

NOVA SCOTIA UTILITY AND REVIEW BOARD**IN THE MATTER OF THE PUBLIC UTILITIES ACT**

- and -

IN THE MATTER OF AN APPLICATION by **EFFICIENCYONE** for Approval of a Supply Agreement for Electricity Efficiency and Conservation Activities between EfficiencyOne and Nova Scotia Power Inc. and the establishment of a final agreement between the Parties, including approval of EfficiencyOne's 2019 Demand Side Management Resource Plan

BEFORE:



Peter W. Gurnham, Q.C., Chair
Roberta J. Clarke, Q.C., Member
Steven M. Murphy, MBA, P. Eng., Member

WHEREAS by Application dated April 6, 2018, EfficiencyOne (E1) applied to the Board for Approval of a Supply Agreement for Electricity Efficiency and Conservation Activities between E1 and Nova Scotia Power Inc. (NSPI) and the establishment of a final agreement between the Parties, including approval of E1's 2019 Demand Side Management (DSM) Resource Plan;

AND WHEREAS the Board determined this matter was to be considered in a paper hearing process, as set out in its Hearing Order dated April 10, 2018, which was sent to parties and posted on the Board's website;

AND WHEREAS Intervenor status was granted to the Consumer Advocate (CA), the Small Business Advocate (SBA), the Affordable Energy Coalition (AEC), Ecology Action Centre (EAC), Industrial Group, and Nova Scotia Department of Energy;

AND WHEREAS on May 2, 2018, the Board's DSM Verification Consultant, H. Gil Peach & Associates LLC, filed its Verification Review of Program Year 2017 Evaluation Results;

AND WHEREAS E1 and NSPI responded to Information Requests on May 30, 2018;

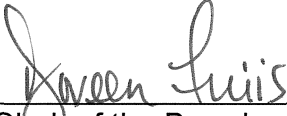
AND WHEREAS participants filed submissions and evidence on June 13, 2018 and Reply Submissions were filed by E1 and NSPI on June 30, 2018;

IT IS HEREBY ORDERED that:

1. The Board approves a DSM Plan for 2019 in the amount of \$34,050,000 with performance targets of 127.2 GWh in incremental annual net energy savings and 20.2 MW in incremental net annual peak demand savings.
2. The Board approves the executed Supply Agreement for electricity efficiency and conservation activities between E1 and NSPI made as of the 6th day of April, 2018 and effective as of the 1st day of January 2019, attached as Schedule "A".
3. If at any time during this 2019 period E1 determines that it cannot achieve the target energy or demand savings, then an application to adjust those targets must be filed with the Board.
4. The Board accepts E1's 2017 DSM Annual Progress Report dated March 29, 2018, which includes updates on the implementation status of the 2013-2015 and the 2016 evaluation and verification recommendations.
5. NSPI is directed to update avoided costs as required by E1 for use in preparation of the 2020-2022 DSM Resource Plan.
6. NSPI is also directed to provide E1, and the DSM Advisory Group, its suggested revisions to the rate and bill impact analysis (RBIA) by September 30, 2018.
7. E1 is directed to initiate a new DSM Potential Study for completion no later than July 31, 2019, to assess the availability of cost-effective DSM measures.
8. E1 is directed to keep the Board apprised of the status of its appeal to the Tax Court of Canada to overturn the CRA Appeals Division decision on the HST issue.
9. In advance of its 2020-2022 DSM Resource Plan application, E1 is also directed to proceed with the following items that were identified by participants and agreed upon by E1:
 - Improve the accuracy of the avoided GHG estimates by better accounting for the timing of DSM savings;
 - Incorporate the value of avoiding CO₂e emissions in its DSM cost effectiveness analysis;
 - Develop an improved RBIA;
 - Address the transparency concerns with respect to E1's electronic Technical Reference Manual (eTRM);
 - Improve the methodologies in developing and evaluating DSM planning and programming.

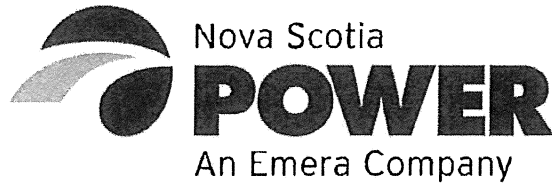
10. As was stated in Matter M06733, the Board directs E1, in future applications, to provide one or more alternate scenarios of DSM budgets for the Board to consider, and NSPI is to provide rate impact analysis on those scenarios.
11. E1 is directed to ensure that its 2020-2022 DSM Resource Plan application is prepared in accordance with the Standardized Filing Framework filed with the Board on July 22, 2016, as Appendix 1 to the Consensus Agreement in Matter M06733.

DATED at Halifax, Nova Scotia, this 23rd day of July, 2018.



Clerk of the Board

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**Supply Agreement for
Electricity Efficiency and Conservation Activities**

Between

Nova Scotia Power Incorporated

and

EfficiencyOne

Effective Date – January 1, 2019

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5 Schedule "B": Compensation

6 Schedule "C": Performance Requirements

7 Schedule "D": Confidentiality Agreement

8 Schedule "E": Approved EECA Plan

Supply Agreement

1 **THIS AGREEMENT** made as of the 6th day of April, 2018 and effective as of the 1st day
2 of January, 2019 (the "**Effective Date**").

3 **BETWEEN:**

4 **NOVA SCOTIA POWER INCORPORATED,**
5 a body corporate, organized under the laws
6 of the Province of Nova Scotia

7
8 (hereinafter called "**NSPI**")

9 - and -

10 **EFFICIENCYONE,**
11 a body corporate, organized under the laws of
12 Canada

13
14 (hereinafter called "**EfficiencyOne**")

15 **WHEREAS:**

- 16 A. EfficiencyOne and NSPI are both public utilities pursuant to the Act; and
- 17 B. Pursuant to the Act, EfficiencyOne has the exclusive right to supply NSPI with
18 reasonably available, cost-effective Electricity Efficiency and Conservation Activities as
19 the Franchise Holder; and
- 20 C. Pursuant to the Act, NSPI is obligated to undertake cost-effective Electricity Efficiency
21 and Conservation Activities that are reasonably available in an effort to reduce costs for
22 its customers; and
- 23 D. Pursuant to the Act, NSPI shall meet its obligations by entering into an agreement with
24 the Franchise Holder for the supply of cost-effective Electricity Efficiency and
25 Conservation Activities.

26 **NOW THEREFORE** witnesses that in consideration of the premises and the mutual covenants
27 and obligations herein and other good and valuable consideration, the sufficiency and receipt of
28 which are hereby acknowledged, the parties agree as follows:

29 **1. INTERPRETATION**

30 1.1 The following terms shall be interpreted as follows in this Agreement:

- 31 (a) "**Act**" shall mean the *Public Utilities Act*, R.S.N.S. 1989, c.380, as amended from
32 time to time.
- 33 (b) "**Agreement**" means this agreement between NSPI and EfficiencyOne including
34 all Schedules attached hereto.
- 35 (c) "**Business Day**" means Monday to Friday, except federal, provincial, and civic
36 holidays within the Province of Nova Scotia.

