



GRESB Real Estate

Debt Assessment

GRESB Portal Terms and Conditions

V.0.1

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## 1. INTRODUCTION AND DEFINITIONS

- 1.1 As a Participant these Terms and Conditions (T&Cs) form an Agreement that governs your involvement in the Assessment(s) and your use of GRESB Products and Service(s). This Agreement supersedes any previous agreements or terms and conditions relating to the GRESB Products and Service(s). The Agreement comes into effect at the moment you first log in to the Portal prior to commencement of the Assessment(s). Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.2 As a Member these Terms and Conditions (T&Cs) form an Agreement governing your use of Data and other information provided by GRESB to Members. The Agreement comes into effect at the moment a Member first logs in to the Member Portal. Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.3 The language of these T&Cs is English.
- 1.4 Unless the context requires otherwise, words and phrases used in this Agreement shall have the meanings given to them in this clause 1.4:

'Agreement'	These T&Cs;
'Assessment(s)'	Means any or all of (i) the questions compiled by GRESB on an annual basis to assess the sustainability performance of public and private credit investments and (ii) all GRESB's activities connected with such assessment processes including, but not limited to, data processing, validation, analysis and the development of the Portal and (iii) development of the Data;
'Assessment Access Tool'	A Portal tool, which allows Participants to invite their advisors and consultants to help them with the submission of Participant Data to GRESB;
'Assessment Year'	An Assessment Year commences on January 1st and terminates on December 31st of that year;
'Benchmark Report'	A report prepared by GRESB which contains, but is not limited to benchmarking and question-by-question analysis of a Participant's performance in the Assessment(s);
'Confidential Information'	Means any information, however conveyed or presented, that relates to (i) either party's trade secrets, customer or supplier details, business and business transactions, affairs, operations, know-how, personnel and suppliers of the disclosing party, and, (ii) in the case of GRESB, the methods, processes or techniques used to provide the GRESB Products and Service(s) and the Data, and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential;

'Data'	Means any and all data and/or databases and/or other information supplied by GRESB to you through the GRESB Products and Service(s) or by any other means including, but not limited to Scorecards and Benchmark Reports;
'Data Access Request Tool' (DART)	Means the automated tool in the Portal via which Investor Members request access to view Data;
'Database'	Means the collection of independent works, data and/or other materials comprising, collected for or in any other way, in whole or in part, used in or as a means to use or create the Assessment(s) and/or the GRESB Products and Service(s) including, but not limited to, the Data, any and all user-provided information, all data validation decisions, all scoring and analysis algorithms and all records of statistical analysis.
'Grace Period'	A one-year period in which Assessment results are not automatically disclosed to GRESB Investor Members, which is available to new Participants in their first year of participation in the Assessment(s);
'Grace Period Participant'	A Participant that is eligible for and has requested to participate in the Grace Period;
'GRESB', 'We', 'Us'	Means GRESB B.V. incorporated as a private company under the law of the Netherlands with registration number 55416071 and, where the context requires it, its parent entity the Green Business Certification Inc., a District of Columbia non-profit corporation ('GBCI');
'GRESB Products and Service(s)'	Means any products and service(s) supplied by GRESB to you from time to time in connection with the Assessment(s);
'Investor Member'	Each entity, association, partnership or organization that invests directly or indirectly in real estate assets and is party to a Membership Agreement with GRESB;
'IPRs'	All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade-, business- and domain-names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and all other industrial and/or commercial rights and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights and all rights to apply for the same, and all similar or equivalent rights or forms of protection in any part of the world;
'Listed Company'	An individual constituent entity which is publicly listed on a recognized stock exchange;
'Losses'	Means any losses, damages, costs, expenses or other liabilities;
'Member'	An entity, association, partnership or organization that is a party to a Membership Agreement with GRESB;

'Membership Agreement'	The combination of an application form filled out by a Member and an agreement titled 'Standard Terms of Membership' signed by that Member and returned to GRESB;
'Participant'	Means an entity that submits a response to the Assessment(s) whether directly or via a third party;
'Participant Data'	Means the data and other information that we receive from you, your agent or representative, during our provision to you of the GRESB Products and Service(s) which include, without limitation, your Assessment submission and/or any supporting information provided by you, your agent or representative;
'Partner'	A Member that is an industry association, consultant, advisor or solution provider;
'Portal'	GRESB's online portal currently accessed via <a href="http://www.gresb.com">www.gresb.com</a> and used, inter alia, for providing GRESB Products and Services;
'Portal Tools'	Means all tools and functionalities available in the Portal;
'Real Estate Finance Unit'	Means the real estate finance unit of a bank, insurance company, pension fund or sovereign wealth fund;
'Scorecard'	A document summarizing an individual Participant's Assessment results;
'Start Date'	Means the date of your first login via the Portal;
'Website'	Means the website currently located at <a href="http://www.gresb.com">www.gresb.com</a> or any other website through which GRESB manages the Assessment(s) and delivers the GRESB Products and Service(s);
'You', 'Your'	An entity, association, partnership or organization, whether a Member or Participant, to whom this Agreement applies.

## 2. PARTICIPANT DATA

- 2.1 As a Participant you acknowledge and agree that, in consideration for us performing our obligations and granting you certain rights under this Agreement, we have the right to use, on a royalty free perpetual basis, the Participant Data provided by you for the Assessment and for the purposes of providing the GRESB Products and Service(s) both for the term of this Agreement and afterwards.
- 2.2 For the purposes of clause 2.1 above, 'we' does not include GRESB's parent entity Green Business Certification Inc. (GBCI).
- 2.3 As a Participant you will supply us with all data and other information that we may reasonably request from you from time to time to allow us to undertake the Assessment(s) and provide the GRESB Products and Service(s). All the data and information you supply will be, to the best of your knowledge and abilities, true, accurate and complete.
- 2.4 As a Participant you will: -
  - 2.4.1 Co-operate with us in all matters relating to the Assessment(s) and the GRESB Products and Service(s);
  - 2.4.2 Obtain and maintain all necessary licenses, permissions and consents which may be required for you to be able to submit Participant Data to GRESB.
- 2.5 Listed Company Participants hereby acknowledge and confirm that they are aware of the possibility that information that they provide in the course of submitting Participant Data to GRESB may be material non-public information (MNPI) also known in some jurisdictions as unpublished price-sensitive information (UPSII) and/or insider information. GRESB expresses no opinion regarding this issue, accepts no liability and gives no warranty

and/or assurance regarding the relevance of any applicable rules. While GRESB recommends that you publicly disclose the Participant Data that you submit to GRESB, you acknowledge and agree that compliance with any applicable rules is your sole responsibility.

### 3. AUTHORITY AND LICENSE FOR PARTICIPANT USE OF GRESB PRODUCTS AND SERVICE(S)

- 3.1 Clauses 3.1 through 3.8 only apply to Participants.
- 3.2 Subject to your obligations in clause 3.3 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of this Agreement a non-exclusive and non-transferable right to use the Scorecard for your own internal business purposes in the following ways and for no other purpose whatsoever:
- 3.2.1 To save and import copies of the Scorecard into electronic files for your own reference only;
  - 3.2.2 To print out parts or extracts from the Scorecard for your own reference only;
  - 3.2.3 To incorporate parts or extracts from the Scorecard into internal research documents written by you for distribution and use within your organization only;
  - 3.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Scorecard or any reports that contain parts or extracts from the Scorecard within your organization for reference purposes only by recipients of such e-mails;
  - 3.2.5 To incorporate and make insubstantial parts or extracts of the Scorecard available via any adequately protected corporate intranet or (web-based or other) file sharing applications you may operate;
  - 3.2.6 To incorporate insubstantial parts or extracts of the Scorecard in (a) public statements that illustrate your sustainability performance or (b) fund performance reports provided by you to your investors provided that the Data in the Scorecard may not be manipulated or distributed by the recipients of it or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Scorecard may not be accessed electronically (except as a PDF attachment to an e-mail), manipulated or distributed by the recipients of it;
  - 3.2.7 To make available the Scorecard to any consultants appointed directly by you for the sole purpose of providing you with advice based on your Assessment results and for no other purposes whatsoever;
  - 3.2.8 You shall ensure that any reproduction of all or part of the Scorecard includes the following notice: 'all intellectual property rights to these data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 3.2.9 Listed Companies are permitted to publicly disclose their GRESB Assessment(s) question responses, supporting documents and Scorecard on their company website.
- 3.3 You shall not use the Scorecard in any way that is not expressly permitted in clause 3.2 above and in particular, but without limitation:
- 3.3.1 In the event that you or any third party instructed or appointed by you has access to more than one Scorecard you are not permitted to exercise the rights in clause 3.2 collectively for more than one Participant without first obtaining the written consent of GRESB.
  - 3.3.2 No sale, transfer, sub-license, distribution or commercial exploitation of the Scorecard is permitted, nor otherwise making such data available to or for the benefit of any third party.
- 3.4 On condition that you submit Participant Data via the Portal in accordance with GRESB's requirements and this Agreement, you may use the acronym 'GRESB' and/or any other registered or unregistered signs, words or logos made available to you by GRESB (collectively the "Marks") for the specific purpose of identifying you as a Participant in publications, provided that:
- 3.4.1 You agree to obtain the current versions of the Marks from GRESB's Director PR and Communications and replace old Marks for new versions as soon as possible after receiving a notification from GRESB that new versions are available;
  - 3.4.2 You agree not to modify the Marks in any way, except to increase or decrease the scale. This includes changes to color, proportion, lettering and content;

- 3.4.3 The use of the Marks must always be accompanied by a clear and unambiguous confirmation that the Marks are the proprietary materials of GRESB B.V. for example by using the ® symbol for registered trademarks;
- 3.4.4 You agree that you will effectively cease and desist any and all use of the Marks within 14 days of a request by GRESB to do so; and
- 3.4.5 You agree to immediately notify GRESB in writing giving full particulars of any actual, suspected or threatened infringement of any of the Marks, or any challenge to the Marks made or threatened (including any claim that the Marks infringe the rights of any third party), that come to your knowledge.
- 3.5 Subject to your obligations in clause 3.6 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of the Agreement a non-exclusive and non-transferable right to use the Portal Tools for your own internal business purposes to assist you with the collection of data for your Assessment submission and for no other purpose whatsoever.
- 3.6 You undertake not to use the Portal Tools in any way that is not expressly permitted in clause 3.5 above and, in particular, no sale, transfer, sub-license, distribution or commercial exploitation of the Portal Tools is permitted.
- 3.7 Participation in the Assessment(s) is at GRESB's sole discretion and we may at any time elect not to use the Participant Data submitted by you.
- 3.8 This authorization and license begins on the Start Date and ends if and when this Agreement is terminated under clause 9.6, 9.7 or 12.

#### 4. AUTHORITY AND LICENCE FOR MEMBER USE OF GRESB PRODUCTS AND SERVICE(S)

- 4.1 Clauses 4.1 through 4.4 only apply to Members.
- 4.2 Subject to your obligations in clause 4.3 below, in consideration for you being a GRESB Member on the terms of this Agreement and the Membership Agreement and your payment of the applicable membership fee, we grant you for the term of this Agreement a non-exclusive and non-transferable right to allow you to use the Data for which you are granted access rights under clauses 5.3.4 and 5.3.5 below and Portal Tools exclusively for your own internal business purposes in the following ways and for no other purpose whatsoever: -
  - 4.2.1 To save and import copies of the Data into electronic files for your own reference only;
  - 4.2.2 To print out parts or extracts from the Data for your own reference only;
  - 4.2.3 To incorporate parts or extracts from the Data into internal research documents written by you for distribution and use within your organization only;
  - 4.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Data or any reports that contain parts or extracts from the Data within your organization for reference purposes only by recipients of such e-mails;
  - 4.2.5 To incorporate and make insubstantial parts of the Data available via any adequately protected corporate intranet or (cloud based or other) file sharing applications you may operate;
  - 4.2.6 To incorporate insubstantial parts or extracts of the Data in (a) public statement(s) that illustrate the performance of your investments or (b) investment performance reports provided by you to your clients provided that the Data may not be manipulated or distributed by the recipients of such reports or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Data may not be manipulated or distributed by the recipients of it;
  - 4.2.7 To make the Data available to any consultants appointed directly by you for the sole purpose of providing to you advice based on the Data and for no other purposes whatsoever;
  - 4.2.8 You shall ensure that any reproduction of all or part of the Data includes the following notices: 'All intellectual property rights to this data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 4.2.9 To use the Portal Tools for your own internal business purposes to assist you with the analysis of Data and for no other purpose whatsoever.
- 4.3 You shall not use the Data and/or Portal Tools in any way which is not expressly permitted in clause 4.2 above and in particular, but without limitation:

- 4.3.1 No sale, transfer, sub-license, distribution or commercial exploitation of the Data is permitted, nor otherwise making such data available to or for the benefit of any third party.
- 4.3.2 None of the Data and/or information obtained using the Portal Tools may be distributed (whether for commercial or non-commercial use) in any way other than in accordance with this Agreement including, but without limitation, through use of post or e-mail or (electronic or other) data carriers sent outside of your organization (other than in accordance with this Agreement), corporate extranet, file sharing applications or other web-based product or services operated by or for you.
- 4.4 This authority and license begins on the Start Date and ends on the earliest of:
  - 4.4.1 Our permanent suspension of your Data access rights under clause 11.5;
  - 4.4.2 If this Agreement is terminated under clauses 9.6, 9.7 or 12; or
  - 4.4.3 Termination of your status as a GRESB Member.

