

LRS Participation Agreement (“Agreement”)

THIS LRS PARTICIPATION AGREEMENT (“Agreement”) dated this ____ day of _____, 20__ (“Effective Date”)

BETWEEN:

[Name of Licenced Retail Supplier],

(hereinafter referred to as the “Licenced Retail Supplier” or “LRS”)

-and-

Nova Scotia Power Incorporated, a body corporate organized under the laws of the Province of Nova Scotia.

(hereinafter referred to as “NS Power”)

(individually a “Party”, together the “Parties”)

RECITALS:

- A. The LRS has been issued a valid Retail Supplier Licence by the Board under the *Electricity Act* (Nova Scotia) dated **[insert date]** and bearing licence number **[insert licence number]**; and
- B. The LRS wishes to sell renewable low-impact electricity, generated within the Province, to RtR Customers in accordance with the Act and the regulations made thereunder; and
- C. The LRS Terms and Conditions approved by the Board are to have the effect of a contract between LRS and NS Power by virtue of the execution of an LRS Participation Agreement of which the LRS Terms and Conditions are deemed to form a part;
- D. The LRS and NS Power wish to enter into this LRS Participation Agreement to satisfy the condition contained in the LRS Terms and Conditions that an LRS Participation Agreement be executed in order for the LRS to be eligible for LRS Tariffed Services from NS Power.

NOW THEREFORE, in consideration of the mutual covenants in this Agreement and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

EFFECTIVE: JUNE 10, 2016

ARTICLE 1

LRS PARTICIPATION TERMS AND CONDITIONS

- 1.1 **Paramountcy:** In the event of any inconsistency between the terms of this Agreement and the LRS Terms and Conditions, the LRS Terms and Conditions shall prevail to the extent of the inconsistency. The LRS Terms and Conditions are published on NS Power's website at: <http://xxxx.xx>.**[NTD Insert when address is known]**
- 1.2 **Definitions:** All capitalized terms utilized in this Agreement shall, unless otherwise defined herein, have the meanings ascribed thereto in the LRS Terms and Conditions.
- 1.3 **Recitals:** The recitals shall form an integral part of this Agreement.
- 1.4 **Headings:** The division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the interpretation of this Agreement, nor shall they be construed as indicating that all of the provisions of this Agreement relating to any particular topic are to be found in any particular article, section, subsection, clause or provision.

ARTICLE 2

COMPLIANCE WITH LRS TERMS AND CONDITIONS

- 2.1 This Agreement is subject to the Board approved LRS Terms and Conditions, as amended from time to time. The LRS Terms and Conditions are deemed to form a part of this Agreement and is hereby incorporated into this Agreement. For certainty, any reference to "Agreement" includes the LRS Terms and Conditions.
- 2.2 Each Party acknowledges that it has received a copy of the LRS Terms and Conditions, has reviewed and understands the LRS Terms and Conditions and agrees to be bound by the LRS Terms and Conditions and any amendments thereto. Each Party agrees to comply with the LRS Terms and Conditions.

ARTICLE 3

QUALIFICATION FOR LRS TARIFFED SERVICES

- 3.1 The LRS warrants and agrees that all conditions and prerequisites for the LRS to be eligible for LRS Tariffed Services as set out in the Act and the LRS Terms and Conditions have been met as of the date of this Agreement and will continue to be met at all times during the term of this Agreement.

- 3.2 The LRS acknowledges and agrees that subscription by LRS to each of the Energy Balancing Service Tariff, Standby Service Tariff, Renewable to Retail Market Transition Tariff and the Open Access Transmission Tariff by the LRS is compulsory. For certainty, the LRS shall not be entitled to receive one or more of the individual LRS Tariffed Services without agreeing to accept and receive all of the LRS Tariffed Services.

ARTICLE 4

CREDIT ASSURANCE REQUIREMENTS

- 4.1 The LRS shall provide NS Power with, and shall maintain Credit Assurance for the performance of its obligations in accordance with Article 18 of the LRS Terms and Conditions.

ARTICLE 5

DEFAULTS AND REMEDIES

- 5.1 The LRS acknowledges the rights and obligations of NS Power and the LRS should either party default in the performance of its obligations under this Agreement, as set out in the LRS Terms and Conditions.

ARTICLE 6

REPRESENTATIONS AND WARRANTIES

- 6.1 **Representations and Warranties of LRS:** The LRS hereby represents and warrants as follows to NS Power and acknowledges and confirms that NS Power is relying on such representations and warranties without independent inquiry:
- (a) it is a [form of business organization] duly [incorporated/formed/registered] and existing under the laws of [location];
 - (b) it has all the necessary corporate power to enter into and perform its obligations under this Agreement;
 - (c) the execution, delivery and performance of this Agreement by it has been

duly authorized by all necessary corporate action;

- (d) the individual(s) executing this Agreement, and any document in connection herewith, on behalf of the LRS have been duly authorized to execute this Agreement and have the full power and authority to bind the LRS;
- (e) this Agreement constitutes a legal and binding obligation on the LRS, enforceable against the LRS in accordance with its terms; and
- (f) it holds all permits, licences and other authorizations that may be necessary to enable it to carry on the business and perform the functions and obligations of an LRS as described in the Act and in this Agreement.