- 1 (d) **"Consequential Losses"** means consequential, special, incidental, multiple,
2 exemplary or punitive damages including lost profits, whether such claim of lost
3 profits is categorized as indirect, direct or consequential damages or under any
4 alternative theory of recovery.
- 5 (e) **"Contract Documents"** means without limitation, the following documents,
6 including any amendments thereto agreed in writing by the parties:
- 7 (i) this Agreement; and
- 8 (ii) all Schedules to the Agreement.
- 9 (f) **"Contract Price"** has the meaning ascribed to it in Section 4.1.
- 10 (g) **"EECA Plan"** means the plan prepared by EfficiencyOne and approved by the
11 UARB and attached hereto as Schedule "E".
- 12 (h) **"Electricity Efficiency and Conservation Activities"** or **"EECA"** means the
13 electricity efficiency and conservation activities as identified in Schedule "A"
14 attached hereto.
- 15 (i) **"Event of Default"** has the meaning ascribed to it in Section 20.4.
- 16 (j) **"Environmental Laws"** means all applicable federal, provincial, regional,
17 municipal or local laws with respect to environmental matters contained in the
18 statutes, regulations, rules, standards, requirements, ordinances, policies,
19 guidelines, orders, approvals, notices, permits or directives having the force of
20 law, in effect as at the date hereof and as may be brought into effect at future
21 date.
- 22 (k) **"Force Majeure Event"** means any event or circumstance not reasonably within
23 the control of the Party affected which wholly or partly prevents the performance
24 by that Party of its obligations under this Agreement, provided that such Party is
25 in good faith unable to perform such obligations by any commercially reasonable
26 substitute. A Force Majeure Event includes acts of God, war, riot, fire, explosion,
27 flood, hurricane, epidemics, acts of governmental authorities, acts of terrorism.
28 Notwithstanding anything else contained herein, a Force Majeure Event excludes
29 (a) any event or circumstance causing direct or indirect delay in, or failure to
30 perform any of a Party's obligations under this Agreement, attributable to a lack
31 of reasonable diligence on the part of a Party or on the part of any vendor or
32 subcontractor of a Party, including any event or circumstance which a Party or
33 any vendor or subcontractor, acting diligently, could reasonably have been
34 expected to foresee, avoid or overcome in the performance of its obligations; and
35 (b) any event or circumstance caused by the breach of a Party's obligations or
36 the fault or negligence of a Party or the fault or negligence of any vendor or
37 subcontractor, or by violation of applicable laws or regulations by a Party or any
38 of a Party's vendors or subcontractors. For certainty, adverse weather of any
39 kind other than events specified above shall not be considered a Force Majeure
40 Event.
- 41 (l) **"Franchise"** has the meaning ascribed to it in the Act.
- 42 (m) **"Franchise Holder"** has the meaning ascribed to it in the Act.

- 1 (n) **"Governmental Authority"** means any federal, provincial, regional, municipal or
2 local government or authority or other political subdivision thereof and entity or
3 person exercising executive, legislative, judicial, regulatory or administrative
4 functions of, or pertaining to, government.
- 5 (o) **"Hazardous Substances"** means any substance or material that is prohibited,
6 controlled or regulated by any Governmental Authority pursuant to Environmental
7 Laws, including any contaminants, pollutants, petroleum or other hydrocarbons
8 and their derivatives and by-products, dangerous substances or goods, including
9 asbestos, liquid wastes, special wastes, toxic substances, hazardous or toxic
10 chemicals, hazardous wastes, hazardous materials or hazardous substances as
11 defined in or pursuant to any Environmental Law, or any substance or material
12 not inherently hazardous but which would, in sufficient quantities, be hazardous.
- 13 (p) **"Indemnified Costs"** means all liabilities, claims, actions, causes of action,
14 judgments, orders, damages, costs (including those incurred in connection with
15 any investigation of site conditions or any clean-up, environmental remediation,
16 removal or restoration work), expenses (including all reasonable consultant,
17 expert and legal fees and expenses), fines, penalties, losses, or any resulting
18 damages, harm or injuries to the person or property of any third parties or to any
19 natural resources and for which the indemnified party is liable and has incurred
20 losses. Without limiting the foregoing, Indemnified Costs shall include:
- 21 (i) the costs of defending and/or counterclaiming or claiming over and
22 against third parties in such manner as the indemnified party in its sole
23 discretion may determine;
- 24 (ii) the costs relating to any governmental investigation, proceeding or claim;
25 and
- 26 (iii) any costs, liabilities or damages arising out of a settlement of a claim by
27 the indemnified party, with or without the consent of the indemnifying
28 party.
- 29 (q) **"Law"** means the common law, the law of equity and all federal or provincial
30 statutes or municipal by-laws and all regulations, orders, directives, permits and
31 licenses thereunder, which apply to or otherwise affect NSPI or EfficiencyOne
32 with respect to the supply of the EECA, or the property of NSPI or EfficiencyOne,
33 real or personal, or any part thereof, including the Act and all environmental,
34 occupational, health and safety laws.
- 35 (r) **"Liens Indemnities"** has the meaning ascribed to it in Section 18.1.
- 36 (s) **"Liens and Claims"** has the meaning ascribed to it in Section 18.1.
- 37 (t) **"Minister"** has the meaning ascribed to it in the Act.
- 38 (u) **"Party"** means either EfficiencyOne or NSPI. **"Parties"** means EfficiencyOne and
39 NSPI.
- 40 (v) **"Personal Information"** shall mean the information provided by NSPI to
41 EfficiencyOne pursuant to Section 79K of the Act.

- 1 (w) **"Release"** or **"Released"** means a releasing, adding, spilling, leaking, pumping,
2 pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating,
3 dispersing, dispensing, disposing or dumping.
- 4 (x) **"Significant Changes"** means any proposed change to the EECA Plan for which
5 the UARB orders or directs EfficiencyOne to obtain the approval of the UARB
6 prior to the implementation of such proposed change.
- 7 (y) **"Subcontractor"** means any contractor, supplier or consultant hired by
8 EfficiencyOne in accordance with this Agreement to perform any portion of the
9 EECA.
- 10 (z) **"Term"** has the meaning ascribed to it in Section 2.1.
- 11 (aa) **"UARB"** means the Nova Scotia Utility and Review Board.
- 12 (bb) **"CASL"** means An Act to promote the efficiency and adaptability of the Canadian
13 economy by regulating certain activities that discourage reliance on electronic
14 means of carrying out commercial activities, and to amend the Canadian Radio-
15 television and Telecommunications Commission Act, the Competition Act, the
16 Personal Information Protection and Electronic Documents Act and the
17 Telecommunications Act, S.C. 2010, c. 23, as amended from time to time.
- 18 1.2 Unless otherwise specified in this Agreement or unless the context otherwise requires:
- 19 (a) words of any gender include each other gender;
- 20 (b) using the singular or plural number also include the plural or singular number,
21 respectively;
- 22 (c) the insertion of headings in this Agreement is for convenience only and shall not
23 be construed so as to affect the interpretation or construction of this Agreement;
- 24 (d) the terms "hereof," "herein," "hereto," "hereunder" and words of similar or like
25 import refer to this entire Agreement and not to any particular Section, Schedule
26 or other subdivision of this Agreement;
- 27 (e) references to a particular "Section" or "Schedule" are, unless otherwise noted,
28 references to that Section of, or Schedule to this Agreement;
- 29 (f) the words "include," "includes" and "including" shall be deemed to be followed by
30 "without limitation" or "but not limited to";
- 31 (g) references to any applicable law, legislation or regulation shall be construed as a
32 reference to such law, legislation or regulation as each may be in effect from time
33 to time;
- 34 (h) references to any agreement or document (including this Agreement) shall (i)
35 include all Schedules, appendices, and other attachments thereto, and (ii) be
36 construed at the particular time as a reference to such agreement or document
37 as amended, modified or supplemented and in effect from time to time and shall
38 include a reference to any document which amends, modifies or supplements it,
39 or is entered into, made or given pursuant to or in accordance with its terms;