## 5. GRESB USE OF DATA AND DATA PROTECTION

- 5.1 We will use the Participant Data and any other information provided in connection with a Participant's submission to the Assessment(s) as a basis for compiling and distributing the GRESB Products and Service(s).
- 5.2 For the purposes of clause 5.1 above 'we' includes our parent entity GBCI, any or all of our agents, consultants, contributors, employees, officers or subcontractors.
- 5.3 For the purposes described in clause 5.1 above Data and/or its composing parts will be distributed as follows:
  - 5.3.1 A Participant will be permitted to access its own Scorecard free of charge;
  - 5.3.2 On payment of a fee determined by GRESB, a Participant will be given access to its own Benchmark Report;
  - 5.3.3 Subject to clause 5.3.4 below, only after consent by a Participant, an Investor Member will be permitted to access the Scorecard and Benchmark Report of any Participant in which that Investor Member invests, provided that an Investor Member will not be permitted to access Scorecards and Benchmark Reports regarding Participants to which the Grace Period applies;
  - 5.3.4 Subject to clause 5.3.5 below an Investor Member will not be permitted to access the Scorecard and Benchmark Report of any Real Estate Finance Unit;
  - 5.3.5 A Participant that is also a Member will be permitted to access its own Scorecard and Benchmark Report;
  - 5.3.6 In aggregated form we may also use Data for publication to GRESB Members and/or third parties, aggregated information in this context being information that is expressed in scores, and not identifiable to individual Participants.
  - 5.3.7 With the Data Access Request Tool (DART) GRESB facilitates a system for Investor Members to request consent from the relevant Participant before giving an Investor Member access to that party's Scorecard and/or Benchmark Report as described in clauses 5.3.3 and for a Participant granting access pursuant to clause 5.3.3. This request will be sent by the Investor Member in an online request from the Portal. If GRESB does not receive an answer to such a request within 30 days, consent is deemed to have been given.
- 5.4 Provided that a Participant gives prior notice before submitting Participant Data to GRESB that it wishes to participate in the Grace Period, then during the Grace Period GRESB will not disclose that Participant's Scorecard or Benchmark Report to any other party than the Participant itself.
- 5.5 We and you agree to comply with our respective obligations under all applicable data protection and privacy laws and regulations.
- 5.6 You undertake not to disclose any Participant Data of other Participants and/or Data to a third party other than in accordance with the terms of this Agreement.
- 5.7 You will comply with any guidelines that we provide from time to time in relation to the manner in which we process Participant Data and/or provide the GRESB Products and Service(s).
- 5.8 As a Participant you agree that we may include your name in any lists we may at our own discretion publish for promotional or other purposes from time to time.
- 5.9 On a Participant's request, we will, within a reasonable time, provide Participants with a list of Investor Members granted access to that Participant's Data pursuant to clause 5.3.3 and 5.3.4 above.

## 6. YOUR OBLIGATIONS

- 6.1 You warrant and undertake that:



- 6.1.1 You have full right and authority to enter into this Agreement and to perform your obligations;
  - 6.1.2 As a Participant you have the right to provide the Participant Data that you supply under this Agreement to us and neither it, nor the resulting Data will in any way infringe any rights of any third party;
  - 6.1.3 As a Participant you will use all reasonable endeavors to ensure that the Data that you supply under this Agreement is accurate and complete;
  - 6.1.4 You shall not make any false or misleading statements about any information that you derive from the Data;
  - 6.1.5 You shall not do anything which may damage the reputation of GRESB, the Data or any of the GRESB Products and Services;
  - 6.1.6 You shall not use the Data or any of the GRESB Products and Services for any purpose contrary to any law or regulation or any regulatory code or guidance;
  - 6.1.7 You shall not use the Data or GRESB Products and Services (wholly or in part) in your commercial products or services.
- 6.2 You will take steps to ensure that you, your employees and agents comply with this Agreement and do not:
- 6.2.1 Copy, print out or otherwise reproduce any Data nor any material provided in connection with the GRESB Products and Service(s), except as permitted under this Agreement or authorized by us in writing;
  - 6.2.2 Make any part of the Data available to anyone, except as permitted under this Agreement or authorized by us in writing;
  - 6.2.3 Alter any part of the Data or other information provided in connection with the GRESB Products and Service(s);
  - 6.2.4 Provide us with any confidential information which might breach any legal or professional duty;
  - 6.2.5 Purport to assign or otherwise dispose of your rights under this Agreement.
- 6.3 You will take steps to ensure that nobody other than you can access the Portal using your username and password.
- 6.4 As a Participant you will ensure that any consultants, contributors, employees, officers, subcontractors or other third parties that assist you with the submission of Participant Data to GRESB, separately registers in the Portal using GRESB's Assessment Access Tool.
- 6.5 As a Participant you acknowledge and accept that granting access to your Assessment submission using the Assessment Access Tool and the management of permissions granted for using the Assessment Access Tool is your own responsibility.
- 6.6 Subject to clause 6.7 below, you will defend, indemnify and hold us harmless against any Losses suffered or incurred by us and/or our agents and/or licensors, including legal expenses (reasonably and properly incurred) arising out of or connected with your breach of this Agreement.
- 6.7 In the event of a claim made pursuant to clause 6.6 above:
- 6.7.1 We will give prompt notice of any such claim;
  - 6.7.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
  - 6.7.3 You are given sole authority to defend or settle the claim.

## 7. DATA VALIDATION

- 7.1 As a Participant you agree to actively cooperate with us for the purposes of our data validation process. In particular, provided that we give you reasonable prior notice, you shall make available appropriate employees and facilities to provide us with assistance to complete our data validation process.

## 8. CONFIDENTIALITY

- 8.1 Both parties shall, and shall ensure that their respective agents, consultants, contributors, employees, officers or subcontractors shall, maintain in strict confidence and not divulge or communicate to anyone else any Confidential Information relating to the other party except as permitted by the Agreement.
- 8.2 Both parties will ensure that they restrict disclosure of such Confidential Information to such of their consultants, contributors, employees, officers, agents or subcontractors as need to know it for the purpose of discharging the obligations under this Agreement, and they shall ensure that such consultants, contributors, employees, officers,

agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the parties to this Agreement.

8.3 The obligations of clauses 8.1 and 8.2 above shall not apply to information which:

8.3.1 Is already public knowledge, through no act or default of either party;

8.3.2 Either party is required to divulge by a Court, tribunal or governmental authority with competent jurisdiction;

8.3.3 Was known to the recipient before the date of disclosure (as proven by written evidence) without obligations of confidentiality;

8.3.4 Was subsequently obtained by the recipient from someone else without that person breaching any obligations of confidentiality that they have to either you or us.

8.4 This clause 8 shall survive termination of the Agreement.

## 9. INTELLECTUAL PROPERTY

9.1 As a Participant you shall retain ownership of the IPRs (if any) in Participant Data submitted by you.

9.2 Without prejudice to our legal obligations regarding data protection, as a Participant you consent to us both for the term of this Agreement and afterwards:

9.2.1 Processing and dealing with Participant Data submitted by you in any way required for us to provide both current and future GRESB Products and Service(s);

9.2.2 Incorporating Participant Data into Data, Databases and/or other GRESB Products and Service(s);

9.2.3 Making Participant Data available as part of any product or GRESB Products and Service(s) of any kind that we may provide from time to time in connection with the Assessment.

9.3 Subject to clause 13, we warrant that you will not infringe any third party IPRs by using the Scorecard and Benchmark Report in accordance with the terms of this Agreement and we will indemnify you against any Losses you may validly incur as a result of any claim that the use by you of the Data infringes any third party IPRs, provided you notify us within a reasonable time of any such claim being made.

9.4 In the event of a claim made pursuant to clause 9.3 above:

9.4.1 You will give prompt notice of any such claim;

9.4.2 You provide reasonable co-operation to us in the defense and settlement of such claim, at your expense; and

9.4.3 We are given sole authority to defend or settle the claim.

9.5 Subject to any underlying rights you hold under clause 9.1, you acknowledge that any and all (claims to) current and future IPRs in or related to the Data, the Database, the GRESB Products and Service(s) and/or any other products or service(s) that are created by GRESB using the Data are our property or that of our licensors. For clarity, GRESB's IPRs shall include but not be limited to the content and format of the GRESB Website and any products and service(s) provided to GRESB Members and/or Participants during the course of the Assessment(s).

9.6 You acknowledge that, in respect of any third party IPRs licensed by GRESB, your use of any such IPRs is conditional on GRESB obtaining a written license from the relevant licensor ("**Third Party License**") on such terms as will entitle GRESB to license such rights to you. In the event that the Third Party License is terminated, suspended, expires or is otherwise no longer in place for any reason, GRESB may immediately and without any liability to you either (i) terminate or suspend your use of any such third party IPRs, or (ii) terminate this Agreement.

9.7 GRESB may terminate this Agreement immediately on notice, if you challenge the validity of any of our rights or those of our licensors set out above.

## 10. SECURITY

10.1 You will promptly and at your own expense comply with any security related or other rules and guidelines that we reasonably require from time to time in relation to the manner in which we provide the GRESB Products and Service(s).

## 11. DURATION OF AGREEMENT AND DENIAL OF ACCESS

11.1 This Agreement will be deemed to come into force on the Start Date and will continue for an initial period of twelve (12) months. The Agreement shall automatically be renewed for consecutive periods of twelve (12) months unless either of us gives not less than ninety (90) days written notice of termination to the other expiring on the first or any subsequent anniversary of the Start Date.



- 11.2 Without prejudice to clause 12.2 below, GRESB reserves the right to immediately and without notice suspend access to Data in the event GRESB reasonably suspects a material breach of this Agreement.
- 11.3 In the event of a suspected breach pursuant to clause 11.2 above GRESB will:
- 11.3.1 Notify you in writing of the breach and of our decision to suspend access to Data; and
- 11.3.2 Provide details of the alleged breach to allow you to identify, remedy or disprove that breach;
- 11.4 Provided that the suspected breach is remedied within twenty (20) working days of written notice provided pursuant to clause 11.3 above, we will within a reasonable time reinstate access to the Data.
- 11.5 If the breach is not remedied, or not remedied in time, GRESB reserves the right to permanently suspend access to Data. In these circumstances you warrant and agree immediately on our request either to destroy any printed or electronic copies of any Data or to promptly return copies of any Data to us.

## 12. TERMINATION

- 12.1 Either party may terminate this Agreement by giving the other party written notice in accordance with clause 11.
- 12.2 This Agreement will terminate immediately if either party is in material breach of any of its terms and if such a breach is not remedied within a period of twenty (20) working days after written notice of it has been given to the party in breach.
- 12.3 We may terminate this Agreement immediately on written notice if we cease undertaking the Assessment(s) and/or if we cease to provide the GRESB Products and Service(s) due to circumstances beyond our reasonable control.
- 12.4 Upon termination of this Agreement (for whatever cause), your rights to use the Scorecard and/or Benchmark Report and/or any other Data to which you are entitled will immediately cease.
- 12.5 As a Member you confirm and agree that all termination rights contained in GRESB's Membership Agreement or terms of membership apply to this Agreement.
- 12.6 Termination will not affect:
- 12.6.1 The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination, except for the right granted to you in clause 3.2; and
- 12.6.2 Any part of this Agreement which expressly or by implication is intended to survive termination (including without limitation clauses 6.1, 6.6, 7, 8, 9, 12, 13, 14 and 15).
- 12.7 For the avoidance of doubt, if this Agreement is terminated in accordance with this clause 12, as a Participant you may request in writing that any Participant Data provided by you is removed from GRESB's electronic and written records and, provided that such a request is reasonable, and provided that the Data has not already been processed by us, we will return the data to you within 14 days of receipt of such a written request.

