agreement (the “Purpose”). A receiving party will exercise the highest degree of care in safeguarding the Confidential Information of the disclosing party against

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loss, theft, destruction, or inadvertent disclosure, and will limit disclosure of the Confidential Information to those of its employees, directors, officers, counsel, or consultants who have a need to know it for the Purpose and who are bound by obligations of confidentiality similar to those set out here. A receiving party shall be responsible for any breach by such persons. Upon request, a receiving party will promptly return and deliver to the disclosing party all originals and copies of the Confidential Information, in whatever form, which receiving party received and destroy all extracts, analyses, notes, or other documents, including computer files, prepared by or for a receiving party including or based on the Confidential Information, and shall certify such return and destruction in writing to the disclosing party if requested to do so.

- (b) RHF covenants and agrees to not, directly or indirectly, transmit, reproduce, summarize, quote, make available, sell, or disclose the contents to the RHF Reports to third parties, except when authorized by the Participating Organization or as otherwise required by the Province of Ontario as part of the Program, and if so required, notwithstanding any other provision of this Agreement, RHF may disclose RHF Reports and Confidential Information.
- (c) The obligations set out in this Section 15 shall survive termination of this Agreement but such obligation of confidentiality shall not apply:
 - (i) to a disclosure to a person who knew the Confidential Information prior to its being disclosed;
 - (ii) to a disclosure of information which comes into the public domain without any breach of the provisions of this Section;
 - (iii) to a disclosure of information which is disclosed to any governmental authority or court having jurisdiction over any aspect of the performance of this Agreement, including without restriction when the subject of an access to information request under the Freedom of Information and Protection of Privacy Act and either party is obliged by that enactment to disclose; or
 - (iv) to a disclosure of information which is disclosed in arbitration, regulatory or court proceedings taken by either party for the enforcement of any of its rights and remedies under this Agreement.

16. Limitation of Liability

RHF, its officials, officers, employees, Consultants, agents, and representatives shall not be liable to the Participating Organization for any Losses arising out of, suffered, or experienced by any party in connection with RHF's performance of the Proposed Services under this Agreement, excepting to which the Losses are directly caused by, or contributed to, the negligence or wilful misconduct of RHF or its employees, Consultants, subcontractors, agents, or representatives, whether acting alone or in concert with any third party. Notwithstanding the foregoing, RHF's aggregate liability arising out of or pursuant to the Participation Agreement shall not exceed \$5,000.

17. Release

The Participating Organization now releases RHF, its officials, officers, employees, and agents from all Losses arising out of, suffered, or experienced by their respective officers, employees and agents in connection with RHF's performance of the Proposed Services under this Participation Agreement, excepting always that this release does not apply to the extent, if any, to which the Losses are directly caused by, or contributed to, the negligence or wilful misconduct of RHF or its employees, subcontractors, agents or representatives, whether acting alone or in concert with any third party.

18. Indemnification

Each party agrees to indemnify and hold harmless, the other party, its officials, officers, employees, and agents from and against all damages, demands, claims, and losses of any type, including reasonable lawyer's fees, in connection with, in whole or in part:

- (a) any claim based on breach of the Confidential Information covenants in this Agreement; or
- (b) grossly negligent, dishonest, or wrongful acts by either party or their respective employees, subcontractors, agents, or representatives, whether acting alone or in concert with any third party.

With the exception of claims arising from the gross negligence or wrongful acts by RHF or its respective employees, subcontractors, agents, or representatives, the Participating Organization agrees to indemnify RHF from any claims made by third parties, in connection with, in whole or in part, the Participating Organization's use of the Report or the implementation of the recommendations from RHF Reports.

19. RHF Reports

RHF Reports are provided solely for the benefit of the Participating Organization for the purpose of implementing the recommendations of the RHF Report to resolve issues around public accessibility for those with Physical Disabilities. RHF does not assume or accept any responsibility or liability to any other party. RHF Reports may not be copied, used, or relied upon by anyone else without RHF's prior written consent, or used for any other purpose without RHF's prior written consent.

The Participating Organization is advised that the RHFAC Rating, ratings, certification levels, recommendations and build specifications used or included in RHF Reports are functional recommendations, not represented or guaranteed to meet, comply or be consistent with the requirements of any federal, provincial, municipal and local statutes, codes, ordinances, decrees, rules, regulations, by-laws, policies, requirements, standards and guidelines in their governing jurisdiction ("**Building Laws**") at any time in force or effect in any jurisdiction. It is the sole responsibility of the party undertaking any construction to consult with knowledgeable consultants (including code consultants) and applicable authorities having jurisdiction in the governing jurisdictions, to confirm that the recommendations and specifications of the RHF Reports intended to be used comply with Building Laws so that any build, renovation and demolition undertaken by Participating Organization is in compliance with the Building Laws. The Participating Organization acknowledges that it is aware that it may be required to amend or adapt the recommendations and specifications of the RHF Reports to ensure compliance with Building Laws

RHF shall not be liable for any personal injury, death, property damage, loss, and economic loss arising out of, suffered or experienced by the Participating Organization or any third party as a result of implementing the recommendations in RHF Reports.

20. Notice

Any notice, direction, or other communication required or contemplated by any provision of the Participation Agreement shall be in writing and given by personal delivery, by registered mail, by electronic mail transmission, or by overnight courier and addressed to the primary contact in the Agreement.

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In the case of a notice to RHF, it shall be sent to:

300 – 3820 Cessna Drive Richmond, BC V7B 0A2 Canada
Fax: 604-295-8159
E-mail: access@rickhansen.com
Attention: Michelle Shalinsky

21. Force Majeure

No party shall be liable to the other party for the non-performance of its obligations hereunder attributable to force majeure, including war, riots, flood, earthquakes, and emergency measures by the government, and shall be free from any liability for delay or failure in delivery arising from strikes, lockouts, labor troubles of any kind, accidents, perils of sea, fire, earthquake, hurricane, tornadoes, other acts of God, civil commotion, war or consequences of war, acts of terrorism, governmental acts, restrictions or requisitions, suspension of shipping facilities, or a default of any carrier.

22. Assignment

This Agreement is not assignable by the Participating Organization without the prior written consent of RHF. Upon providing written notice to the Participating Organization, RHF may assign any of its benefits, obligations or liabilities under or in respect of this Agreement to any affiliate, related party or Consultant of RHF.

23. Governing Law

All matters arising out of or relating to this Agreement are governed by and construed in accordance with the laws of the Province of British Columbia, and the federal laws of Canada applicable in that Province.

24. Dispute Resolution

Any action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby shall be referred to and finally resolved by a single arbitrator (the “**Arbitrator**”) pursuant to the Arbitration Act (British Columbia), as amended. The parties further agree that any arbitration pursuant to this section shall be held in Vancouver, British Columbia and the decision of the Arbitrator on all issues or matters submitted to the Arbitrator for resolution shall be conclusive, final and binding on all parties. All costs of arbitration shall be borne equally between the parties.

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25. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Transmission of a copy of an executed signature page of this Agreement (including any change to this Agreement) by any party hereto to the other parties to this Agreement by facsimile transmission or email in pdf format, shall be as effective as delivery to the other parties hereto of a manually executed counterpart hereof.