- 1 (i) references to (i) days shall refer to calendar days unless Business Day is
2 specified, (ii) weeks and months shall refer to calendar weeks and months,
3 respectively, and (iii) years shall refer to calendar years;
- 4 (j) in computing any period of time prescribed or allowed under this Agreement, the
5 day of the act, event or default from which the designated period of time begins
6 to run shall be included. If the last day of the period so computed is not a
7 Business Day, then the period shall run until the close of business on the next
8 Business Day;
- 9 (k) the Contract Documents are complementary, and what is required by any one
10 shall be as binding as if required by all;
- 11 (l) words and abbreviations which have well known technical or trade meanings are
12 used in the Contract Documents in accordance with such recognized meanings;
13 and
- 14 (m) as both Parties were actively involved in preparing the terms and conditions of
15 this Agreement and as they both had access to and relied upon counsel in this
16 process, there shall be no presumption that any one or the other Party prepared
17 this Agreement and no provision of this Agreement shall be construed against
18 either Party based upon the process of preparation of proposals and drafts of the
19 Agreement.
- 20 1.3 If there is a conflict within the Agreement, the order of precedence of documents, from
21 highest to lowest, shall be:
- 22 (a) Sections 1 to 27;
- 23 (b) Schedule "A" – Electricity Efficiency and Conservation Activities; and
- 24 (c) all other Schedules.
- 25 **2. TERM & RESERVATION OF RIGHTS**
- 26 2.1 The term of this Agreement shall be one (1) year from the Effective Date and shall
27 automatically terminate on December 31, 2019 unless terminated earlier in accordance
28 with the terms of this Agreement and the Act (the "Term").
- 29 2.2 During the Term, NSPI shall purchase from EfficiencyOne and EfficiencyOne shall
30 supply to NSPI, the EECA in accordance with the terms and conditions of this
31 Agreement and the Act.
- 32 2.3 Notwithstanding anything contained herein, and subject to any requirement for review or
33 approval by the UARB, nothing contained in this Agreement shall in any way effect the
34 rights of NSPI pursuant to Section 79I(3) of the Act.
- 35 **3. ELECTRICITY EFFICIENCY and CONSERVATION ACTIVITIES**
- 36 3.1 For the Term of this Agreement, EfficiencyOne will,
- 37 (a) provide the EECA in accordance with this Agreement;

- (b) provide sufficient resources to enable EfficiencyOne to perform its obligations on time and in accordance with this Agreement;
- (c) carry out the EECA in a professional, expeditious and economical manner, in accordance with the Act;
- (d) manage the EECA in an efficient manner; and
- (e) perform and supply the EECA in a safe and environmentally sound manner and in compliance with applicable Law.

3.2 The Parties acknowledge and agree that EfficiencyOne shall be solely responsible for the delivery of the EECA Plan. For greater certainty and notwithstanding the attachment of the EECA Plan as Schedule "E" – Approved EECA Plan, NSPI shall have no liability with respect to the EECA Plan saving and excepting any liability which may arise as a result of NSPI's failure to comply with the Act.

4. PRICE & PAYMENT

4.1 NSPI agrees to pay EfficiencyOne for EECA as set out in Schedule "B" – Compensation (the "Contract Price").

4.2 The Contract Price shall constitute full compensation for the EECA, and no additional compensation shall be payable to EfficiencyOne arising out or resulting from any productivity losses, overhead or indirect costs or other costs and expenses of any kind whatsoever.

4.3 NSPI shall make monthly payments on the first Business Day of each month in accordance with Schedule "B" to EfficiencyOne on account of the Contract Price when due, together with applicable HST. EfficiencyOne will submit an invoice to NSPI in advance of the payment date referenced in Schedule "B".

4.4 Unless otherwise indicated all dollar amounts referred to in this Agreement are in lawful money of Canada.

4.5 If applicable, payments shall be subject to harmonized sales tax (as defined in the *Excise Tax Act* (Canada)) ("HST"). No additional taxes (foreign or domestic), customs, duties or brokerage fees shall apply.

4.6 If applicable, NSPI will withhold from payments to EfficiencyOne any amounts required to be withheld under applicable Laws and treaties in respect of services rendered in Canada by a non-resident and may remit them to the relevant authority. Where available, statutory withholding may be waived if EfficiencyOne delivers to NSPI a formal waiver of the withholding requirement issued and signed by Canada Revenue Agency. The Parties shall cooperate at all times to ensure that all proper withholdings are deducted from payments and if any withholdings are overlooked then such withholdings may be deducted from later payments.

5. NOTIFICATION OF SIGNIFICANT CHANGES

5.1 EfficiencyOne shall provide notice of Significant Changes to NSPI at the same time as EfficiencyOne makes application to the UARB for the approval of the Significant Changes. Subject to the terms of the Act and the general discretion of the UARB under

1 the Act, NSPI shall, have the right to make written submissions to the UARB on any
2 such Significant Changes to the EECA Plan.

3 **6. SAFETY**

4 6.1 EfficiencyOne shall at all times be responsible for safety and loss management in the
5 supply or performance of the EECA.

6 6.2 EfficiencyOne shall ensure that all employees, Subcontractors, agents and
7 representatives of EfficiencyOne comply with all federal, provincial and municipal health,
8 safety and environmental statutes, regulations, policies and guidelines and all health,
9 safety and environmental rules as prescribed by EfficiencyOne.

10 **7. PROTECTION OF PROPERTY**

11 7.1 EfficiencyOne shall take all commercially reasonable steps to protect the property of
12 NSPI's customers and other third parties from damage which may occur as the result of
13 the performance of the EECA.

14 7.2 Should EfficiencyOne damage the property of NSPI's customers or property of other
15 third parties while performing the EECA, EfficiencyOne shall make good such damage at
16 EfficiencyOne's expense and shall indemnify NSPI from and against all liabilities, claims,
17 damages, settlements, awards, costs, expenses and proceedings incurred by NSPI or its
18 servants, employees and/or agents in respect of such damage, except to the extent such
19 damage occurs as a result of the negligent acts of NSPI or those for which NSPI is
20 responsible at Law.

21 **8. ENVIRONMENT**

22 8.1 EfficiencyOne and its Subcontractors shall at all times comply with all Environmental
23 Laws that apply in any way to the supply or performance of the EECA. EfficiencyOne
24 and its Subcontractors shall not cause, permit or suffer the Release of a Hazardous
25 Substance in contravention of any Environmental Laws.

26 8.2 Notwithstanding any other provision in this Agreement (and in addition to any other right
27 to indemnity held by NSPI under the terms of the Agreement) EfficiencyOne shall
28 indemnify NSPI, NSPI's parent, their respective subsidiaries, affiliates and related
29 companies, and their respective officers, directors, employees, agents and shareholders,
30 and agrees to hold each of them harmless from and against any and all Indemnified
31 Costs resulting from any Release of any Hazardous Substance which is caused or
32 contributed to by EfficiencyOne or its Subcontractors or any breach of any
33 Environmental Law by EfficiencyOne or its Subcontractors.