## 13. DISCLAIMER AND LIABILITY

- 13.1 You shall indemnify us and hold us and our licensors harmless against all and any Losses suffered or incurred by us and/or our licensors, including legal expenses (reasonably and properly incurred) arising out of or in connection with any breach of clauses 2.5, 3.3, 3.4, 4.3, 5.6, 6, 8 and 9.5.
- 13.2 In the event of a claim made pursuant to clause 13.1 above:
- 13.2.1 We will give prompt notice of any such claim;
- 13.2.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
- 13.2.3 You are given sole authority to defend or settle the claim.
- 13.3 We offer you no warranty or assurance in respect of the Data and the GRESB Products and Service(s), except as set out in clause 9.3 above. **WITHOUT LIMITATION OF THE FOREGOING SENTENCE, GRESB DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** We declare and you acknowledge and agree that all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or law are excluded to the maximum extent permitted by law.
- 13.4 This clause 13 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents, contributors, consultants and sub-contractors) to you in respect of:
- 13.4.1 Any breach of this Agreement;
- 13.4.2 Any use made by you of the GRESB Products and Service(s) or any part of them; and
- 13.4.3 Any representation, statement or tortious act or omission (whether negligent or otherwise) arising under or in connection with this Agreement and/or use made by you of the GRESB Products and Service(s).

- 13.5 We provide the Data to which you are entitled pursuant to clause 5.3 to you in good faith, but you acknowledge that as the Data may include or refer to data that is provided by third parties or is otherwise publically available, we are not able to control or verify the accuracy or completeness of such data. Accordingly, whilst we agree to use reasonable skill and care in the collation of and dealing with the Data:
- 13.5.1 We offer no warranty or representation (whether express or implied) about the accuracy or fitness for any particular purpose of the Data or the Assessment(s) or that the provision of the GRESB Products and Service(s) will be uninterrupted, timely or secure; and
- 13.5.2 We accept no liability for any inaccuracy, incompleteness or other error in the Data or the Assessment(s) which arises as a result of data input provided by you or any third party appointed by you to provide Participant Data on your behalf;
- 13.5.3 You acknowledge that systems that use empirical data and/or statistical data and/or data modelling techniques to provide indicative and/or predictable data, cannot be taken as a guarantee of any particular outcome.
- 13.6 Except as expressly and specifically provided in this Agreement you assume sole responsibility for your use of any Data and/or the GRESB Products and Service(s) and for conclusions drawn from such use. We shall have no liability for any Losses caused by errors or omissions in any information, instructions or scripts provided by you in connection with the Data and/or GRESB Products and Service(s), or any actions taken by us at your direction.
- 13.7 While every care has been taken in the development of the Website and the Portal, we cannot be held liable for the consequences of actions taken on the basis of information obtained on the Website or the Portal. We do not offer any warranty or representation that the use by you of the GRESB Products and Service(s) will achieve any particular result for you. You agree and acknowledge that the GRESB Products and Service(s) are not intended to be used as the sole basis for any business decision, that you use the Data at your own risk and on an "as is" basis and that you will not use the Data as the sole basis for any business decision.
- 13.8 Nothing in this Agreement excludes our liability:
- 13.8.1 For death or personal injury caused by our negligence;
- 13.8.2 For fraud or fraudulent misrepresentation;
- 13.8.3 For gross negligence;
- 13.8.4 For any other liability which cannot be excluded by applicable law.
- 13.9 Subject to clause 9.3 and 13.8 above:
- 13.9.1 We shall not be liable, whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, and whether arising out of or in connection with this Agreement or any other agreement, for any loss of profits, loss of business, depletion of goodwill or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and
- 13.9.2 Our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with the performance or contemplated performance of this Agreement shall:
- 13.9.2.1 in the case of Members, be limited to the membership fee paid by you in the Assessment Year in which GRESB was notified in writing of the potential claim; and
- 13.9.2.2 in all other cases, be limited to the Benchmark Report fee for a single entity's Benchmark Report in the Assessment Year in which GRESB was notified in writing of the potential claim,
- and you acknowledge that the limitations in this clause 13.9.2 are reasonable.
- 13.10 Under this clause:
- 13.10.1 "Our liability" includes that of any GRESB parent company and/or subsidiary and our and their respective agents, consultants, contributors, employees or officers; and
- 13.10.2 "Your liability" includes any other party claiming through you.
- 13.11 Neither party shall have any liability under this Agreement if we or you are prevented from or delayed in performing our obligations under the Agreement or from carrying on business by acts, events, omissions or accidents beyond our reasonable control, including without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or communications network, act of God, war, riot, civil commotion, malicious damage,

compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

13.12 If any claims are made, or in our reasonable opinion are likely to be made, by any third party alleging that its rights are infringed by your use of the Data as permitted by this Agreement, we may at our sole option and expense:

13.12.1 Procure for you the right to continue using the relevant Data (or any part of it) in accordance with the terms of this Agreement;

13.12.2 Modify the relevant Data to avoid infringement or replace the relevant Data with non-infringing materials, whilst still providing the same, or substantially similar, functionality to the infringing materials.

13.13 If we exercise one of the options set out in clause 13.12, we shall have no further liability to you in respect of a claim relating to the subject matter of clause 9.3 from the date we complete such option.

13.14 We will not be liable to you in the event that our performance of any of our obligations under this Agreement is prevented or delayed by any act or omission by you or failure by you to perform any obligation contained in this Agreement.

13.15 This clause 13 shall survive termination of this Agreement.

## 14. NOTICES

14.1 Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post or international post or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

14.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post, international post or recorded delivery, at 9.00 am on the fifth business day (being a day (other than a Saturday, Sunday or public holiday) when banks in the Netherlands are open for business) after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax when transmitted or, if outside normal business hours, at 9am Central European Time (CET) on the next following business day.

14.3 This clause 14 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Agreement shall not be validly served if sent by e-mail.

14.4 Subject to clauses 14.1, 14.2 and 14.3, any notice provisions in a Member's Membership Agreement or terms of membership shall apply to this Agreement.

## 15. GENERAL

15.1 GRESB Products and Service(s) continue to evolve in the light of business, market and technical developments. Accordingly, we reserve the right to make improvements, substitutions, modifications, and to add or remove some elements of the GRESB Products and Service(s). You acknowledge that GRESB shall not be liable to you or to any third party for any modification, discontinuance or suspension of the GRESB Products and Service(s). Additionally, GRESB reserves the right, in its own and absolute discretion, to change this Agreement, and with them the content of this Agreement, by posting a revised Agreement on the Website and/or Portal or by notifying you by post. Amendments will be applicable from your first login to the Portal following publication. GRESB will endeavor to notify you of any important changes but it is your responsibility to check periodically on our Website for any changes we make to this Agreement. Your continued use of the GRESB Products and Service(s) after the posting of the changes to this Agreement means that you accept these changes.

15.2 Assignment: We may at any time on notice to you assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under this Agreement and may subcontract or delegate in any manner any or all of our obligations under this Agreement to any third party or agent. You may not assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights under this Agreement.

15.3 Third Parties: A person who is not a party to this Agreement shall not have any rights under or in connection with this Agreement.

15.4 Governing law and jurisdiction: This Agreement, and any dispute or claim arising out of or in connection with it are governed by the laws of the Netherlands. The competent court in Amsterdam, the Netherlands, shall have jurisdiction to settle any dispute in connection with this Agreement without prejudice to the right of appeal to the Supreme Court.

15.5 Entire Agreement: This Agreement constitutes the entire agreement between us and you and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us and you, whether written or oral, relating to its subject matter, and without prejudice to the generality of the foregoing:

- 15.5.1 Any samples, drawings, descriptive matter or advertising issued by GRESB, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the GRESB Products and Service(s) described in them. They shall not form part of this Agreement or have any contractual force;
- 15.5.2 This Agreement applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 15.6 As a Member, unless stated to the contrary, in the event of any conflict or inconsistency between any provisions of this Agreement and the Membership Agreement, first this Agreement and then the Membership Agreement shall prevail.
- 15.7 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 15.8 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 15.9 If either party fails to or delays in exercising any right or remedy available under this Agreement or law then that failure or delay does not constitute a waiver or bar to the exercise of that right or remedy or any other right or remedy nor does it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. A waiver of any right under this Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.
- 15.10 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 15.11 Each party shall, and shall use all reasonable endeavors to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.
- 15.12 By entering into this Agreement you confirm that you are doing so in the course of your business and not as a consumer.



## GRESB Infrastructure

### GRESB Portal Terms and Conditions

#### V.0.1

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## 1. INTRODUCTION AND DEFINITIONS

- 1.1 As a Participant these Terms and Conditions (T&Cs) form an Agreement that governs your involvement in the Assessment(s) and your use of GRESB Products and Service(s). This Agreement supersedes any previous agreements or terms and conditions relating to the GRESB Products and Service(s). The Agreement comes into effect at the moment you first log in to the Portal prior to commencement of the Assessment(s). Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.2 As a Member these Terms and Conditions (T&Cs) form an Agreement governing your use of Data and other information provided by GRESB to Members. The Agreement comes into effect at the moment a Member first logs in to the Member Portal. Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.3 The language of these T&Cs is English.
- 1.4 Unless the context requires otherwise, words and phrases used in this Agreement shall have the meanings given to them in this clause 1.3:

'Agreement'	These T&Cs;
'Assessment(s)'	Means any or all of (i) the questions compiled by GRESB on an annual basis to assess the sustainability performance of public and private infrastructure investments and (ii) all GRESB's activities connected with such assessment processes including, but not limited to, data processing, validation, analysis and the development of the Portal and (iii) development of the Data;
'Assessment Access Tool'	A Portal tool, which allows Participants to invite their advisors and consultants to help them with the submission of Participant Data to GRESB;
'Assessment Year'	An Assessment Year commences on January 1st and terminates on December 31st of that year;
'Benchmark Report'	A report prepared by GRESB which contains, but is not limited to benchmarking and question-by-question analysis of a Participant's performance in the Assessment(s);
'Confidential Information'	Means any information, however conveyed or presented, that relates to (i) either party's trade secrets, customer or supplier details, business and business transactions, affairs, operations, know-how, personnel and suppliers of the disclosing party, and, (ii) in the case of GRESB, the methods, processes or techniques used to provide the GRESB Products and Service(s) and the Data, and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential;
'Data'	Means any and all data and/or databases and/or other information supplied by GRESB to you through the GRESB Products and Service(s)

	or by any other means including, but not limited to Scorecards and Benchmark Reports;
'Data Access Request Tool' (DART)	Means the automated tool in the Portal via which Investor Members request access to view Data;
'Database'	Means the collection of independent works, data and/or other materials comprising, collected for or in any other way, in whole or in part, used in or as a means to use or create the Assessment(s) and/or the GRESB Products and Service(s) including, but not limited to, the Data, any and all user-provided information, all data validation decisions, all scoring and analysis algorithms and all records of statistical analysis.
'Grace Period'	A one-year period in which Assessment results are not automatically disclosed to GRESB Investor Members, which is available to new Participants in their first year of participation in the Assessment(s);
'Grace Period Participant'	A Participant that is eligible for and has requested to participate in the Grace Period;
'GRESB', 'We', 'Us'	Means GRESB B.V. incorporated as a private company under the law of the Netherlands with registration number 55416071 and, where the context requires it, its parent entity the Green Business Certification Inc., a District of Columbia non-profit corporation ('GBCI');
'GRESB Products and Service(s)'	Means any products and service(s) supplied by GRESB to you from time to time in connection with the Assessment(s);
'Investor Member'	Each entity, association, partnership or organization that invests directly or indirectly in infrastructure assets and is party to a Membership Agreement with GRESB;
'IPRs'	All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade-, business- and domain-names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and all other industrial and/or commercial rights and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights and all rights to apply for the same, and all similar or equivalent rights or forms of protection in any part of the world. For clarity, GRESB's IPRs shall include but not be limited to the content and format of the GRESB Website and any products and service(s) provided to GRESB Members and/or Participants during the course of the Assessment(s);
'Listed Infrastructure Company'	An individual constituent entity operating in the infrastructure sector which owns income-producing infrastructure and is publicly listed on a recognized stock exchange;
'Losses'	Means any losses, damages, costs, expenses or other liabilities;
'Member'	An entity, association, partnership or organization that is a party to a Membership Agreement with GRESB;



'Membership Agreement'	The combination of an application form filled out by a Member and an agreement titled 'Standard Terms of Membership' signed by that Member and returned to GRESB;
'Participant'	Means an entity that submits a response to the Assessment(s) whether directly or via a third party;
'Participant Data'	Means the data and other information that we receive from you, your agent or representative, during our provision to you of the GRESB Products and Service(s) which include, without limitation, your Assessment submission and/or any supporting information provided by you, your agent or representative;
'Partner'	A Member that is an industry association, consultant, advisor or solution provider;
'Portal'	GRESB's online portal currently accessed via <a href="http://www.gresb.com">www.gresb.com</a> and used, inter alia, for providing GRESB Products and Services;
'Portal Tools'	Means all tools and functionalities available in the Portal;
'Scorecard'	A document summarizing an individual Participant's Assessment results;
'Start Date'	Means the date of your first login via the Portal;
'Website'	Means the website currently located at <a href="http://www.gresb.com">www.gresb.com</a> or any other website through which GRESB manages the Assessment(s) and delivers the GRESB Products and Service(s);
'You', 'Your'	An entity, association, partnership or organization, whether a Member or Participant, to whom this Agreement applies.