6.2 **Representations and Warranties of NS Power:** NS Power hereby represents and warrants as follows to the LRS and acknowledges and confirms that the LRS is relying on such representations and warranties without independent inquiry:

- (a) it is a body corporate duly organized and existing under the laws of the Province of Nova Scotia;
- (b) it has all the necessary corporate power to enter into and perform its obligations under this Agreement;
- (c) the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate action;
- (d) the individual(s) executing this Agreement, and any document in connection herewith, on behalf of NS Power have been duly authorized to execute this Agreement and have the full power and authority to bind NS Power; and
- (e) this Agreement constitutes a legal and binding obligation on NS Power, enforceable against NS Power in accordance with its terms.

6.3 **Notification:** Each Party shall promptly notify the other Party of any circumstance that does or may result in any of the representations and warranties of such party as set forth in this Agreement or the LRS Terms and Conditions becoming untrue or inaccurate during the term of this Agreement. The LRS shall also promptly notify NS Power of any events, circumstances or conditions that has, had or could have the effect of resulting in the LRS no longer being qualified as an LRS.

ARTICLE 7

MISCELLANEOUS

- 7.1 **Amendment:** No amendment of this Agreement shall be effective unless made in writing and signed by the Parties.
- 7.2 **Assignment:** The LRS may not assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights or obligations under this Agreement without the prior written consent of NS Power. For certainty, NS Power shall not consent to an assignment of this Agreement by the LRS where the Board has not permitted the transfer or assignment of the LRS's Retailer Supplier Licence to the assignee or the assignee does not otherwise holds a valid Retail Supplier Licence issued by the Board.
- 7.3 **Successors and Assigns:** This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective heirs, administrators, executors, successors and permitted assigns.
- 7.4 **Further Assurances:** Each Party shall promptly execute and deliver or cause to be executed and delivered all further documents in connection with this Agreement that the other Party may reasonably require for the purposes of giving effect to this Agreement.
- 7.5 **Confidentiality Obligations:** Notwithstanding any term or condition of this Agreement, if the Agreement is terminated, the LRS shall remain subject to any confidentiality obligations with respect to all Confidential Information obtained by or provided to the LRS while the LRS was a Party to the Agreement.
- 7.6 **Ongoing Obligations:** If the Agreement is terminated, the LRS shall remain subject to and liable for all of its obligations and liabilities under this Agreement that were incurred or arose prior to the date of termination, regardless of the date on which any claim relating thereto may be made.
- 7.7 **Waiver:** A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver will be inferred or implied by any failure to act or by the delay in acting by a Party in respect of any default, breach or non-observance or by anything done or omitted to be done by the other Party. The waiver by a Party of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non-observance (whether of the same or any other nature).
- 7.8 **Severability:** Any provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that invalidity or unenforceability and shall be deemed severed from the remainder of this Agreement, all without affecting the validity or enforceability of the remaining

provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

7.9 **Notices:** Any notice, demand, consent, request or other communication required or permitted to be given or made under this Agreement shall be given in writing and must be given by personal delivery, registered mail or facsimile transmittal as follows:

To NS Power: Nova Scotia Power Inc.
 Attention: Corporate Secretary
 Address: 1223 Lower Water Street
 Halifax, NS B3J 3S8
 Facsimile: (902) 428-6171

To LRS: LRS:
 Address
 Attention:
 Facsimile:

or to such address, facsimile number, or individual as may be agreed between the Parties in writing.

7.10 **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the Province of Nova Scotia and the federal laws of Canada applicable therein.

7.11 **Survival:** Notwithstanding any provision to the contrary and for greater certainty, Article 7 of this Agreement and Articles 3.2, 8, 9, 10.2, 10.3 14.5, 18 and 19.2 of the LRS Terms and Conditions shall survive any termination of this Agreement without limit as to time.

7.13 **Counterparts:** This Agreement may be executed by the Parties hereto in counterparts, each of which when so executed and delivered shall be deemed to be an original and when taken together shall be deemed to be one and the same instrument. The electronic delivery, including, without limitation, by email or facsimile transmission, of any signed original of this Agreement shall be the same as the delivery of an original.

IN WITNESS WHEREOF the Parties have, by their duly appointed and authorized representatives, executed this Agreement effective as of the Effective Date.

**[INSERT NAME OF LICENCED
RETAIL SUPPLIER]**

**NOVA SCOTIA POWER
INCORPORATED**

Date: _____

Date: _____

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Signature: _____

Name: _____

Title: _____