34 **9. EFFICIENCYONE'S COVENANTS**

35 9.1 EfficiencyOne warrants, covenants and agrees with NSPI that:

36 (a) it has all requisite capacity and authority to execute, deliver and perform its
37 obligations under this Agreement;

38 (b) this Agreement has been duly and validly executed and delivered by
39 EfficiencyOne and constitutes a legal, valid and binding obligation of
40 EfficiencyOne enforceable against EfficiencyOne in accordance with its terms;

- 1 (c) to its knowledge, there is no matter, thing or event, including without limitation,
2 any litigation, proceeding, breach, default or financial circumstance that would
3 adversely affect EfficiencyOne's ability to perform its obligations under this
4 Agreement;
- 5 (d) it will furnish all labour, materials, products, tools, and other necessary
6 components necessary to perform and provide the EECA, unless otherwise
7 provided herein;
- 8 (e) it shall diligently perform or cause to be performed the EECA in a proper and
9 workmanlike manner;
- 10 (f) it has the skills, expertise and resources to carry out the EECA and to comply,
11 observe and perform the obligations to which it is subject in accordance with the
12 terms of this Agreement;
- 13 (g) prior to commencing any work hereunder, it shall obtain and maintain all permits,
14 licenses and notices that a prudent supplier acting in accordance with industry
15 standards would be required to obtain, maintain and provide in comparable
16 circumstances and shall comply with all applicable Laws, ordinances, rules,
17 regulations, codes and orders of any and all authorities having jurisdiction which
18 are or become in force during the Term in respect of the EECA;
- 19 (h) it will comply with applicable federal, provincial and municipal statutes,
20 regulations and bylaws pertaining to the EECA performed by or on behalf of
21 EfficiencyOne under this Agreement. EfficiencyOne shall be responsible for
22 ensuring similar compliance by any suppliers and Subcontractors;
- 23 (i) it is the Franchise Holder pursuant to the Act;
- 24 (j) it is not a non-resident of Canada for the purposes of the *Income Tax Act*;
- 25 (k) it will execute or cause to be made, done and executed all further acts, deeds,
26 assurances, agreements, instruments or other documents as may be reasonably
27 required to ensure fulfillment of the terms of this Agreement;
- 28 (l) the EECA shall be delivered and performed by individuals duly licensed and
29 authorized by Law, if applicable, to perform said undertakings;
- 30 (m) the EECA shall be delivered and performed solely by EfficiencyOne or its
31 Subcontractors and EfficiencyOne acknowledges that EfficiencyOne shall at all
32 times remain responsible for the proper completion of this Agreement; and
- 33 (n) upon becoming aware of a potential disruption having a material impact in the
34 supply of the EECA, EfficiencyOne shall provide notification to the UARB and
35 NSPI.

36 **10. SUBCONTRACTORS**

- 37 10.1 EfficiencyOne shall be permitted to subcontract the performance of any part of the EECA
38 without the prior written approval of NSPI.

1 10.2 Where EfficiencyOne subcontracts any part of the EECA, EfficiencyOne shall preserve
2 and protect the rights of the Parties under this Agreement with respect to the EECA to
3 be supplied or performed under subcontract, and shall be as fully responsible to NSPI
4 for the acts and omissions of Subcontractors and of persons directly or indirectly
5 employed by them, as if they were acts and omissions of persons directly employed by
6 EfficiencyOne.

7 10.3 Nothing contained in the Contract Documents shall create a contractual relationship
8 between a Subcontractor and NSPI.

9 **11. CONFIDENTIAL AND PERSONAL INFORMATION**

10 11.1 The Parties have executed or agree to execute the confidentiality agreement attached
11 hereto as Schedule "D" - Confidentiality ("**Confidentiality Agreement**").

12 11.2 EfficiencyOne shall be responsible for all physical and electronic security required to
13 ensure the security of the Personal Information which has been provided by NSPI to
14 EfficiencyOne.

15 11.3 EfficiencyOne shall indemnify and hold harmless NSPI for any liabilities, claims,
16 damages, settlements, awards, costs, expenses and proceedings incurred by NSPI or its
17 servants, employees and/or agents in consequence of EfficiencyOne's misuse of the
18 Personal Information or any disclosure, whether intentional, inadvertent, negligent or
19 otherwise of any of the Personal Information by EfficiencyOne contrary to the terms of
20 this Agreement or the Act, or in consequence of EfficiencyOne's contravention of CASL.

21 **12. PERFORMANCE REQUIREMENTS AND EVALUATIONS**

22 12.1 EfficiencyOne's performance under the terms of this Agreement shall be measured in
23 accordance with the performance requirements established by the UARB pursuant to
24 Section 79M of the Act as set out in Schedule "C" – Performance Requirements.

25 **13. FORCE MAJEURE**

26 13.1 Neither Party shall be in breach of its obligations under this Agreement where failure to
27 perform or delay in performance of any obligation is due, wholly or in part, to a Force
28 Majeure Event.

29 13.2 Each Party shall notify the other Party promptly of any Force Majeure Event and shall
30 take reasonable steps to minimize the impact of the failure or the delay and to resolve
31 the event or occurrence that has given rise to the Force Majeure Event in order to
32 resume performance. The time for performing an obligation as a result of Force Majeure
33 Event shall be extended for the period lost, subject to the condition that the Term of this
34 Agreement shall not be extended as a result of any Force Majeure Event.

35 13.3 Each Party suffering a Force Majeure Event shall take, or cause to be taken, such action
36 as may be necessary to void, or nullify, or otherwise to mitigate, in all material respects,
37 the effects of such Force Majeure Event. The Parties shall take all reasonable steps to
38 ensure normal performance under this Agreement, including the resumption of any
39 disrupted obligations.

40 13.4 For certainty, in no case shall the failure or omission of EfficiencyOne to carry out or
41 observe any of the terms, provisions, or conditions of this Agreement or any negligent

1 act or omission of EfficiencyOne, or others for whom EfficiencyOne is responsible
2 constitute an event of Force Majeure or result in an extension of the time to perform the
3 EECA.

4 **14. INDEMNITY**

5 14.1 EfficiencyOne shall assume all risk of loss, damage or injury, including death, to person
6 or property, caused by its directors, officers, employees, Subcontractors, agents or
7 representatives, and agrees not to make or bring any claim, action or demand against
8 NSPI or its directors, officers, servants, agents, or employees in respect of such loss,
9 damage or injury excepting such loss, damage or injury caused by the negligence or
10 wilful misconduct of NSPI or NSPI's directors, officers, servants, agents or employees.

11 14.2 EfficiencyOne agrees to indemnify and save harmless NSPI, its directors, officers,
12 servants, agents, or employees, and their heirs, executors, administrators, successors
13 and assigns, or any of them, from and against any liabilities, losses, expenses (including
14 legal costs on a solicitor-client basis), claims, demands, actions, and causes of action,
15 whatsoever suffered by NSPI by reason of, or in any way arising out of or in connection
16 with a breach of this Agreement by EfficiencyOne excepting only to the extent caused by
17 the negligence or wilful misconduct of NSPI or NSPI's directors, officers, servants,
18 agents or employees.

19 14.3 NSPI agrees to indemnify and save harmless EfficiencyOne, its directors, officers,
20 servants, agents, or employees, and their heirs, executors, administrators, successors
21 and assigns, or any of them, from and against any liabilities, losses, expenses (including
22 legal costs on a solicitor-client basis), claims, demands, actions, and causes of action,
23 whatsoever suffered by EfficiencyOne by reason of, or in any way arising out of or in
24 connection with a breach of this Agreement by NSPI excepting only to the extent caused
25 by the negligence or wilful misconduct of EfficiencyOne or EfficiencyOne's directors,
26 officers, servants, agents or employees.

27 14.4 The provisions set forth in this Section shall apply and be effective with respect to any
28 claim, cause of action, or legal theory whatsoever including without limitation, claims
29 based upon breach of contract, failure to meet performance guarantees, tort (including
30 negligence) and strict liability.

31 14.5 EfficiencyOne shall defend, indemnify and hold harmless NSPI from any claim, suit,
32 cause of action, judgment, cost or expense (including legal fees) based on a claim by a
33 third party that any intellectual property which is part of the EECA or supply or
34 performance of EfficiencyOne's obligations under this Agreement infringes any patent,
35 copyright, trade secret or other intellectual property right, provided the EfficiencyOne is
36 promptly notified of such claim and is given complete authority for defense of same.
37 EfficiencyOne shall pay all damages, costs and expenses resulting from such a claim,
38 including legal fees and settlement costs, but shall not be responsible for any cost,
39 expense or compromise incurred by NSPI without EfficiencyOne's prior consent.