## 2. PARTICIPANT DATA

- 2.1 As a Participant you acknowledge and agree that, in consideration for us performing our obligations and granting you certain rights under this Agreement, we have the right to use, on a royalty free perpetual basis, the Participant Data provided by you for the Assessment and for the purposes of providing the GRESB Products and Service(s) both for the term of this Agreement and afterwards.
- 2.2 For the purposes of clause 2.1 above, 'we' does not include GRESB's parent entity Green Business Certification Inc. (GBCI).
- 2.3 As a Participant you will supply us with all data and other information that we may reasonably request from you from time to time to allow us to undertake the Assessment(s) and provide the GRESB Products and Service(s). All the data and information you supply will be, to the best of your knowledge and abilities, true, accurate and complete.
- 2.4 As a Participant you will: -
- 2.4.1 Co-operate with us in all matters relating to the Assessment(s) and the GRESB Products and Service(s);
  - 2.4.2 Obtain and maintain all necessary licenses, permissions and consents which may be required for you to be able to submit Participant Data to GRESB.
- 2.5 Listed Infrastructure Company Participants hereby acknowledge and confirm that they are aware of the possibility that information that they provide in the course of submitting Participant Data to GRESB may be material non-public information (MNPI) also known in some jurisdictions as unpublished price-sensitive information (UPS) and/or insider information. GRESB expresses no opinion regarding this issue, accepts no liability and gives no warranty and/or assurance regarding the relevance of any applicable rules. While GRESB recommends that you publicly disclose the Participant Data that you submit to GRESB, you acknowledge and agree that compliance with any applicable rules is your sole responsibility.

### 3. AUTHORITY AND LICENSE FOR PARTICIPANT USE OF GRESB PRODUCTS AND SERVICE(S)

- 3.1 Clauses 3.1 through 3.8 only apply to Participants.
- 3.2 Subject to your obligations in clause 3.3 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of this Agreement a non-exclusive and non-transferable right to use the Scorecard for your own internal business purposes in the following ways and for no other purpose whatsoever:
- 3.2.1 To save and import copies of the Scorecard into electronic files for your own reference only;
  - 3.2.2 To print out parts or extracts from the Scorecard for your own reference only;
  - 3.2.3 To incorporate parts or extracts from the Scorecard into internal research documents written by you for distribution and use within your organization only;
  - 3.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Scorecard or any reports that contain parts or extracts from the Scorecard within your organization for reference purposes only by recipients of such e-mails;
  - 3.2.5 To incorporate and make insubstantial parts or extracts of the Scorecard available via any adequately protected corporate intranet or (web-based or other) file sharing applications you may operate;
  - 3.2.6 To incorporate insubstantial parts or extracts of the Scorecard in (a) public statements that illustrate your sustainability performance or (b) fund performance reports provided by you to your investors provided that the Data in the Scorecard may not be manipulated or distributed by the recipients of it or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Scorecard may not be accessed electronically (except as a PDF attachment to an e-mail), manipulated or distributed by the recipients of it;
  - 3.2.7 To make available the Scorecard to any consultants appointed directly by you for the sole purpose of providing you with advice based on your Assessment results and for no other purposes whatsoever;
  - 3.2.8 You shall ensure that any reproduction of all or part of the Scorecard includes the following notice: 'all intellectual property rights to these data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 3.2.9 Listed Infrastructure Companies are permitted to publicly disclose their GRESB Assessment(s) question responses, supporting documents and Scorecard on their company website.
- 3.3 You shall not use the Scorecard in any way that is not expressly permitted in clause 3.2 above and in particular, but without limitation:
- 3.3.1 In the event that you or any third party instructed or appointed by you has access to more than one Scorecard you are not permitted to exercise the rights in clause 3.2 collectively for more than one Participant without first obtaining the written consent of GRESB.
  - 3.3.2 No sale, transfer, sub-license, distribution or commercial exploitation of the Scorecard is permitted, nor otherwise making such data available to or for the benefit of any third party.
- 3.4 On condition that you submit Participant Data via the Portal in accordance with GRESB's requirements and this Agreement, you may use the acronym 'GRESB' and/or any other registered or unregistered signs, words or logos made available to you by GRESB (collectively the "Marks") for the specific purpose of identifying you as a Participant in publications, provided that:
- 3.4.1 You agree to obtain the current versions of the Marks from GRESB's Director PR and Communications and replace old Marks for new versions as soon as possible after receiving a notification from GRESB that new versions are available;
  - 3.4.2 You agree not to modify the Marks in any way, except to increase or decrease the scale. This includes changes to color, proportion, lettering and content;
  - 3.4.3 The use of the Marks must always be accompanied by a clear and unambiguous confirmation that the Marks are the proprietary materials of GRESB B.V. for example by using the ® symbol for registered trademarks;

- 3.4.4 You agree that you will effectively cease and desist any and all use of the Marks within 14 days of a request by GRESB to do so; and
- 3.4.5 You agree to immediately notify GRESB in writing giving full particulars of any actual, suspected or threatened infringement of any of the Marks, or any challenge to the Marks made or threatened (including any claim that the Marks infringe the rights of any third party), that come to your knowledge.
- 3.5 Subject to your obligations in clause 3.6 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of the Agreement a non-exclusive and non-transferable right to use the Portal Tools for your own internal business purposes to assist you with the collection of data for your Assessment submission and for no other purpose whatsoever.
- 3.6 You undertake not to use the Portal Tools in any way that is not expressly permitted in clause 3.5 above and, in particular, no sale, transfer, sub-license, distribution or commercial exploitation of the Portal Tools is permitted.
- 3.7 Participation in the Assessment(s) is at GRESB's sole discretion and we may at any time elect not to use the Participant Data submitted by you.
- 3.8 This authorization and license begins on the Start Date and ends if and when this Agreement is terminated under clause 9.6, 9.7 or 12.

#### 4. AUTHORITY AND LICENCE FOR MEMBER USE OF GRESB PRODUCTS AND SERVICE(S)

- 4.1 Clauses 4.1 through 4.4 only apply to Members.
- 4.2 Subject to your obligations in clause 4.3 below, in consideration for you being a GRESB Member on the terms of this Agreement and the Membership Agreement and your payment of the applicable membership fee, we grant you for the term of this Agreement a non-exclusive and non-transferable right to allow you to use the Data for which you are granted access rights under clauses 5.3.4 and 5.3.5 below and Portal Tools exclusively for your own internal business purposes in the following ways and for no other purpose whatsoever: -
  - 4.2.1 To save and import copies of the Data into electronic files for your own reference only;
  - 4.2.2 To print out parts or extracts from the Data for your own reference only;
  - 4.2.3 To incorporate parts or extracts from the Data into internal research documents written by you for distribution and use within your organization only;
  - 4.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Data or any reports that contain parts or extracts from the Data within your organization for reference purposes only by recipients of such e-mails;
  - 4.2.5 To incorporate and make insubstantial parts of the Data available via any adequately protected corporate intranet or (cloud based or other) file sharing applications you may operate;
  - 4.2.6 To incorporate insubstantial parts or extracts of the Data in (a) public statement(s) that illustrate the performance of your investments or (b) investment performance reports provided by you to your clients provided that the Data may not be manipulated or distributed by the recipients of such reports or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Data may not be manipulated or distributed by the recipients of it;
  - 4.2.7 To make the Data available to any consultants appointed directly by you for the sole purpose of providing to you advice based on the Data and for no other purposes whatsoever;
  - 4.2.8 You shall ensure that any reproduction of all or part of the Data includes the following notices: 'All intellectual property rights to this data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 4.2.9 To use the Portal Tools for your own internal business purposes to assist you with the analysis of Data and for no other purpose whatsoever.
- 4.3 You shall not use the Data and/or Portal Tools in any way which is not expressly permitted in clause 4.2 above and in particular, but without limitation:
  - 4.3.1 No sale, transfer, sub-license, distribution or commercial exploitation of the Data is permitted, nor otherwise making such data available to or for the benefit of any third party.
  - 4.3.2 None of the Data and/or information obtained using the Portal Tools may be distributed (whether for commercial or non-commercial use) in any way other than in accordance with this Agreement including,

but without limitation, through use of post or e-mail or (electronic or other) data carriers sent outside of your organization (other than in accordance with this Agreement), corporate extranet, file sharing applications or other web-based product or services operated by or for you.

- 4.4 This authority and license begins on the Start Date and ends on the earliest of:
- 4.4.1 Our permanent suspension of your Data access rights under clause 11.5;
  - 4.4.2 If this Agreement is terminated under clauses 9.6, 9.7 or 12; or
  - 4.4.3 Termination of your status as a GRESB Member.

## 5. GRESB USE OF DATA AND DATA PROTECTION

- 5.1 We will use the Participant Data and any other information provided in connection with a Participant's submission to the Assessment(s) as a basis for compiling and distributing the GRESB Products and Service(s).
- 5.2 For the purposes of clause 5.1 above 'we' includes our parent entity GBCI, any or all of our agents, consultants, contributors, employees, officers or subcontractors.
- 5.3 For the purposes described in clause 5.1 above Data and/or its composing parts will be distributed as follows:
  - 5.3.1 A Participant will be permitted to access its own Scorecard free of charge;
  - 5.3.2 On payment of a fee determined by GRESB, a Participant will be given access to its own Benchmark Report;
  - 5.3.3 Only after consent by a Participant, an Investor Member will be permitted to access the Scorecard and Benchmark Report of any Participant in which that Investor Member invests, provided that an Investor Member will not be permitted to access Scorecards and Benchmark Reports regarding Participants to which the Grace Period applies;
  - 5.3.4 An Investor Member that is also a Participant will be permitted to access its Scorecard and Benchmark Report, provided that such a Member is also a Participant;
  - 5.3.5 In aggregated form we may also use Data for publication to GRESB Members and/or third parties, aggregated information in this context being information that is expressed in scores, and not identifiable to individual Participants.
  - 5.3.6 With the Data Access Request Tool (DART) GRESB facilitates a system for Investor Members to request consent from the relevant Participant before giving an Investor Member access to that party's Scorecard and/or Benchmark Report as described in clauses 5.3.3. This request will be sent by the Investor Member in an online request from the Portal. If GRESB does not receive an answer to such a request within 30 days, consent is deemed to have been given.
- 5.4 Provided that a Participant gives prior notice before submitting Participant Data to GRESB that it wishes to participate in the Grace Period, then during the Grace Period GRESB will not disclose that Participant's Scorecard or Benchmark Report to any other party than the Participant itself.
- 5.5 We and you agree to comply with our respective obligations under all applicable data protection and privacy laws and regulations.
- 5.6 You undertake not to disclose any Participant Data of other Participants and/or Data to a third party other than in accordance with the terms of this Agreement.
- 5.7 You will comply with any guidelines that we provide from time to time in relation to the manner in which we process Participant Data and/or provide the GRESB Products and Service(s).
- 5.8 As a Participant you agree that we may include your name in any lists we may at our own discretion publish for promotional or other purposes from time to time.
- 5.9 On a Participant's request, we will, within a reasonable time, provide Participants with a list of Investor Members granted access to that Participant's Data pursuant to clause 5.3.3 and 5.3.4 above.

## 6. YOUR OBLIGATIONS

- 6.1 You warrant and undertake that:
  - 6.1.1 You have full right and authority to enter into this Agreement and to perform your obligations;
  - 6.1.2 As a Participant you have the right to provide the Participant Data that you supply under this Agreement to us and neither it, nor the resulting Data will in any way infringe any rights of any third party;
  - 6.1.3 As a Participant you will use all reasonable endeavors to ensure that the Data that you supply under this Agreement is accurate and complete;

- 6.1.4 You shall not make any false or misleading statements about any information that you derive from the Data;
- 6.1.5 You shall not do anything which may damage the reputation of GRESB, the Data or any of the GRESB Products and Services;
- 6.1.6 You shall not use the Data or any of the GRESB Products and Services for any purpose contrary to any law or regulation or any regulatory code or guidance;
- 6.1.7 You shall not use the Data or GRESB Products and Services (wholly or in part) in your commercial products or services.
- 6.2 You will take steps to ensure that you, your employees and agents comply with this Agreement and do not:
  - 6.2.1 Copy, print out or otherwise reproduce any Data nor any material provided in connection with the GRESB Products and Service(s), except as permitted under this Agreement or authorized by us in writing;
  - 6.2.2 Make any part of the Data available to anyone, except as permitted under this Agreement or authorized by us in writing;
  - 6.2.3 Alter any part of the Data or other information provided in connection with the GRESB Products and Service(s);
  - 6.2.4 Provide us with any confidential information which might breach any legal or professional duty;
  - 6.2.5 Purport to assign or otherwise dispose of your rights under this Agreement.
- 6.3 You will take steps to ensure that nobody other than you can access the Portal using your username and password.
- 6.4 As a Participant you will ensure that any consultants, contributors, employees, officers, subcontractors or other third parties that assist you with the submission of Participant Data to GRESB, separately registers in the Portal using GRESB's Assessment Access Tool.
- 6.5 As a Participant you acknowledge and accept that granting access to your Assessment submission using the Assessment Access Tool and the management of permissions granted for using the Assessment Access Tool is your own responsibility.
- 6.6 Subject to clause 6.7 below, you will defend, indemnify and hold us harmless against any Losses suffered or incurred by us and/or our agents and/or licensors, including legal expenses (reasonably and properly incurred) arising out of or connected with your breach of this Agreement.
- 6.7 In the event of a claim made pursuant to clause 6.6 above:
  - 6.7.1 We will give prompt notice of any such claim;
  - 6.7.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
  - 6.7.3 You are given sole authority to defend or settle the claim.

