

# Material Exchange Directory Program Terms and Conditions

The City of Toronto's Material Exchange Directory Program (the "Program") is established to support eligible organizations operating material exchange initiatives within the City of Toronto. Through the Program, participating organizations may have their material exchange services listed in the City's official Material Exchange Directory. The purpose of the Program is to enhance public awareness of available material exchange opportunities, thereby facilitating the sale, purchase, donation, and sharing of used or surplus goods and/or materials. This initiative aligns with the City's strategic objectives to advance zero waste practices and promote a circular economy by diverting materials from landfill and maintaining resource circulation within the local economy. The Program is administered by the City of Toronto (the 'City') through its Environment, Climate and Forestry Division.

## Definitions

1. The following definitions apply to this Material Exchange Directory Program Terms and Conditions:

"Circular Economy Goals" means the City of Toronto's goals to create a circular economy within Toronto, and include:

- Cycling materials within the local economy to prevent waste from entering landfills;
- Providing services to businesses that are trying to reduce waste, reuse materials, or maximize resource value;
- Providing services to individuals that are trying to reduce waste, reuse materials, or maximize resource value;
- Creating economic opportunities for businesses or individuals by enabling them to re-sell their goods and/or materials;
- Promoting material recovery in construction and demolition activities;
- Reducing or minimizing food waste through efforts including but not limited to food redistribution; and
- Creating connections between neighbours and communities.

"Directory Participant" means an Organization that has successfully submitted a Material Exchange Directory Application which has been accepted by the City.

"Directory Participant Information" means any information provided by the Organization to the City in its Material Exchange Directory Application and as a part of their participation as a Directory Participant in the Material Exchange Directory Program.

"In-Person Swap Event" means a public gathering that allows participants to sell, buy, donate, share or otherwise exchange used or excess goods and/or materials without a third-party taking ownership or possession of what is being exchanged, except in the situation where a non-profit Organization takes temporary possession of items for up to one week to facilitate redistribution.

“Material Exchange” means an in-person or online program that allows users to exchange goods and/or materials between each other without a third-party broker taking ownership or possession of the goods and/or materials that is being exchanged, except in the situation of an In-Person Swap Event where a non-profit Organization could take possession of the goods and/or materials to be exchanged for a period of no more than one week.

“Material Exchange Directory” means the City of Toronto’s directory which allows users to search for opportunities to sell, buy, donate, share or otherwise exchange used or excess goods and/or materials directly between users.

“Material Exchange Directory Application” means the application that an Organization needs to submit to the City in order to participate in the Program.

“Material Exchange Directory Program” or “Program” means the City of Toronto’s updated online directory which allows users to search for opportunities to sell, buy, donate, share or otherwise exchange used or excess goods and/or materials directly between users.

“Material Exchange Type” refers to whether the Material Exchange take place online or in-person.

“Online Material Exchange Program” means an online platform that allows users to exchange goods and/or materials without a third-party taking ownership or possession of the goods and/or materials that is being exchanged.

“Organization” means a non-for-profit or a for-profit organization that manages a Material Exchange and has expressed their interest in participating in the Program by submitting a Material Exchange Directory Application to the City. If the Organization’s Material Exchange Directory Application is accepted by the City the Organization becomes a Directory Participant.

“Third-party” means any organization or intermediary that owns, stores, controls, or takes ownership or possession of goods and/or materials such that the exchange of the goods and/or materials occurs through the organization rather than directly between users.

## **Eligible Organizations**

2. To be eligible to become a Directory Participant, an Organization must:
  - a) manage either an In-Person Swap Event and/or an Online Material Exchange Program as defined under the **Definitions** section; which
  - b) is available for users within Toronto:
    - (i) In-Person Swap Event that is located in Toronto, and/or
    - (ii) Online Material Exchange Program that is made available to people living in Toronto (facilitates the exchange of materials by Toronto residents and businesses), and
  - c) if it is an In-Person Swap Event, must be a recurring event that occurs at least two-times per year; and
  - d) help achieve at least one of the City’s Circular Economy Goals.