40 **15. LIMIT OF LIABILITY**

41 15.1 Neither Party shall be liable to the other Party for any Consequential Losses with respect
42 to the performance or non-performance under this Agreement or for any actions
43 undertaken in connection with or related to this Agreement.

1 15.2 EfficiencyOne's total liability to NSPI with respect to the performance or non-
2 performance under this Agreement or for any actions undertaken in connection with or
3 related to this Agreement shall be limited to the greater of the sum of two million dollars
4 (\$2,000,000) or the proceeds of the applicable insurance policies taken out by
5 EfficiencyOne under this Agreement ("**EfficiencyOne Limit of Liability**") provided that
6 the EfficiencyOne Limit of Liability shall not apply to:

7 (a) indemnification of NSPI by EfficiencyOne under the terms of this Agreement for
8 any third party claims (including but not limited to EfficiencyOne's obligations
9 pursuant to Sections 7.2, 8.2, 11.3, 14.5 and 18.1);

10 (b) any wilful misconduct or fraud of EfficiencyOne or its employees, agents or
11 representatives; and

12 (c) any obligation on the part of EfficiencyOne to refund in whole or in part the
13 Contract Price pursuant to this Agreement or the Act.

14 15.3 NSPI's total liability to EfficiencyOne with respect to the performance or non-
15 performance under this Agreement or for any actions undertaken in connection with or
16 related to this Agreement shall be limited to the sum of two million dollars (\$2,000,000)
17 ("**NSPI Limit of Liability**") provided that the NSPI Limit of Liability shall not apply to:

18 (a) any wilful misconduct or fraud of NSPI or its employees, agents or
19 representatives; and

20 (b) NSPI's liability for payment of the Contract Price pursuant to the Agreement or
21 the Act.

22 **16. INSURANCE**

23 16.1 EfficiencyOne shall obtain, maintain and pay for, during the entire Term of this
24 Agreement, the following minimum insurance coverage as follows, such insurance as it
25 relates to this Agreement shall be in a form and from an insurer acceptable to NSPI:

26 (a) General liability insurance shall be in the name of EfficiencyOne and shall name
27 NSPI as an additional insured and shall have limits of not less than five million
28 dollars (\$5,000,000) inclusive per occurrence for bodily injury, death, and
29 damage to property including loss of use thereof. Such insurance shall be
30 primary and non-contributing with, and not in excess of, any other insurance
31 available to NSPI. This policy shall also contain cross liability and severability of
32 interest and blanket contractual liability.

33 (b) Environmental impairment insurance with limits of not less than five million
34 dollars (\$5,000,000);

35 (c) Automobile liability insurance in respect of licensed vehicles shall have limits of
36 not less than two million dollars (\$2,000,000) inclusive per occurrence for bodily
37 injury, death, and damage to property. For automobiles not owned or operated
38 by or on behalf of EfficiencyOne the insurance shall be in the form of a standard
39 non-owned automobile policy and shall include standard contractual liability
40 endorsement. For automobiles owned or operated by or on behalf of
41 EfficiencyOne the insurance shall be in the form of a standard owner's form
42 automobile policy and shall provide third party liability and accident benefits

1 insurance covering licensed vehicles owned or operated by or on behalf of
2 EfficiencyOne.

3 (d) Property Insurance covering all loss of or damage to EfficiencyOne's property
4 and equipment of EfficiencyOne or for which EfficiencyOne is legally liable or
5 responsible used in performance of the EECA for the full replacement value,
6 which insurance shall not allow subrogation claims by the insurer against NSPI.

7 (e) To the extent that the EECA includes the provision of professional services,
8 professional liability errors and omissions insurance covering all claims arising
9 out of errors and omissions of EfficiencyOne in the performance of professional
10 services as part of the EECA with a limit of two million dollars (\$2,000,000). In
11 the event other claims erode EfficiencyOne's professional errors and omissions
12 insurance below two million dollars (\$2,000,000), in the annual aggregate,
13 EfficiencyOne agrees to reinstate the limit.

14 (f) Workers' compensation to the full extent required in Nova Scotia and wherever
15 EfficiencyOne's personnel contracts of employment are made or are expressed
16 to be made.

17 16.2 If EfficiencyOne fails to effect or keep in force any of the foregoing insurances, NSPI
18 may, without prejudice to any other right or remedy, effect such insurance and pay the
19 premiums due and recover the same as a deduction from any other monies due to
20 EfficiencyOne under this Agreement.

21 16.3 EfficiencyOne shall be responsible to pay deductible amounts and for determining the
22 deductible amount in respect of each policy. EfficiencyOne shall not violate, nor
23 knowingly permit to be violated, any conditions of the policies maintained according to
24 the provisions of this Section, and it shall be EfficiencyOne's duty and responsibility to
25 impose upon each Subcontractor the same responsibilities and obligations imposed
26 upon EfficiencyOne under such provisions.

27 16.4 EfficiencyOne agrees to provide proof of insurance to NSPI on an annual basis. Such
28 proof shall be in the form of a certificate of insurance signed by EfficiencyOne's
29 insurance broker.

30 17. INTELLECTUAL PROPERTY

31 17.1 NSPI acknowledges that all branding, trade and business marks of EfficiencyOne used
32 in the course of provision of EECA pursuant to this Agreement, (the "**EfficiencyOne**
33 **Brands**") are, and shall remain, the sole and exclusive property of EfficiencyOne and
34 shall not be used by NSPI without EfficiencyOne's express consent. Upon termination of
35 this Agreement, NSPI shall immediately upon instruction from EfficiencyOne return or
36 destroy, as instructed by EfficiencyOne, the EfficiencyOne Brands.

37 17.2 Any trademarks, brands, logos or other branding or trade or business marks used in
38 NSPI's business ("**NSPI Brands**") shall remain the sole and exclusive property of NSPI
39 and shall not be used by EfficiencyOne for any purpose except in connection and as
40 necessary for the provision of the EECA. Upon termination of this Agreement,
41 EfficiencyOne shall immediately upon instruction from NSPI return or destroy, as
42 instructed by NSPI, the NSPI Brands.

1 **18. LIENS AND CLAIMS**

2 18.1 EfficiencyOne shall indemnify and hold harmless NSPI, NSPI's parent and their
3 subsidiaries and affiliates (collectively the "**Lien Indemnitees**" or singularly "**Lien**
4 **Indemnitee**") and defend each of them from and against any and all losses and costs
5 arising out of any and all claims for payment, liens, attachment or any other process,
6 filed against any property of the Lien Indemnitees by or in respect of a Subcontractor of
7 any tier or any other party providing work, materials in respect of the EECA or any part
8 thereof (referred to in this Section as "**Liens or Claims**"), including solicitor and client
9 fees and expenses incurred by NSPI in discharging any such Liens or Claims or similar
10 encumbrances.

11 18.2 EfficiencyOne shall discharge promptly any Liens or Claims. If EfficiencyOne does not
12 promptly satisfactorily discharge such Liens or Claims, NSPI at its sole option may (i)
13 require EfficiencyOne to pay, within five (5) Business Days after request by NSPI, or (ii)
14 subject to any requirements of the *Builders' Lien Act* of Nova Scotia, offset against any
15 holdback or other amounts due or to become due to EfficiencyOne, all costs and
16 expenses incurred by NSPI or other Lien Indemnitee in causing the release of, paying or
17 settling such Liens or Claims. EfficiencyOne shall have the right to contest any such
18 Liens or Claims, provided it first provides to NSPI a bond or other assurance of payment
19 reasonably satisfactory to NSPI in the amount of such Liens or Claims and in form and
20 substance reasonably satisfactory to NSPI. In no circumstance whatsoever shall NSPI
21 be liable for a greater amount than the amount payable by NSPI to EfficiencyOne.