## 7. DATA VALIDATION

- 7.1 As a Participant you agree to actively cooperate with us for the purposes of our data validation process. In particular, provided that we give you reasonable prior notice, you shall make available appropriate employees and facilities to provide us with assistance to complete our data validation process.

## 8. CONFIDENTIALITY

- 8.1 Both parties shall, and shall ensure that their respective agents, consultants, contributors, employees, officers or subcontractors shall, maintain in strict confidence and not divulge or communicate to anyone else any Confidential Information relating to the other party except as permitted by the Agreement.
- 8.2 Both parties will ensure that they restrict disclosure of such Confidential Information to such of their consultants, contributors, employees, officers, agents or subcontractors as need to know it for the purpose of discharging the obligations under this Agreement, and they shall ensure that such consultants, contributors, employees, officers, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the parties to this Agreement.
- 8.3 The obligations of clauses 8.1 and 8.2 above shall not apply to information which:
  - 8.3.1 Is already public knowledge, through no act or default of either party;
  - 8.3.2 Either party is required to divulge by a Court, tribunal or governmental authority with competent jurisdiction;



- 8.3.3 Was known to the recipient before the date of disclosure (as proven by written evidence) without obligations of confidentiality;
- 8.3.4 Was subsequently obtained by the recipient from someone else without that person breaching any obligations of confidentiality that they have to either you or us.

8.4 This clause 8 shall survive termination of the Agreement.

## 9. INTELLECTUAL PROPERTY

- 9.1 As a Participant you shall retain ownership of the IPRs (if any) in Participant Data submitted by you.
- 9.2 Without prejudice to our legal obligations regarding data protection, as a Participant you consent to us both for the term of this Agreement and afterwards:
  - 9.2.1 Processing and dealing with Participant Data submitted by you in any way required for us to provide both current and future GRESB Products and Service(s);
  - 9.2.2 Incorporating Participant Data into Data, Databases and/or other GRESB Products and Service(s);
  - 9.2.3 Making Participant Data available as part of any product or GRESB Products and Service(s) of any kind that we may provide from time to time in connection with the Assessment.
- 9.3 Subject to clause 13, we warrant that you will not infringe any third party IPRs by using the Scorecard and Benchmark Report in accordance with the terms of this Agreement and we will indemnify you against any Losses you may validly incur as a result of any claim that the use by you of the Data infringes any third party IPRs, provided you notify us within a reasonable time of any such claim being made.
- 9.4 In the event of a claim made pursuant to clause 9.3 above:
  - 9.4.1 You will give prompt notice of any such claim;
  - 9.4.2 You provide reasonable co-operation to us in the defense and settlement of such claim, at your expense; and
  - 9.4.3 We are given sole authority to defend or settle the claim.
- 9.5 Subject to any underlying rights you hold under clause 9.1, you acknowledge that any and all (claims to) current and future IPRs in or related to the Data, the Database, the GRESB Products and Service(s) and/or any other products or service(s) that are created by GRESB using the Data are our property or that of our licensors.
- 9.6 You acknowledge that, in respect of any third party IPRs licensed by GRESB, your use of any such IPRs is conditional on GRESB obtaining a written license from the relevant licensor ("**Third Party License**") on such terms as will entitle GRESB to license such rights to you. In the event that the Third Party License is terminated, suspended, expires or is otherwise no longer in place for any reason, GRESB may immediately and without any liability to you either (i) terminate or suspend your use of any such third party IPRs, or (ii) terminate this Agreement.
- 9.7 GRESB may terminate this Agreement immediately on notice, if you challenge the validity of any of our rights or those of our licensors set out above.

## 10. SECURITY

- 10.1 You will promptly and at your own expense comply with any security related or other rules and guidelines that we reasonably require from time to time in relation to the manner in which we provide the GRESB Products and Service(s).

## 11. DURATION OF AGREEMENT AND DENIAL OF ACCESS

- 11.1 This Agreement will be deemed to come into force on the Start Date and will continue for an initial period of twelve (12) months. The Agreement shall automatically be renewed for consecutive periods of twelve (12) months unless either of us gives not less than ninety (90) days written notice of termination to the other expiring on the first or any subsequent anniversary of the Start Date.
- 11.2 Without prejudice to clause 12.2 below, GRESB reserves the right to immediately and without notice suspend access to Data in the event GRESB reasonably suspects a material breach of this Agreement.
- 11.3 In the event of a suspected breach pursuant to clause 11.2 above GRESB will:
  - 11.3.1 Notify you in writing of the breach and of our decision to suspend access to Data; and
  - 11.3.2 Provide details of the alleged breach to allow you to identify, remedy or disprove that breach;
- 11.4 Provided that the suspected breach is remedied within twenty (20) working days of written notice provided pursuant to clause 11.3 above, we will within a reasonable time reinstate access to the Data.



- 11.5 If the breach is not remedied, or not remedied in time, GRESB reserves the right to permanently suspend access to Data. In these circumstances you warrant and agree immediately on our request either to destroy any printed or electronic copies of any Data or to promptly return copies of any Data to us.

## 12. TERMINATION

- 12.1 Either party may terminate this Agreement by giving the other party written notice in accordance with clause 11.
- 12.2 This Agreement will terminate immediately if either party is in material breach of any of its terms and if such a breach is not remedied within a period of twenty (20) working days after written notice of it has been given to the party in breach.
- 12.3 We may terminate this Agreement immediately on written notice if we cease undertaking the Assessment(s) and/or if we cease to provide the GRESB Products and Service(s) due to circumstances beyond our reasonable control.
- 12.4 Upon termination of this Agreement (for whatever cause), your rights to use the Scorecard and/or Benchmark Report and/or any other Data to which you are entitled will immediately cease.
- 12.5 As a member you confirm and agree that all termination rights contained in GRESB's Membership Agreement or terms of membership apply to this Agreement.
- 12.6 Termination will not affect:
- 12.6.1 The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination, except for the right granted to you in clause 3.2; and
- 12.6.2 Any part of this Agreement which expressly or by implication is intended to survive termination (including without limitation clauses 6.1, 6.6, 7, 8, 9, 12, 13, 14 and 15).
- 12.7 For the avoidance of doubt, if this Agreement is terminated in accordance with this clause 12, as a Participant you may request in writing that any Participant Data provided by you is removed from GRESB's electronic and written records and, provided that such a request is reasonable, and provided that the Data has not already been processed by us, we will return the data to you within 14 days of receipt of such a written request.

## 13. DISCLAIMER AND LIABILITY

- 13.1 You shall indemnify us and hold us and our licensors harmless against all and any Losses suffered or incurred by us and/or our licensors, including legal expenses (reasonably and properly incurred) arising out of or in connection with any breach of clauses 2.5, 3.3, 3.4, 4.3, 5.6, 6, 8 and 9.5.
- 13.2 In the event of a claim made pursuant to clause 13.1 above:
- 13.2.1 We will give prompt notice of any such claim;
- 13.2.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
- 13.2.3 You are given sole authority to defend or settle the claim.
- 13.3 We offer you no warranty or assurance in respect of the Data and the GRESB Products and Service(s), except as set out in clause 9.3 above. We declare and you acknowledge and agree that all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or law are excluded to the maximum extent permitted by law.
- 13.4 This clause 13 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents, contributors, consultants and sub-contractors) to you in respect of:
- 13.4.1 Any breach of this Agreement;
- 13.4.2 Any use made by you of the GRESB Products and Service(s) or any part of them; and
- 13.4.3 Any representation, statement or tortious act or omission (whether negligent or otherwise) arising under or in connection with this Agreement and/or use made by you of the GRESB Products and Service(s).
- 13.5 We provide the Data to which you are entitled pursuant to clause 5.3 to you in good faith, but you acknowledge that as the Data may include or refer to data that is provided by third parties or is otherwise publically available, we are not able to control or verify the accuracy or completeness of such data. Accordingly, whilst we agree to use reasonable skill and care in the collation of and dealing with the Data:
- 13.5.1 We offer no warranty or representation (whether express or implied) about the accuracy or fitness for any particular purpose of the Data or the Assessment(s) or that the provision of the GRESB Products and Service(s) will be uninterrupted, timely or secure; and

- 13.5.2 We accept no liability for any inaccuracy, incompleteness or other error in the Data or the Assessment(s) which arises as a result of data input provided by you or any third party appointed by you to provide Participant Data on your behalf;
- 13.5.3 You acknowledge that systems that use empirical data and/or statistical data and/or data modelling techniques to provide indicative and/or predictable data, cannot be taken as a guarantee of any particular outcome.
- 13.6 Except as expressly and specifically provided in this Agreement you assume sole responsibility for your use of any Data and/or the GRESB Products and Service(s) and for conclusions drawn from such use. We shall have no liability for any Losses caused by errors or omissions in any information, instructions or scripts provided by you in connection with the Data and/or GRESB Products and Service(s), or any actions taken by us at your direction.
- 13.7 While every care has been taken in the development of the Website and the Portal, we cannot be held liable for the consequences of actions taken on the basis of information obtained on the Website or the Portal. We do not offer any warranty or representation that the use by you of the GRESB Products and Service(s) will achieve any particular result for you. You agree and acknowledge that the GRESB Products and Service(s) are not intended to be used as the sole basis for any business decision, that you use the Data at your own risk and on an "as is" basis and that you will not use the Data as the sole basis for any business decision.
- 13.8 Nothing in this Agreement excludes our liability:
- 13.8.1 For death or personal injury caused by our negligence;
- 13.8.2 For fraud or fraudulent misrepresentation;
- 13.8.3 For gross negligence;
- 13.8.4 For any other liability which cannot be excluded by applicable law.
- 13.9 Subject to clause 9.3 and 13.8 above:
- 13.9.1 We shall not be liable, whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, and whether arising out of or in connection with this Agreement or any other agreement, for any loss of profits, loss of business, depletion of goodwill or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and
- 13.9.2 Our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with the performance or contemplated performance of this Agreement shall:
- 13.9.2.1 in the case of Members, be limited to the membership fee paid by you in the Assessment Year in which GRESB was notified in writing of the potential claim; and
- 13.9.2.2 in all other cases, be limited to the Benchmark Report fee for a single entity's Benchmark Report in the Assessment Year in which GRESB was notified in writing of the potential claim,
- and you acknowledge that the limitations in this clause 13.9.2 are reasonable.
- 13.10 Under this clause:
- 13.10.1 "Our liability" includes that of any GRESB parent company and/or subsidiary and our and their respective agents, consultants, contributors, employees or officers; and
- 13.10.2 "Your liability" includes any other party claiming through you.
- 13.11 Neither party shall have any liability under this Agreement if we or you are prevented from or delayed in performing our obligations under the Agreement or from carrying on business by acts, events, omissions or accidents beyond our reasonable control, including without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or communications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.
- 13.12 If any claims are made, or in our reasonable opinion are likely to be made, by any third party alleging that its rights are infringed by your use of the Data as permitted by this Agreement, we may at our sole option and expense:
- 13.12.1 Procure for you the right to continue using the relevant Data (or any part of it) in accordance with the terms of this Agreement;

13.12.2 Modify the relevant Data to avoid infringement or replace the relevant Data with non-infringing materials, whilst still providing the same, or substantially similar, functionality to the infringing materials.

13.13 If we exercise one of the options set out in clause 13.11, we shall have no further liability to you in respect of a claim relating to the subject matter of clause 9.3 from the date we complete such option.

13.14 We will not be liable to you in the event that our performance of any of our obligations under this Agreement is prevented or delayed by any act or omission by you or failure by you to perform any obligation contained in this Agreement.