## **Directory Participant Approval Process**

3. To be considered by the City as a Directory Participant, the Organization is required to complete and submit a Material Exchange Directory Application to the satisfaction of the City.
4. The Organization is not deemed a Directory Participant until:
  - i. the City deems that the Organization meets the eligibility criteria as listed under section 2 (Eligible Organizations) above;
  - ii. the City notifies the Organization in writing that their Material Exchange Directory Application has been accepted and they have been approved as a Directory Participant;
  - iii. the Organization has accepted the terms and conditions contained in this agreement by acknowledging acceptance of this Material Exchange Directory Program Terms & Conditions by clicking on the "I accept" button when submitting the Material Exchange Directory Application online; and
  - iv. the Organization has acknowledged that they have read the City of Toronto's Human Rights and Anti-Harassment/Discrimination (HRAP) Policy and that it applies to them and their Material Exchange and their participation in the Material Exchange Directory Program, by clicking on the "I accept" button when submitting the Material Exchange Directory Application online.
5. There is no guarantee that an Organization who has submitted a completed Material Exchange Directory Application will be approved as a Directory Participant. The City reserves the right to refuse any Organization that has submitted a Material Exchange Directory Application and does not meet the requirements of the Material Exchange Directory Program, at the sole discretion of the City.

## **Responsibilities of Directory Participants**

6. The Directory Participant agrees and acknowledges to participate in the Material Exchange Directory Program it must assume all financial and other responsibility to:
  - i. As requested by the City, provide the City with copies of and a License to, as set out under section 21, their Intellectual Property, including but not limited to the Directory Participant's artwork, logos, images and written information, to be included in the Material Exchange Directory, other Material Exchange Directory Program communication and promotion material(s) as applicable;
  - ii. Notify the City, by email to [circulareconomy@toronto.ca](mailto:circulareconomy@toronto.ca) within less than thirty (30) calendar days, of any mistakes with or changes to the information provided to the City in the Material Exchange Directory Application or any other information provided to the City as a Directory Participant in the Material Exchange Directory, including but not limited to, the name of the organization, address, phone number, web address, location, changes to their Material Exchange, their Material Exchange Type, users served by their Material Exchange, and/or any other changes to the Directory Participant's Material Exchange.

## **Responsibilities of the City**

7. The City will:
  - i. Manage and administer the Material Exchange Directory; and
  - ii. Develop and deliver City's media release(s), advertisements, public engagements, and any other communications material(s) pertaining to the Material Exchange Directory Program.

## **Directory Participant – Promotion of Participation in Material Exchange Directory**

8. The Directory Participant shall not use the City's logo in any of their publicly releases, interviews, promotional or marketing materials, public announcements, testimonials, advertising, or other materials in relations to their Material Exchange.
9. The Directory Participant acknowledges and agrees and shall not indicate in any manner whether expressed or implied, that by participating in the Material Exchange Directory Program the City approves, recommends, or endorses the Directory Participant, their Material Exchange, any other programs, products, or services they offer, or the views expressed by the Directory Participant.
10. Notwithstanding sections 8 and 9, the Directory Participant may publicly acknowledge their participation in the Material Exchange Directory Program and place:
  - i. links to the City's Material Exchange Directory Program promotional materials on their Online Material Exchange Program, including their social media platforms; and
  - ii. hardcopies of the City's Material Exchange Directory Program promotional materials at their In-Person Swap Event.

## **Directory Participant – Length of Term**

11. The Directory Participant's participation in the Material Exchange Directory Program will be for a one-year period starting on the approval date specified by the City in its notification to the Organization in writing of their successful entry into the Material Exchange Directory Program.
12. Renewal of this agreement and the Directory Participant's participation in the Material Exchange Directory Program will be automatic, on an annual basis, unless either party notifies the other in writing that the Directory Participant's participation in the Material Exchange Directory Program will end on a specific date.