22 **19. DISPUTE RESOLUTION**

23 19.1 In the event of a dispute in connection with this Agreement, a senior representative of
24 EfficiencyOne and a senior representative of NSPI shall promptly meet to discuss and
25 resolve the dispute and the Parties shall have thirty (30) days to resolve the dispute (or
26 ten (10) days if either Party notifies the other Party that the matter requires urgent
27 resolution).

28 19.2 Unless the parties agree otherwise, in the event resolution cannot be achieved in
29 accordance with Section 19.1 of this Agreement, then such dispute or difference shall be
30 referred to the UARB in accordance with Section 79P of the Act.

31 19.3 Notwithstanding any dispute, EfficiencyOne shall diligently carry out the EECA, and shall
32 not suspend, impair, interfere with, restrict or discourage the prompt completion of any
33 portion of the EECA, unless specifically authorized to do so by the UARB. .

34 **20. DEFAULT AND TERMINATION**

35 20.1 This Agreement may be terminated immediately by either Party, in whole or in part, upon
36 the happening of one or more of the following events:

37 (a) EfficiencyOne's Franchise is terminated and the Agreement has not been
38 assigned by the Minister; or

39 (b) The UARB approves the termination of the Agreement.

40 In the event of a termination pursuant to this Section 20.1, neither Party shall be entitled
41 to any compensation or damages for any Consequential Losses as a result of such
42 termination. Immediately upon receipt of such termination notice, EfficiencyOne will

1 discontinue all EECA under this Agreement and will only finish such portions of the
2 EECA as may be necessary to preserve and protect the EECA already in progress.
3 Such termination does not relieve either Party from any of their respective obligations
4 under this Agreement for EECA provided up to the date of termination. Any claim for
5 payment by EfficiencyOne must be asserted within thirty (30) days from the date of such
6 termination.

7 20.2 Notwithstanding any other provision in this Agreement, in the event this Agreement is
8 terminated in accordance with Section 20.1(a), EfficiencyOne shall:

9 (a) Immediately return all monies paid on account of the Contract Price which
10 amounts have not been legitimately incurred or subject to contractual
11 commitments for expenditure which cannot otherwise be mitigated to NSPI; and

12 (b) Provide to NSPI all reasonable required termination assistance to allow the
13 EECA provided under this Agreement to continue and to facilitate the orderly
14 transition of the EECA to NSPI or any third party as directed by NSPI, provided
15 that EfficiencyOne shall be entitled to commercially reasonable payment for such
16 transition services on a time and material basis.

17 20.3 The Parties acknowledge that this Agreement is subject to the general supervision of the
18 UARB.

19 20.4 A Party shall be determined to be in default of its obligations under this Agreement if
20 (each a "Event of Default"):

21 (a) it is in breach of any material term or condition of this Agreement, which breach
22 is not cured by the Party within thirty (30) days after written notice from the other
23 Party;

24 (b) it assigns this Agreement other than as permitted by the Act and/or the UARB;

25 (c) any representation or warranty made by either Party shall prove to be untrue
26 when made in any material respect;

27 (d) there is a sale, transfer or relinquishment, voluntary or involuntary, by operation
28 of law or otherwise, of legal control of the business of either Party except for a
29 transfer to a related corporation or a transfer resulting from a merger, acquisition,
30 amalgamation or reorganization, or, in the case of EfficiencyOne, a change in the
31 Membership of the corporation;

32 (e) Either Party sells, transfers or assigns all or substantially all of its assets;

33 (f) a petition in bankruptcy is filed with respect to either Party; or

34 (g) any proceeding is commenced under any bankruptcy or insolvency legislation or
35 under any other federal, state or provincial law relating to insolvency or
36 bankruptcy, the adjudication of either Party as a bankrupt, the appointment by
37 any competent court having jurisdiction of a temporary or permanent receiver,
38 trustee or other officer having similar powers over either Party its business or
39 assets, or the making of any assignment by either Party for the benefit of its
40 creditors.

20.5 If a breach notified pursuant to Sections 20.4(a) cannot be corrected within the period required therein, the defaulting Party shall not be in breach or violation if it:

(a) commences and diligently and continuously carries out the correction of the breach or violation within the specified time;

(b) provides to the non-defaulting Party, and the UARB an acceptable plan for such correction; and

(c) corrects the breach or violation in accordance with such plan.

20.6 Upon the occurrence of an Event of Default, the non-defaulting Party may apply to the UARB to terminate this Agreement in whole or in part.

21. NOTIFICATIONS

21.1 All notices to be given to either Party under this Agreement shall be written and addressed to the NSPI and to EfficiencyOne as follows:

To NSPI:

Nova Scotia Power Incorporated
1223 Lower Water Street
PO Box 910
Halifax, NS B3J 3S8
Attention: Corporate Secretary
Facsimile: (902) 428-6171

To EfficiencyOne:

EfficiencyOne
230 Brownlow Avenue
Suite 300
Dartmouth, NS B3B 0G5
Attention: CEO
Facsimile: (902) 470-3599

21.2 All notices may be sent by facsimile, a nationally recognized overnight courier service, first class mail or hand delivered. Notice shall be given when received by the addressee on a Business Day. In the absence of proof of the actual receipt date, the following presumptions will apply:

(a) Notices sent by facsimile shall be presumed to have been received upon the sending Party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. (local time for the recipient) on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day.

1 (b) Notice by overnight courier shall be presumed to have been received on the next
2 Business Day after it was sent.

3 (c) Notice by first class mail shall be presumed delivered five (5) Business Days
4 after mailing.

5 21.3 Either Party may modify its address for notices by advance written notice to the other
6 Party.

7 **22. AUDIT AND INSPECTION**

8 22.1 EfficiencyOne shall, during the Term and for a period of thirty-six (36) months thereafter,
9 keep accurate records of all EECA supplied to NSPI, as necessary to determine that the
10 EECA was provided in accordance with the terms and conditions of this Agreement.

11 22.2 NSPI shall have the right to apply to the UARB to request access to any of the records
12 referred to in 22.1.

13 22.3 NSPI shall have the right to apply to the UARB to inspect or observe the EECA at all
14 times, whether using its own forces or those of a designated third party. EfficiencyOne
15 shall facilitate such inspections and provide sufficient, safe and proper facilities at all
16 times for inspection of the EECA.

17 **23. ASSIGNMENT**

18 23.1 Neither Party shall assign all or any portion of this Agreement without the prior written
19 approval of the UARB and/or the Minister as the situation requires.

20 **24. SHARING OF DATA AND INFORMATION**

21 24.1 EfficiencyOne shall work co-operatively with NSPI to provide NSPI with information and
22 data from time to time in order to assist NSPI with planning and load forecasting as may
23 be reasonably required by NSPI. For greater certainty, such information and data shall
24 be consistent with the past practices of the Parties.

25 24.2 In the event of a dispute regarding any request for information by NSPI, NSPI shall have
26 the right to apply to the UARB to request access to the information and data referred to
27 in 24.1.

28 **25. COORDINATION MEETINGS AND REPORTS**

29 25.1 During the Term of this Agreement, EfficiencyOne shall prepare and deliver to the UARB
30 and NSPI a quarterly report (the "Quarterly Report") in a form acceptable to the UARB.

31 25.2 EfficiencyOne shall prepare and deliver to the UARB and NSPI an annual report (the
32 "Report") in a form acceptable to the UARB. For greater certainty, the Report shall
33 summarize and provide details as to the EECA and milestones achieved in the prior
34 year, contain a discussion and analysis of major discrepancies relative to the EECA
35 Plan's intent and forecasts, EfficiencyOne's financial statement for the previous year with
36 respect to the EECA, evaluation reports and a summary of planned versus actual
37 savings and costs for each metric.