13.15 This clause 13 shall survive termination of this Agreement.

## 14. NOTICES

14.1 Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post or international post or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

14.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post, international post or recorded delivery, at 9.00 am on the fifth business day (being a day (other than a Saturday, Sunday or public holiday) when banks in the Netherlands are open for business) after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax when transmitted or, if outside normal business hours, at 9am Central European Time (CET) on the next following business day.

14.3 This clause 14 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Agreement shall not be validly served if sent by e-mail.

14.4 Subject to clauses 14.1, 14.2 and 14.3, any notice provisions in a Member's Membership Agreement or terms of membership shall apply to this Agreement.

## 15. GENERAL

15.1 GRESB Products and Service(s) continue to evolve in the light of business, market and technical developments. Accordingly, we reserve the right to make improvements, substitutions, modifications, and to add or remove some elements of the GRESB Products and Service(s). You acknowledge that GRESB shall not be liable to you or to any third party for any modification, discontinuance or suspension of the GRESB Products and Service(s). Additionally, GRESB reserves the right, in its own and absolute discretion, to change this Agreement, and with them the content of this Agreement, by posting a revised Agreement on the Website and/or Portal or by notifying you by post. Amendments will be applicable from your first login to the Portal following publication. GRESB will endeavor to notify you of any important changes but it is your responsibility to check periodically on our Website for any changes we make to this Agreement. Your continued use of the GRESB Products and Service(s) after the posting of the changes to this Agreement means that you accept these changes.

15.2 Assignment: We may at any time on notice to you assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under this Agreement and may subcontract or delegate in any manner any or all of our obligations under this Agreement to any third party or agent. You may not assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights under this Agreement.

15.3 Third Parties: A person who is not a party to this Agreement shall not have any rights under or in connection with this Agreement.

15.4 Governing law and jurisdiction: This Agreement, and any dispute or claim arising out of or in connection with it are governed by the laws of the Netherlands. The competent court in Amsterdam, the Netherlands, shall have jurisdiction to settle any dispute in connection with this Agreement without prejudice to the right of appeal to the Supreme Court.

15.5 Entire Agreement: This Agreement constitutes the entire agreement between us and you and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between us and you, whether written or oral, relating to its subject matter, and without prejudice to the generality of the foregoing:

15.5.1 Any samples, drawings, descriptive matter or advertising issued by GRESB, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the GRESB Products and Service(s) described in them. They shall not form part of this Agreement or have any contractual force;

15.5.2 This Agreement applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

- 15.6 As a Member, unless stated to the contrary, in the event of any conflict or inconsistency between any provisions of this Agreement and the Membership Agreement, first this Agreement and then the Membership Agreement shall prevail.
- 15.7 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 15.8 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 15.9 If either party fails to or delays in exercising any right or remedy available under this Agreement or law then that failure or delay does not constitute a waiver or bar to the exercise of that right or remedy or any other right or remedy nor does it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. A waiver of any right under this Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.
- 15.10 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 15.11 Each party shall, and shall use all reasonable endeavors to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.
- 15.12 By entering into this Agreement you confirm that you are doing so in the course of your business and not as a consumer.



## GRESB Real Estate

### GRESB Portal Terms and Conditions

#### V.0.1

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## 1. INTRODUCTION AND DEFINITIONS

- 1.1 As a Participant these Terms and Conditions (T&Cs) form an Agreement that governs your involvement in the Assessment(s) and your use of GRESB Products and Service(s). This Agreement supersedes any previous agreements or terms and conditions relating to the GRESB Products and Service(s). The Agreement comes into effect at the moment you first log in to the Portal prior to commencement of the Assessment(s). Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.2 As a Member these Terms and Conditions (T&Cs) form an Agreement governing your use of Data and other information provided by GRESB to Members. The Agreement comes into effect at the moment a Member first logs in to the GRESB Portal. Upon registration or log in, you are asked to tick a box to confirm your agreement to the T&Cs.
- 1.3 The language of these T&Cs is English.
- 1.4 Unless the context requires otherwise, words and phrases used in this Agreement shall have the meanings given to them in this clause 1.4:

'Agreement'	These T&Cs;
'Assessment(s)'	Means any or all of (i) the questions compiled by GRESB on an annual basis to assess the sustainability performance of public and private real estate investments and (ii) all GRESB's activities connected with such assessment processes including, but not limited to, data processing, validation, analysis and the development of the Portal and (iii) development of the Data;
'Assessment Access Tool'	A Portal tool, which allows Participants to invite their advisors and consultants to help them with the submission of Participant Data to GRESB;
'Assessment Year'	An Assessment Year commences on January 1st and terminates on December 31st of that year;
'Benchmark Report'	A report prepared by GRESB which contains, but is not limited to benchmarking and question-by-question analysis of a Participant's performance in the Assessment(s);
'Confidential Information'	means any information, however conveyed or presented, that relates to (i) either party's trade secrets, customer or supplier details, business and business transactions, affairs, operations, know-how, personnel and suppliers of the disclosing party, and, (ii) in the case of GRESB, the methods, processes or techniques used to provide the GRESB Products and Service(s) and the Data, and any other information clearly designated by a party as being confidential to it (whether or not it is marked "confidential"), or which ought reasonably be considered to be confidential;
'Data'	Means any and all data and/or databases and/or other information supplied by GRESB to you through the GRESB Products and Service(s)

	or by any other means including, but not limited to Scorecards and Benchmark Reports;
'Data Access Request Tool' (DART)	Means the automated tool in the Portal via which Investor Members request access to view Data;
'Database'	Means the collection of independent works, data and/or other materials comprising, collected for or in any other way, in whole or in part, used in or as a means to use or create the Assessment(s) and/or the GRESB Products and Service(s) including, but not limited to, the Data, any and all user-provided information, all data validation decisions, all scoring and analysis algorithms and all records of statistical analysis.
'Grace Period'	A one-year period in which Assessment results are not automatically disclosed to GRESB Investor Members, which is available to new Participants in their first year of participation in the Assessment(s);
'Grace Period Participant'	A Participant that is eligible for and has requested to participate in the Grace Period;
'GRESB', 'We', 'Us'	Means GRESB B.V. incorporated as a private company under the law of the Netherlands with registration number 55416071 and, where the context requires it, its parent entity the Green Business Certification Inc., a District of Columbia non-profit corporation ('GBCI');
'GRESB Products and Service(s)'	Means any products and service(s) supplied by GRESB to you from time to time in connection with the Assessment(s);
'Investor Member'	Each entity, association, partnership or organization that invests directly or indirectly in real estate assets and is party to a Membership Agreement with GRESB;
'IPRs'	All patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade-, business- and domain-names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and all other industrial and/or commercial rights and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights and all rights to apply for the same, and all similar or equivalent rights or forms of protection in any part of the world.;
'Listed Real Estate Company'	An individual constituent entity operating in the real estate sector which owns income-producing real estate and is publicly listed on a recognized stock exchange;
'Losses'	Means any losses, damages, costs, expenses or other liabilities;
'Manager Member'	Each entity, association, partnership or organization that directly invests, either individually or alongside other investors, in property via equity or debt on behalf of investor clients and is party to a Membership Agreement with GRESB;
'Member'	An entity, association, partnership or organization that is a party to a Membership Agreement with GRESB;



'Membership Agreement'	The combination of an application form filled out by a Member and an agreement titled 'Standard Terms of Membership' signed by that Member and returned to GRESB;
'Participant'	Means an entity that submits a response to the Assessment(s) whether directly or via a third party;
'Participant Data'	Means the data and other information that we receive from you, your agent or representative, during our provision to you of the GRESB Products and Service(s) which include, without limitation, your Assessment submission and/or any supporting information provided by you, your agent or representative;
'Partner'	A Member that is an industry association, consultant, advisor or solution provider;
'Portal'	GRESB's online portal currently accessed via <a href="http://www.gresb.com">www.gresb.com</a> and used, inter alia, for providing GRESB Products and Services;
'Portal Tools'	Means all tools and functionalities available in the Portal;
'Property Company Member'	Any entity, whether a corporation, association, partnership or any other type of organization that invests, either individually or alongside other investors, in property via equity or debt on behalf of shareholders and is party to a Membership Agreement with GRESB;
'Scorecard'	A document summarizing an individual Participant's Assessment results;
'Start Date'	Means the date of your first login via the Portal;
'Website'	Means the website currently located at <a href="http://www.gresb.com">www.gresb.com</a> or any other website through which GRESB manages the Assessment(s) and delivers the GRESB Products and Service(s);
'You', 'Your'	An entity, association, partnership or organization, whether a Member or Participant, to whom this Agreement applies.

## 2. PARTICIPANT DATA

- 2.1 As a Participant you acknowledge and agree that, in consideration for us performing our obligations and granting you certain rights under this Agreement, we have the right to use, on a royalty free perpetual basis, the Participant Data provided by you for the Assessment and for the purposes of providing the GRESB Products and Service(s) both for the term of this Agreement and afterwards.
- 2.2 For the purposes of clause 2.1 above, 'we' does not include GRESB's parent entity Green Business Certification Inc. (GBCI).
- 2.3 As a Participant you will supply us with all data and other information that we may reasonably request from you from time to time to allow us to undertake the Assessment(s) and provide the GRESB Products and Service(s). All the data and information you supply will be, to the best of your knowledge and abilities, true, accurate and complete.
- 2.4 As a Participant you will: -
  - 2.4.1 Co-operate with us in all matters relating to the Assessment(s) and the GRESB Products and Service(s);
  - 2.4.2 Obtain and maintain all necessary licenses, permissions and consents which may be required for you to be able to submit Participant Data to GRESB.
- 2.5 Listed Real Estate Company Participants hereby acknowledge and confirm that they are aware of the possibility that information that they provide in the course of submitting Participant Data to GRESB may be material non-

public information (MNPI) also known in some jurisdictions as unpublished price-sensitive information (UPSI) and/or insider information. GRESB expresses no opinion regarding this issue, accepts no liability and gives no warranty and/or assurance regarding the relevance of any applicable rules. While GRESB recommends that you publicly disclose the Participant Data that you submit to GRESB, you acknowledge and agree that compliance with any applicable rules is your sole responsibility.

### 3. AUTHORITY AND LICENSE FOR PARTICIPANT USE OF GRESB PRODUCTS AND SERVICE(S)

- 3.1 Clauses 3.1 through 3.8 only apply to Participants.
- 3.2 Subject to your obligations in clause 3.3 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of this Agreement a non-exclusive and non-transferable right to use the Scorecard for your own internal business purposes in the following ways and for no other purpose whatsoever:
- 3.2.1 To save and import copies of the Scorecard into electronic files for your own reference only;
  - 3.2.2 To print out parts or extracts from the Scorecard for your own reference only;
  - 3.2.3 To incorporate parts or extracts from the Scorecard into internal research documents written by you for distribution and use within your organization only;
  - 3.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Scorecard or any reports that contain parts or extracts from the Scorecard within your organization for reference purposes only by recipients of such e-mails;
  - 3.2.5 To incorporate and make insubstantial parts or extracts of the Scorecard available via any adequately protected corporate intranet or (web-based or other) file sharing applications you may operate;
  - 3.2.6 To incorporate insubstantial parts or extracts of the Scorecard in (a) public statements that illustrate your sustainability performance or (b) fund performance reports provided by you to your investors provided that the Data in the Scorecard may not be manipulated or distributed by the recipients of it or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Scorecard may not be accessed electronically (except as a PDF attachment to an e-mail), manipulated or distributed by the recipients of it;
  - 3.2.7 To make available the Scorecard to any consultants appointed directly by you for the sole purpose of providing you with advice based on your Assessment results and for no other purposes whatsoever;
  - 3.2.8 You shall ensure that any reproduction of all or part of the Scorecard includes the following notice: 'all intellectual property rights to this data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 3.2.9 Listed Property Companies are permitted to publicly disclose their GRESB Assessment(s) question responses, supporting documents and Scorecard on their company website.
- 3.3 You shall not use the Scorecard in any way that is not expressly permitted in clause 3.2 above and in particular, but without limitation:
- 3.3.1 In the event that you or any third party instructed or appointed by you has access to more than one Scorecard you are not permitted to exercise the rights in clause 3.2 collectively for more than one Participant without first obtaining the written consent of GRESB.
  - 3.3.2 No sale, transfer, sub-license, distribution or commercial exploitation of the Scorecard is permitted, nor otherwise making such data available to or for the benefit of any third party.
- 3.4 On condition that you submit Participant Data via the Portal in accordance with GRESB's requirements and this Agreement, you may use the acronym 'GRESB' and/or any other registered or unregistered signs, words or logos made available to you by GRESB (collectively the "Marks") for the specific purpose of identifying you as a Participant in publications, provided that:
- 3.4.1 You agree to obtain the current versions of the Marks from GRESB's Director PR and Communications and replace old Marks for new versions as soon as possible after receiving a notification from GRESB that new versions are available;

- 3.4.2 You agree not to modify the Marks in any way, except to increase or decrease the scale. This includes changes to color, proportion, lettering and content;
  - 3.4.3 The use of the Marks must always be accompanied by a clear and unambiguous confirmation that the Marks are the proprietary materials of GRESB B.V. for example by using the ® symbol for registered trademarks;
  - 3.4.4 You agree that you will effectively cease and desist any and all use of the Marks within 14 days of a request by GRESB to do so; and
  - 3.4.5 You agree to immediately notify GRESB in writing giving full particulars of any actual, suspected or threatened infringement of any of the Marks, or any challenge to the Marks made or threatened (including any claim that the Marks infringe the rights of any third party), that come to your knowledge.
- 3.5 Subject to your obligations in clause 3.6 below, in consideration for your submission of Participant Data to GRESB pursuant to clause 2 above, we grant you for the term of the Agreement a non-exclusive and non-transferable right to use the Portal Tools for your own internal business purposes to assist you with the collection of data for your Assessment submission and for no other purpose whatsoever.
  - 3.6 You undertake not to use the Portal Tools in any way that is not expressly permitted in clause 3.5 above and, in particular, no sale, transfer, sub-license, distribution or commercial exploitation of the Portal Tools is permitted.
  - 3.7 Participation in the Assessment(s) is at GRESB's sole discretion and we may at any time elect not to use the Participant Data submitted by you.
  - 3.8 This authorization and license begins on the Start Date and ends if and when this Agreement is terminated under clause 9.6, 9.7 or 12.