## **Termination, Suspension and Changes**

13. The City may terminate or temporarily suspend the Directory Participant's participation in the Material Exchange Directory Program, the Material Exchange Directory, and this agreement without notice and effective immediately.
14. The Directory Participant may terminate the agreement by notifying the City in writing that they wish to terminate the agreement and their participation in the Material Exchange Directory Program on a specified date.

15. In the event the agreement is terminated or suspended, any rights granted to the Directory Participant under this agreement will terminate as of the date of the termination or suspension.
16. Upon termination or suspension of the Directory Participant's participation in the Material Exchange Directory Program for any reason:
  - i. the Directory Participant shall remove all Material Exchange Directory promotional material from their Online Material Exchange Program and/or In-Person Swap Event location and to end any public acknowledgement of their involvement in the Material Exchange Directory Program in any form; and
  - ii. the City will remove reference to the Directory Participant from the Material Exchange Directory and any other City websites, social media, or materials as soon as possible during their next scheduled update and will not include the Directory Participant in any future communication items in relation to the Material Exchange Directory Program.
17. The Directory Participant acknowledges and agrees to the following:
  - i. The Material Exchange Directory Program is subject to change by the City without notice, including, without limitation, the addition or deletion of any of the organizations from the Material Exchange Directory;
  - ii. The City may at its discretion suspend or terminate at any time the Material Exchange Directory Program if the Material Exchange Directory Program is materially affected by local conditions or government action, unavailability of promised funds, City Council decision, or for any other cause. The City will advise the Directory Participant of this decision as soon as reasonably possible;
  - iii. The City may amend the Material Exchange Directory Program Terms and Conditions unilaterally at its sole discretion acting reasonable by notifying the Directory Participant in writing; and
  - iv. The City will not be liable for any loss, costs, or damages suffered or incurred by the Directory Participant or any other party by reason of any change to the terms and conditions contained in this agreement.

## **Privacy Law**

18. The Organization acknowledges the Material Exchange Directory Application, the Material Exchange Directory Program Terms and Conditions, and all the Directory Participant Information in the possession or control of the City are subject to applicable laws that include the collection, use, and access provisions under *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA").

## **Collection and Use of Directory Participant Information**

19. The Organization hereby consents to the collection, use, and disclosure and other handling of any Directory Participant Information it provides to the City by the City for the purpose of:

- i. Evaluating the Material Exchange Directory Application and the Organizations participation in the Material Exchange Directory Program as a Directory Participant;
  - ii. Populating the Material Exchange Directory;
  - iii. Promoting the Material Exchange Directory Program and, if applicable, the Directory Participant's participation in the Material Exchange Directory;
  - iv. Operation, administration and assessment, and reporting requirements related to the Material Exchange Directory Program; and
  - v. Contacting the Directory Participant about the Material Exchange Directory Program and the City's other circular economy program opportunities at the City.
20. The Directory Participant acknowledges and agrees in order to participate in the Material Exchange Directory Program their Directory Participant Information may be made publicly available, in accordance with the City's obligations under MFIPPA, unless the information is otherwise exempted from disclosure under MFIPPA, on and in the City's:
- i. websites, including the Material Exchange Directory;
  - ii. Circular Economy newsletter,
  - iii. conference presentations pertaining to the City's circular economy initiatives; and
  - iv. publications, promotions, and social media pertaining to the Material Exchange Directory Program and the City's circular economy initiatives.

The Organization acknowledges that it shall clearly mark any Directory Participant Information to remain confidential or otherwise submit a written request to the City identifying Directory Participant Information that is to remain confidential. Directory Participant Information that has not been identified as confidential will be presumed by the City as available to be made public.