1 25.3 The Parties agree that ongoing coordination and regular communication between NSPI
2 and EfficiencyOne is important in order to ensure effective planning. To that end, the
3 Parties shall meet quarterly or as otherwise agreed upon to discuss the provision of the
4 EECA.

5 **26. GENERAL**

6 26.1 This Agreement shall only be renewed in accordance with the provisions of the Act.

7 26.2 This Agreement shall extend to, be binding upon and enure to the benefit of the
8 respective successors and permitted assigns of the Parties hereto.

9 26.3 EfficiencyOne will be an independent contractor. EfficiencyOne shall not act as an agent
10 for NSPI, bind NSPI to any obligation with a third party, nor hold itself out as having
11 authority to bind or obligate NSPI. None of the persons engaged by EfficiencyOne or
12 any of its Subcontractors in the performance of the EECA will be considered employees
13 of NSPI.

14 26.4 This Agreement shall be deemed to have been made in and shall be governed by,
15 construed and interpreted in accordance with the laws of the Province of Nova Scotia
16 and the laws of Canada, as applicable therein. Where the provisions of this Agreement
17 or the Act permit or require a matter to be referred to or proceeded with before a court,
18 or in any other case where the Parties bring a matter in respect of this Agreement before
19 a court, the Parties irrevocably attorn to the jurisdiction of the Supreme Court of Nova
20 Scotia.

21 26.5 No consent or waiver, express or implied, by any Party to this Agreement of any breach
22 or default by any other Party in the performance of its obligations under this Agreement
23 or of any of the terms, covenants or conditions of this Agreement shall be deemed or
24 construed to be a consent or waiver of any subsequent or continuing breach or default in
25 such Party's performance.

26 26.6 Time shall be of the essence for purposes of this Agreement.

27 26.7 This Agreement, upon approval by the UARB, shall represent the entire Agreement
28 between the Parties with respect to the subject matter hereto and shall not be modified,
29 varied or amended except by an instrument in writing signed by the Parties and
30 approved by the UARB or as ordered or directed, by the UARB at any time.

31 26.8 Should any provision of the Agreement be declared by a judicial or other competent
32 authority to be unenforceable, the remaining provisions of the Agreement shall remain in
33 full force and effect.

34 26.9 The Parties acknowledge that this Agreement and all related documents shall be in
35 English.

36 26.10 This Agreement may be executed by the Parties in counterparts, each of which when so
37 executed and delivered shall be deemed to be an original and when taken together shall
38 be deemed to be one and the same instrument. The electronic delivery, including,
39 without limitation, by email or facsimile transmission, of any signed original of this
40 Agreement shall be the same as the delivery of an original.

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Supply Agreement

1 IN WITNESS THEREOF, the Parties have duly executed this Agreement, in duplicate, as of the
2 date set forth above.

Witness

Witness

Witness

Witness

NOVA SCOTIA POWER INCORPORATED

Per:

Name:

Title:

Karen Hutt
President & CEO

Per:

Name:

Title:

David Landrigan
VP, Commercial

EFFICIENCYONE

Per:

Name:

Title:

Per:

Name:

Title:

3

4

Supply Agreement

1 IN WITNESS THEREOF, the Parties have duly executed this Agreement, in duplicate, as of the
2 date set forth above.

NOVA SCOTIA POWER INCORPORATED

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

EFFICIENCYONE

Per: Stephen MacDonald

Name: Stephen MacDonald

Title: Chief Executive Officer

Per: _____

Name: _____

Title: _____

Witness

Witness

Holly Brown.

Witness

Witness

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SCHEDULE A**ELECTRICITY EFFICIENCY AND CONSERVATION ACTIVITIES****Schedule A****Electricity Efficiency and Conservation Activities**

The figure below identifies the scope of savings associated with carrying out EECAs over the Term.

	Incremental** Annual Net Energy Savings at Generator(GWh)	Incremental** Annual Net Peak Demand Savings at Generator (MW)
Performance Targets*	127.2	20.2

The Performance Targets will be achieved in accordance with the EECA Plan as set out in Schedule E.

* For certainty, in accordance with the performance requirements set out in Schedule "C" attached hereto, EfficiencyOne shall be deemed to be in substantial compliance with the approved Performance Targets if 90 percent (90%) or greater achievement is reached on both Performance Targets. If less than 90 percent (90%) of either Performance Target is achieved, a regulatory process will be triggered.

**Incremental refers to new (or additional) annual savings

SCHEDULE B

COMPENSATION

Schedule B (Page 1 of 2)

Compensation

I. Net Contract Price

The figure below identifies the net Contract Price to be paid by NSPI allocated for each year of the Term.

				2019
UARB Approved	34,050,000.00			\$34,050,000.00
Net Contract Price to be Paid by NSPI				\$34,050,000.00

The Parties acknowledge that any surplus realized by EfficiencyOne in delivering the Performance Targets at the end of the Term shall be reported to the UARB and, subject to any other direction that may be provided by the Board, credited¹ toward monthly payments required to be made by NSPI for EECA for 2021.

¹ Together with all accumulated interest earned by EfficiencyOne on such surplus.

Schedule B (Page 2 of 2)**Compensation****II. Payments**

In accordance with Section 4.3 of the Agreement, the monthly payments to be made by NSPI to EfficiencyOne over the Term shall be as set out below. The monthly payment amounts referred to following are exclusive of required HST. HST shall be remitted to EfficiencyOne in addition to these monthly amounts.

On the First Business Day of:	2019
January	\$2,902,994
February	\$2,643,668
March	\$2,835,843
April	\$3,012,732
May	\$2,546,339
June	\$2,365,872
July	\$2,428,360
August	\$2,448,936
September	\$3,105,656
October	\$4,053,223
November	\$2,867,637
December	\$2,838,740
Total	\$34,050,000

SCHEDULE C**Performance Requirements****I. UARB-APPROVED PERFORMANCE TARGETS, THRESHOLDS, AND INDICATORS****a) Performance Targets and Thresholds:**

- i. EfficiencyOne is deemed to be in substantial compliance with the UARB-approved Plan Performance Targets if 90 percent or greater achievement is reached on the two Performance Targets as listed below. If less than 90 percent (90%) of either Performance Target is achieved, a regulatory process will be triggered.

b) Performance Targets consist of:

- i. Incremental annual net energy savings at generator
- ii. Incremental annual net peak demand savings at generator.

c) Performance Indicators (for UARB reporting) consist of:

- i. Incremental annual net energy savings at generator
- ii. Incremental annual net peak demand savings at generator.
- iii. Lifetime net energy savings at generator (reported by program and rate class)
- iv. Total ratepayer benefits
- v. Total spending (reported by program and rate class)
- vi. Customer satisfaction
- vii. An analysis of the impact on rates through the implementation of the 2019 programs will be included as part of EfficiencyOne's historical-looking rate and bill impact analysis, filed by October 31, 2020
- viii. Reporting on low income program participation, expenditures, and savings through a variety of methods, including estimation based on geographic census information.