#### 4. AUTHORITY AND LICENCE FOR MEMBER USE OF GRESB PRODUCTS AND SERVICE(S)

- 4.1 Clauses 4.1 through 4.4 only apply to Members.
- 4.2 Subject to your obligations in clause 4.3 below, in consideration for you being a GRESB Member on the terms of this Agreement and the Membership Agreement and your payment of the applicable membership fee, we grant you for the term of this Agreement a non-exclusive and non-transferable right to allow you to use the Data for which you are granted access rights under clauses 5.3.4 and 5.3.5 below and Portal Tools exclusively for your own internal business purposes in the following ways and for no other purpose whatsoever: -
  - 4.2.1 To save and import copies of the Data into electronic files for your own reference only;
  - 4.2.2 To print out parts or extracts from the Data for your own reference only;
  - 4.2.3 To incorporate parts or extracts from the Data into internal research documents written by you for distribution and use within your organization only;
  - 4.2.4 To e-mail, or to attach to an e-mail, parts or extracts from the Data or any reports that contain parts or extracts from the Data within your organization for reference purposes only by recipients of such e-mails;
  - 4.2.5 To incorporate and make insubstantial parts of the Data available via any adequately protected corporate intranet or (cloud based or other) file sharing applications you may operate;
  - 4.2.6 To incorporate insubstantial parts or extracts of the Data in (a) public statement(s) that illustrate the performance of your investments or (b) investment performance reports provided by you to your clients provided that the Data may not be manipulated or distributed by the recipients of such reports or (c) marketing materials to be provided to potential clients for promotional or illustrative purposes on an ad hoc but not regular basis provided that the Data may not be manipulated or distributed by the recipients of it;
  - 4.2.7 To make the Data available to any consultants appointed directly by you for the sole purpose of providing to you advice based on the Data and for no other purposes whatsoever;
  - 4.2.8 You shall ensure that any reproduction of all or part of the Data includes the following notices: 'All intellectual property rights to this data belong exclusively to GRESB BV (GRESB). All rights reserved. GRESB has no liability to any person (including a natural person, corporate or unincorporated body) for any losses, damages, costs, expenses or other liabilities suffered as a result of any use of or reliance on any of the information which may be attributed to it';
  - 4.2.9 To use the Portal Tools for your own internal business purposes to assist you with the analysis of Data and for no other purpose whatsoever.

- 4.3 You shall not use the Data and/or Portal Tools in any way which is not expressly permitted in clause 4.2 above and in particular, but without limitation:
- 4.3.1 No sale, transfer, sub-license, distribution or commercial exploitation of the Data is permitted, nor otherwise making such data available to or for the benefit of any third party.
- 4.3.2 None of the Data and/or information obtained using the Portal Tools may be distributed (whether for commercial or non-commercial use) in any way other than in accordance with this Agreement including, but without limitation, through use of post or e-mail or (electronic or other) data carriers sent outside of your organization (other than in accordance with this Agreement), corporate extranet, file sharing applications or other web-based product or services operated by or for you.
- 4.4 This authority and license begins on the Start Date and ends on the earliest of:
- 4.4.1 Our permanent suspension of your Data access rights under clause 11.5;
- 4.4.2 If this Agreement is terminated under clauses 9.6, 9.7 or 12; or
- 4.4.3 Termination of your status as a GRESB Member.

## 5. GRESB USE OF DATA AND DATA PROTECTION

- 5.1 We will use the Participant Data and any other information provided in connection with a Participant's submission to the Assessment(s) as a basis for compiling and distributing the GRESB Products and Service(s).
- 5.2 For the purposes of clause 5.1 above 'we' includes our parent entity GBCI, any or all of our agents, consultants, contributors, employees, officers or subcontractors.
- 5.3 For the purposes described in clause 5.1 above Data and/or its composing parts will be distributed as follows:
- 5.3.1 A Participant will be permitted to access its own Scorecard free of charge;
- 5.3.2 On payment of a fee determined by GRESB, a Participant will be given access to its own Benchmark Report;
- 5.3.3 Only after consent by a Participant that is not a Listed Real Estate Company, an Investor Member will be permitted to access the Scorecard and Benchmark Report of any funds and/or entities in which that Investor Member invests, provided that an Investor Member will not be permitted to access Scorecards and Benchmark Reports regarding Participants to which the Grace Period applies;
- 5.3.4 Without the consent of a Listed Real Estate Company Participant being required, Investor Members will be permitted to access the Scorecard and Benchmark Report of any Listed Real Estate Company Participant, provided the Investor Member invests in Listed Real Estate Companies.
- 5.3.5 A Property Company and Manager Member will be permitted to access its Scorecard and Benchmark Report, provided that such a Member is also a Participant;
- 5.3.6 In aggregated form we may also use Data for publication to GRESB Members and/or third parties, aggregated information in this context being information that is expressed in scores, and not identifiable to individual Participants.
- 5.3.7 With the Data Access Request Tool (DART) GRESB facilitates a system for Investor Members to request consent from the relevant Participant before giving an Investor Member access to that party's Scorecard and/or Benchmark Report as described in clause 5.3.3 and for a Participant granting access pursuant to clause 5.3.3. This request will be sent by the Investor Member in an online request from the Portal. If GRESB does not receive an answer to such a request within 30 days, consent is deemed to have been given.
- 5.4 Provided that a Participant gives prior notice before submitting Participant Data to GRESB that it wishes to participate in the Grace Period, then during the Grace Period GRESB will not disclose that Participant's Scorecard or Benchmark Report to any other party than the Participant itself.
- 5.5 We and you agree to comply with our respective obligations under all applicable data protection and privacy laws and regulations.
- 5.6 You undertake not to disclose any Participant Data of other Participants and/or Data to a third party other than in accordance with the terms of this Agreement.
- 5.7 You will comply with any guidelines that we provide from time to time in relation to the manner in which we process Participant Data and/or provide the GRESB Products and Service(s).
- 5.8 As a Participant you agree that we may include your name in any lists we may at our own discretion publish for promotional or other purposes from time to time.
- 5.9 On a Participant's request, we will, within a reasonable time, provide Participants with a list of Investor Members granted access to that Participant's Data pursuant to clause 5.3.3 and 5.3.4 above.

## 6. YOUR OBLIGATIONS

- 6.1 You warrant and undertake that:
- 6.1.1 You have full right and authority to enter into this Agreement and to perform your obligations;
  - 6.1.2 As a Participant you have the right to provide the Participant Data that you supply under this Agreement to us and neither it, nor the resulting Data will in any way infringe any rights of any third party;
  - 6.1.3 As a Participant you will use all reasonable endeavors to ensure that the Data that you supply under this Agreement is accurate and complete;
  - 6.1.4 You shall not make any false or misleading statements about any information that you derive from the Data;
  - 6.1.5 You shall not do anything which may damage the reputation of GRESB, the Data or any of the GRESB Products and Services;
  - 6.1.6 You shall not use the Data or any of the GRESB Products and Services for any purpose contrary to any law or regulation or any regulatory code or guidance;
  - 6.1.7 You shall not use the Data or GRESB Products and Services (wholly or in part) in your commercial products or services.
- 6.2 You will take steps to ensure that you, your employees and agents comply with this Agreement and do not:
- 6.2.1 Copy, print out or otherwise reproduce any Data nor any material provided in connection with the GRESB Products and Service(s), except as permitted under this Agreement or authorized by us in writing;
  - 6.2.2 Make any part of the Data available to anyone, except as permitted under this Agreement or authorized by us in writing;
  - 6.2.3 Alter any part of the Data or other information provided in connection with the GRESB Products and Service(s);
  - 6.2.4 Provide us with any confidential information which might breach any legal or professional duty;
  - 6.2.5 Purport to assign or otherwise dispose of your rights under this Agreement.
- 6.3 You will take steps to ensure that nobody other than you can access the Portal using your username and password.
- 6.4 As a Participant you will ensure that any consultants, contributors, employees, officers, subcontractors or other third parties that assist you with the submission of Participant Data to GRESB, separately registers in the Portal using GRESB's Assessment Access Tool.
- 6.5 As a Participant you acknowledge and accept that granting access to your Assessment submission using the Assessment Access Tool and the management of permissions granted for using the Assessment Access Tool is your own responsibility.
- 6.6 Subject to clause 6.7 below, you will defend, indemnify and hold us harmless against any Losses suffered or incurred by us and/or our agents and/or licensors, including legal expenses (reasonably and properly incurred) arising out of or connected with your breach of this Agreement.
- 6.7 In the event of a claim made pursuant to clause 6.6 above:
- 6.7.1 We will give prompt notice of any such claim;
  - 6.7.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
  - 6.7.3 You are given sole authority to defend or settle the claim.

## 7. DATA VALIDATION

- 7.1 As a Participant you agree to actively cooperate with us for the purposes of our data validation process. In particular, provided that we give you reasonable prior notice, you shall make available appropriate employees and facilities to provide us with assistance to complete our data validation process.

## 8. CONFIDENTIALITY

- 8.1 Both parties shall, and shall ensure that their respective agents, consultants, contributors, employees, officers or subcontractors shall, maintain in strict confidence and not divulge or communicate to anyone else any Confidential Information relating to the other party except as permitted by the Agreement.



- 8.2 Both parties will ensure that they restrict disclosure of such Confidential Information to such of their consultants, contributors, employees, officers, agents or subcontractors as need to know it for the purpose of discharging the obligations under this Agreement, and they shall ensure that such consultants, contributors, employees, officers, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the parties to this Agreement.
- 8.3 The obligations of clauses 8.1 and 8.2 above shall not apply to information which:
- 8.3.1 Is already public knowledge, through no act or default of either party;
  - 8.3.2 Either party is required to divulge by a Court, tribunal or governmental authority with competent jurisdiction;
  - 8.3.3 Was known to the recipient before the date of disclosure (as proven by written evidence) without obligations of confidentiality;
  - 8.3.4 Was subsequently obtained by the recipient from someone else without that person breaching any obligations of confidentiality that they have to either you or us.
- 8.4 This clause 8 shall survive termination of the Agreement.

## 9. INTELLECTUAL PROPERTY

- 9.1 As a Participant you shall retain ownership of the IPRs (if any) in Participant Data submitted by you.
- 9.2 Without prejudice to our legal obligations regarding data protection, as a Participant you consent to us both for the term of this Agreement and afterwards:
- 9.2.1 Processing and dealing with Participant Data submitted by you in any way required for us to provide both current and future GRESB Products and Service(s);
  - 9.2.2 Incorporating Participant Data into Data, Databases and/or other GRESB Products and Service(s);
  - 9.2.3 Making Participant Data available as part of any product or GRESB Products and Service(s) of any kind that we may provide from time to time in connection with the Assessment.
- 9.3 Subject to clause 13, we warrant that you will not infringe any third party IPRs by using the Scorecard and Benchmark Report in accordance with the terms of this Agreement and we will indemnify you against any Losses you may validly incur as a result of any claim that the use by you of the Data infringes any third party IPRs, provided you notify us within a reasonable time of any such claim being made.
- 9.4 In the event of a claim made pursuant to clause 9.3 above:
- 9.4.1 You will give prompt notice of any such claim;
  - 9.4.2 You provide reasonable co-operation to us in the defense and settlement of such claim, at your expense; and
  - 9.4.3 We are given sole authority to defend or settle the claim.
- 9.5 Subject to any underlying rights you hold under clause 9.1, you acknowledge that any and all (claims to) current and future IPRs in or related to the Data, the Database, the GRESB Products and Service(s) and/or any other products or service(s) that are created by GRESB using the Data are our property or that of our licensors. For clarity, GRESB's IPRs shall include but not be limited to the content and format of the GRESB Website and any products and service(s) provided to GRESB Members and/or Participants during the course of the Assessment(s)
- 9.6 You acknowledge that, in respect of any third party IPRs licensed by GRESB, your use of any such IPRs is conditional on GRESB obtaining a written license from the relevant licensor ("**Third Party License**") on such terms as will entitle GRESB to license such rights to you. In the event that the Third Party License is terminated, suspended, expires or is otherwise no longer in place for any reason, GRESB may immediately and without any liability to you either (i) terminate or suspend your use of any such third party IPRs, or (ii) terminate this Agreement.
- 9.7 GRESB may terminate this Agreement immediately on notice, if you challenge the validity of any of our rights or those of our licensors set out above.