### **License to City to use Organization Intellectual Property**

21. The Directory Participant hereby grants in perpetuity to the City a non-exclusive irrevocable and royalty free license to use, modify, translate, adapt, record by any means or reproduce any such intellectual property provided by the Organization to the City as a part of their participation in the Material Exchange Directory Program, including the intellectual property included in their submitted Material Exchange Directory Application (the "License").
22. The Directory Participant warrants in respect to the License granted under section 21 that the intellectual property is original to the Organization and/or the Organization is the exclusive owner of the intellectual property rights to the intellectual property granted to the City.
23. The Organization acknowledges that the City may use their intellectual property, in respect to the License granted under section 21, in the following but not limited ways related to the Material Exchange Directory Program, including on the Material Exchange Directory, and in any reports, presentations, and promotional materials produced by the City in relations to

the Material Exchange Directory Program.

24. The Organization agrees to execute any acknowledgements, agreements, assurances, or other documents deemed reasonably necessary by the City to establish or confirm the License granted by the Organization under section 21 if requested.

### **Indemnification**

25. The Directory Participant will at all times indemnify and save harmless the City of Toronto, and any and all of its employees, officers, contractors and/or agents from and against any and all manner of claims, demands, losses, costs, charges, actions and other proceedings whatsoever, (including those in relation to copyrights and trademarks) made or brought against, suffered by or imposed on any of them in relation to or arising in any way from any loss, damage, or injury (including fatal injury) to any person or property directly or indirectly arising out of or sustained as a result of, or incidental to, the Directory Participant's participation in the Material Exchange Directory Program.

### **Compliance with Laws**

26. The Directory Participant, including its employees and agents, shall comply with all applicable laws, bylaws, regulations, orders, directives, requirements and policies of the federal, provincial, and municipal governments, including the City, and all applicable court orders, judgements and declarations of a court or tribunal of competent jurisdiction, including, without limitation, those laws and regulations applying to building methods and health and safety (collectively referred to as "Laws"). Failure to comply with Laws may result in termination by the City of the Directory Participant's participation in the Material Exchange Directory Program.

### **Other Terms**

27. This Material Exchange Directory Program Terms and Conditions is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada.
28. The Directory Participant acknowledges and agrees that the Material Exchange Directory Application they submitted to the City will form part of this Material Exchange Directory Program Terms and Conditions even if it is not physically attached.
29. The Directory Participant acknowledges and agrees that it is an independent organization and that nothing in this agreement shall be deemed to constitute the Directory Participant to be an agent, partner, or joint adventurer with the City, or to give the Directory Participant the authority to bind the City or otherwise make the City liable to any third-party.
30. The Directory Participant acknowledges and agrees that its acceptance by the City to be a participant in the Material Exchange Directory Program shall in no way be considered an endorsement, representation or warranty, express or implied, by the City relating to the competence, quality, or suitability of the Directory Participant or the product or service offered by the Directory Participant as part of the Material Exchange Directory.
31. The Directory Participant agrees to act diligently, co-operatively, ethically, honestly, and in good faith in undertaking, performing, fulfilling, and discharging its responsibilities as an

organization participating in the Material Exchange Directory Program and in all its dealings with the public and the City in respect of the Material Exchange Directory Program.

32. These terms and conditions supersede all prior agreements and undertakings, whether oral or written, relative to the subject matter hereof.
33. When communications are required to be in writing, email correspondence is acceptable.
34. If any of these terms and conditions are held to be invalid or unenforceable, the remaining provisions are not affected and are valid and enforceable.
35. The termination of this Material Exchange Directory Program Terms and Conditions shall not affect the survival and enforceability of any term or condition which is expressly or implicitly intended to remain in full force and effect indefinitely or to the extent necessary to give effect to the provision.

### **Acceptance of Material Exchange Directory Program Terms and Conditions**

The Organization hereby acknowledges by participating in the Material Exchange Directory Program it has accepted and will abide by the Material Exchange Directory Program Terms and Conditions described above. The Organization acknowledges that its failure to comply with these terms and conditions may result in termination of its participation in the Material Exchange Directory Program as a Directory Participant.