## 10. SECURITY

- 10.1 You will promptly and at your own expense comply with any security related or other rules and guidelines that we reasonably require from time to time in relation to the manner in which we provide the GRESB Products and Service(s).

## 11. DURATION OF AGREEMENT AND DENIAL OF ACCESS

- 11.1 This Agreement will be deemed to come into force on the Start Date and will continue for an initial period of twelve (12) months. The Agreement shall automatically be renewed for consecutive periods of twelve (12) months unless



either of us gives not less than ninety (90) days written notice of termination to the other expiring on the first or any subsequent anniversary of the Start Date.

- 11.2 Without prejudice to clause 12.2 below, GRESB reserves the right to immediately and without notice suspend access to Data in the event GRESB reasonably suspects a material breach of this Agreement.
- 11.3 In the event of a suspected breach pursuant to clause 11.2 above GRESB will:
  - 11.3.1 Notify you in writing of the breach and of our decision to suspend access to Data; and
  - 11.3.2 Provide details of the alleged breach to allow you to identify, remedy or disprove that breach;
- 11.4 Provided that the suspected breach is remedied within twenty (20) working days of written notice provided pursuant to clause 11.3 above, we will within a reasonable time reinstate access to the Data.
- 11.5 If the breach is not remedied, or not remedied in time, GRESB reserves the right to permanently suspend access to Data. In these circumstances you warrant and agree immediately on our request either to destroy any printed or electronic copies of any Data or to promptly return copies of any Data to us.

## 12. TERMINATION

- 12.1 Either party may terminate this Agreement by giving the other party written notice in accordance with clause 11.
- 12.2 This Agreement will terminate immediately if either party is in material breach of any of its terms and if such a breach is not remedied within a period of twenty (20) working days after written notice of it has been given to the party in breach.
- 12.3 We may terminate this Agreement immediately on written notice if we cease undertaking the Assessment(s) and/or if we cease to provide the GRESB Products and Service(s) due to circumstances beyond our reasonable control.
- 12.4 Upon termination of this Agreement (for whatever cause), your rights to use the Scorecard and/or Benchmark Report and/or any other Data to which you are entitled will immediately cease.
- 12.5 As a Member you confirm and agree that all termination rights contained in GRESB's Membership Agreement or terms of membership apply to this Agreement.
- 12.6 Termination will not affect:
  - 12.6.1 The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination, except for the right granted to you in clause 3.2; and
  - 12.6.2 Any part of this Agreement which expressly or by implication is intended to survive termination (including without limitation clauses 6.1, 6.6, 7, 8, 9, 12, 13, 14 and 15).
- 12.7 For the avoidance of doubt, if this Agreement is terminated in accordance with this clause 12, as a Participant you may request in writing that any Participant Data provided by you is removed from GRESB's electronic and written records and, provided that such a request is reasonable, and provided that the Data has not already been processed by us, we will return the data to you within 14 days of receipt of such a written request.

## 13. DISCLAIMER AND LIABILITY

- 13.1 You shall indemnify us and hold us and our licensors harmless against all and any Losses suffered or incurred by us and/or our licensors, including legal expenses (reasonably and properly incurred) arising out of or in connection with any breach of clauses 2.5, 3.3, 3.4, 4.3, 5.6, 6, 8 and 9.5.
- 13.2 In the event of a claim made pursuant to clause 13.1 above:
  - 13.2.1 We will give prompt notice of any such claim;
  - 13.2.2 We provide reasonable co-operation to you in the defense and settlement of such claim, at your expense; and
  - 13.2.3 You are given sole authority to defend or settle the claim.
- 13.3 We offer you no warranty or assurance in respect of the Data and the GRESB Products and Service(s), except as set out in clause 9.3 above. **WITHOUT LIMITATION OF THE FOREGOING SENTENCE, GRESB DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.** We declare and you acknowledge and agree that all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or law are excluded to the maximum extent permitted by law.
- 13.4 This clause 13 sets out our entire financial liability (including any liability for the acts or omissions of our employees, agents, contributors, consultants and sub-contractors) to you in respect of:
  - 13.4.1 Any breach of this Agreement;
  - 13.4.2 Any use made by you of the GRESB Products and Service(s) or any part of them; and

- 13.4.3 Any representation, statement or tortious act or omission (whether negligent or otherwise) arising under or in connection with this Agreement and/or use made by you of the GRESB Products and Service(s).
- 13.5 We provide the Data to which you are entitled pursuant to clause 5.3 to you in good faith, but you acknowledge that as the Data may include or refer to data that is provided by third parties or is otherwise publically available, we are not able to control or verify the accuracy or completeness of such data. Accordingly, whilst we agree to use reasonable skill and care in the collation of and dealing with the Data:
- 13.5.1 We offer no warranty or representation (whether express or implied) about the accuracy or fitness for any particular purpose of the Data or the Assessment(s) or that the provision of the GRESB Products and Service(s) will be uninterrupted, timely or secure; and
- 13.5.2 We accept no liability for any inaccuracy, incompleteness or other error in the Data or the Assessment(s) which arises as a result of data input provided by you or any third party appointed by you to provide Participant Data on your behalf;
- 13.5.3 You acknowledge that systems that use empirical data and/or statistical data and/or data modelling techniques to provide indicative and/or predictable data, cannot be taken as a guarantee of any particular outcome.
- 13.6 Except as expressly and specifically provided in this Agreement you assume sole responsibility for your use of any Data and/or the GRESB Products and Service(s) and for conclusions drawn from such use. We shall have no liability for any Losses caused by errors or omissions in any information, instructions or scripts provided by you in connection with the Data and/or GRESB Products and Service(s), or any actions taken by us at your direction.
- 13.7 While every care has been taken in the development of the Website and the Portal, we cannot be held liable for the consequences of actions taken on the basis of information obtained on the Website or the Portal. We do not offer any warranty or representation that the use by you of the GRESB Products and Service(s) will achieve any particular result for you. You agree and acknowledge that the GRESB Products and Service(s) are not intended to be used as the sole basis for any business decision, that you use the Data at your own risk and on an "as is" basis and that you will not use the Data as the sole basis for any business decision.
- 13.8 Nothing in this Agreement excludes our liability:
- 13.8.1 For death or personal injury caused by our negligence;
- 13.8.2 For fraud or fraudulent misrepresentation;
- 13.8.3 For gross negligence;
- 13.8.4 For any other liability which cannot be excluded by applicable law.
- 13.9 Subject to clause 9.3 and 13.8 above:
- 13.9.1 We shall not be liable, whether in contract, tort (including negligence or breach of statutory duty) misrepresentation, restitution or otherwise, and whether arising out of or in connection with this Agreement or any other agreement, for any loss of profits, loss of business, depletion of goodwill or similar losses or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising; and
- 13.9.2 Our total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising out of or in connection with the performance or contemplated performance of this Agreement shall:
- 13.9.2.1 in the case of Members, be limited to the membership fee paid by you in the Assessment Year in which GRESB was notified in writing of the potential claim; and
- 13.9.2.2 in all other cases, be limited to the Benchmark Report fee for a single entity's Benchmark Report in the Assessment Year in which GRESB was notified in writing of the potential claim,
- and you acknowledge that the limitations in this clause 13.9.2 are reasonable.
- 13.10 Under this clause:
- 13.10.1 "Our liability" includes that of any GRESB parent company and/or subsidiary and our and their respective agents, consultants, contributors, employees or officers; and
- 13.10.2 "Your liability" includes any other party claiming through you.
- 13.11 Neither party shall have any liability under this Agreement if we or you are prevented from or delayed in performing our obligations under the Agreement or from carrying on business by acts, events, omissions or accidents beyond

our reasonable control, including without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or communications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood or storm.

13.12 If any claims are made, or in our reasonable opinion are likely to be made, by any third party alleging that its rights are infringed by your use of the Data as permitted by this Agreement, we may at our sole option and expense:

13.12.1 Procure for you the right to continue using the relevant Data (or any part of it) in accordance with the terms of this Agreement;

13.12.2 Modify the relevant Data to avoid infringement or replace the relevant Data with non-infringing materials, whilst still providing the same, or substantially similar, functionality to the infringing materials.

13.13 If we exercise one of the options set out in clause 13.12, we shall have no further liability to you in respect of a claim relating to the subject matter of clause 9.3 from the date we complete such option.

13.14 We will not be liable to you in the event that our performance of any of our obligations under this Agreement is prevented or delayed by any act or omission by you or failure by you to perform any obligation contained in this Agreement.

13.15 This clause 13 shall survive termination of this Agreement.

## 14. NOTICES

14.1 Any notice or other communication required to be given to a party under or in connection with this Agreement shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post or international post or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.

14.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post, international post or recorded delivery, at 9.00 am on the fifth business day (being a day (other than a Saturday, Sunday or public holiday) when banks in the Netherlands are open for business) after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax when transmitted or, if outside normal business hours, at 9am Central European Time (CET) on the next following business day.

14.3 This clause 14 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Agreement shall not be validly served if sent by e-mail.

14.4 Subject to clauses 14.1, 14.2 and 14.3, any notice provisions in a Member's Membership Agreement or terms of membership shall apply to this Agreement.

## 15. GENERAL

15.1 GRESB Products and Service(s) continue to evolve in the light of business, market and technical developments. Accordingly, we reserve the right to make improvements, substitutions, modifications, and to add or remove some elements of the GRESB Products and Service(s). You acknowledge that GRESB shall not be liable to you or to any third party for any modification, discontinuance or suspension of the GRESB Products and Service(s). Additionally, GRESB reserves the right, in its own and absolute discretion, to change this Agreement, and with them the content of this Agreement, by posting a revised Agreement on the Website and/or Portal or by notifying you by post. Amendments will be applicable from your first login to the Portal following publication. GRESB will endeavor to notify you of any important changes but it is your responsibility to check periodically on our Website for any changes we make to this Agreement. Your continued use of the GRESB Products and Service(s) after the posting of the changes to this Agreement means that you accept these changes.

15.2 Assignment: We may at any time on notice to you assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under this Agreement and may subcontract or delegate in any manner any or all of our obligations under this Agreement to any third party or agent. You may not assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights under this Agreement.

15.3 Third Parties: A person who is not a party to this Agreement shall not have any rights under or in connection with this Agreement.

15.4 Governing law and jurisdiction: This Agreement, and any dispute or claim arising out of or in connection with it are governed by the laws of the Netherlands. The competent court in Amsterdam, the Netherlands, shall have jurisdiction to settle any dispute in connection with this Agreement without prejudice to the right of appeal to the Supreme Court.

15.5 Entire Agreement: This Agreement constitutes the entire agreement between us and you and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings

between us and you, whether written or oral, relating to its subject matter, and without prejudice to the generality of the foregoing:

- 15.5.1 Any samples, drawings, descriptive matter or advertising issued by GRESB, and any descriptions or illustrations contained in our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the GRESB Products and Service(s) described in them. They shall not form part of this Agreement or have any contractual force;
- 15.5.2 This Agreement applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 15.6 As a Member, unless stated to the contrary, in the event of any conflict or inconsistency between any provisions of this Agreement and the Membership Agreement, first this Agreement and then the Membership Agreement shall prevail.
- 15.7 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 15.8 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 15.9 If either party fails to or delays in exercising any right or remedy available under this Agreement or law then that failure or delay does not constitute a waiver or bar to the exercise of that right or remedy or any other right or remedy nor does it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy. A waiver of any right under this Agreement is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default.
- 15.10 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 15.11 Each party shall, and shall use all reasonable endeavours to procure that any necessary third party shall, execute and deliver such documents and perform such acts as may reasonably be required for the purpose of giving full effect to this Agreement.
- 15.12 By entering into this Agreement you confirm that you are doing so in the course of your business and not as a consumer.