SCHEDULE D

CONFIDENTIALITY AND NONDISCLOSURE AGREEMENT

THIS CONFIDENTIALITY AGREEMENT made effective this 1st day of January, 2019

Between:

EfficiencyOne, hereinafter "EfficiencyOne"

Party of the First Part

And

Nova Scotia Power Incorporated, hereinafter "NSPI"

Party of the Second Part

Whereas the Parties have entered into a Supply Agreement for Electricity Efficiency and Conservation Activities made effective as of January 1, 2019 ("Supply Agreement") whereby Efficiency One is to provide EECA (as that term is defined in the Supply Agreement) to NSPI;

And whereas in accordance with the Supply Agreement, and the Electricity Efficiency and Conservation Act (Nova Scotia) and the Public Utilities Act (Nova Scotia) (together hereinafter referred to as the "Legislation"), and as may be directed by the Nova Scotia Utility and Review Board, and as may be further agreed between the Parties, the Parties will be receiving, reviewing, and analyzing Confidential Information from each other;

And whereas the Parties wish to clarify the manner in which any Confidential Information disclosed by one Party ("Disclosing Party") to the other is to be treated by the recipient of the Confidential Information ("Recipient");

In consideration of the agreements of the Parties set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

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2 **Confidential Information**

3 1. The Parties agree that for the purpose of this Agreement "Confidential
4 Information" means all information, regardless of the form in which it is
5 communicated or maintained and prepared by the Disclosing Party, and is
6 disclosed directly or indirectly to the Recipient, pursuant to the Supply
7 Agreement, the Legislation, as directed by the Nova Scotia Utility and Review
8 Board or as otherwise agreed between the Parties. Confidential Information
9 includes, but is not limited to the following: all reports analyses, notes,
10 memoranda, correspondence, spreadsheets, drawings, survey plans, maps,
11 contracts, commercial arrangements, intellectual property, trade secrets,
12 corporate strategies, business plans or other information that is based on,
13 contain or reflect any Confidential Information, material, whether printed or
14 electronic, which has been designated by the Disclosing Party as confidential
15 information, including proprietary information and other commercially sensitive
16 information. This includes but is not limited to information which has been or
17 may be filed with the Nova Scotia Utility and Review Board ("the Board") in
18 confidence in answer to Information Requests and any further material that may
19 be filed with the Board in confidence whether in response to future Information
20 Requests or otherwise, and whether printed or electronic. Confidential
21 Information shall also include any explanation or other information provided by
22 either Party to the Recipient concerning the foregoing and which has been
23 identified by the Party providing the information as confidential at the time it is
24 initially provided, whether printed or electronic. Confidential Information may also
25 include any password or other information necessary to access electronic copies
26 of Confidential Information.

27 **Permitted Scope of Use**

28 2. The Recipient may use the Confidential Information solely for the purposes of
29 providing or receiving EECA, as the case may be, in accordance with the
30 Legislation and the Supply Agreement and for no other reason or purpose.

31 **No Obligation to Disclose**

32 3. This Agreement does not obligate either Party to disclose any Confidential
33 Information to the other.

34 **Protection of Confidential Information**

35 4. The Recipient shall hold the Confidential Information in strict confidence and
36 shall strictly protect the Confidential Information from all harm, loss, theft,
37 reproduction and unauthorized access, employing at least the same degree of
38 care that the Recipient employs to protect its own confidential information of a
39 similar nature, but in any event, not less than reasonable care. The Recipient
40 shall ensure that such Confidential Information is not disclosed, published,

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1 released, transferred or otherwise made available in any form to, for the use or
2 benefit of, any person except as provided in this Agreement.

3 **Acknowledgements**

4 5. The Recipient acknowledges that the Confidential Information is confidential and
5 a trade secret and is owned by the Disclosing Party and is highly valuable and
6 material to the interests, business and affairs of the Disclosing Party and that any
7 unauthorized disclosure thereof by the Recipient would be detrimental to the
8 Disclosing Party.

9 **Permitted Disclosures**

10 6. The Recipient shall be permitted to disclose relevant aspects of the Confidential
11 Information to its employees and professional advisors to the extent that such
12 disclosure is reasonably necessary for the performance of its duties and
13 obligations; provided, however, that prior to such disclosure the Recipient shall
14 inform such persons and parties of the confidential nature of the Confidential
15 Information and each such person or party signs the undertaking attached to this
16 Confidentiality Agreement. The Recipient shall inform the Disclosing Party of the
17 name of each person to whom it has disclosed the Confidential Information in
18 accordance with this provision and shall provide to the Disclosing Party the
19 signed undertaking. The Recipient shall be fully responsible for ensuring that
20 any such persons to whom it discloses the Confidential Information complies with
21 the confidentiality obligations contained in this Agreement and shall be liable for
22 any breach of this Agreement by such persons.

23 7. The non-disclosure obligations in this Agreement shall not restrict any disclosure
24 by the Recipient pursuant to any applicable law or an order of any court of
25 competent jurisdiction or regulatory body with regulatory responsibilities over the
26 Recipient, provided that the Recipient shall provide the Disclosing Party with
27 prompt prior written notice of its obligation to disclose so that the Disclosing Party
28 may seek a protective order or other appropriate remedy concerning the
29 disclosure of its Confidential Information and/or waive compliance with the
30 confidentiality provisions of this Agreement. In addition, the Recipient shall take
31 reasonable steps, to the extent permitted by law, to remove from the Confidential
32 Information that is required to be disclosed, any information that is commercially
33 sensitive to the Disclosing Party. In the event of an order for disclosure by a court
34 of competent jurisdiction or regulatory body with regulatory responsibilities over
35 the Recipient, the Recipient shall first notify the Disclosing Party of such order
36 and allow the Disclosing Party not less than ten (10) days to remove any such
37 information that is commercially sensitive.

38 **Term**

39 8. The term of this Agreement shall commence on the effective date of the Supply
40 Agreement unless superceded by another form of writing, and notwithstanding
41 the return of any Confidential Information or any other event, shall continue in full

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force and effect for a period of FIVE (5) years from the effective date of this Agreement.

Equitable Remedy

9. The Recipient acknowledges that any unauthorized use of the Confidential Information or any breach of its obligations under this Agreement will result in irreparable harm to the Disclosing Party which cannot be adequately compensated for by damages. Neither the Recipient, nor any term in this Agreement, shall interfere with, delay, or prevent the Disclosing Party from seeking an interim and interlocutory equitable remedy to enforce any provision of this Agreement. The Recipient agrees not to oppose an application for equitable relief by the Disclosing Party in such circumstances. Any such relief or remedy shall not be exclusive, but shall be in addition to all other available legal or equitable remedies. The Recipient agrees that the provisions of this Section are fair and reasonable in the commercial circumstances of this Agreement. This Article shall survive the termination of this Agreement.

Return of Information

10. On the earlier of either thirty (30) days following the termination of the Supply Agreement or at the written request of the Disclosing Party (and unless superseded by another form of writing), the Recipient shall return or destroy (at the Disclosing Party's direction) and delete from all electronic devices all Confidential Information provided to it, including all copies (and all notes and documents prepared by the Recipient that may incorporate same) and still in the Recipient's possession (and otherwise under its control or in the possession of other persons to whom it has been provided as permitted hereunder) and, if requested by the Disclosing Party, shall provide written confirmation to the Disclosing Party to that effect. Notwithstanding the forgoing, the Recipient shall be entitled to retain the Confidential Information in one legal file copy that may be retained solely for the determination of its legal obligations under this Agreement.

Residual Information

11. The Recipient or its designate or any other person having access to the Confidential Information pursuant to this Agreement shall not, during and after the termination of this Agreement, use in its business any Residual Information. "Residual Information" means the ideas, know-how and techniques that would be retained in the unaided memory of an ordinary person skilled in the art, not intent on appropriating the proprietary information of the disclosing party, as a result of such person's access to, use, review, evaluation, or testing of the Confidential Information of the disclosing party for the purposes described herein. An employee's memory is unaided if the employee has not intentionally memorized the Confidential Information for the purpose of retaining and subsequently using or disclosing it.

Limited Rights

12. The Recipient agrees that no rights are granted to Recipient other than the limited rights to use the Confidential Information on the terms of this Agreement. For certainty, no license is granted under this Agreement (directly or indirectly) under any patent, discovery, copyright, or other intellectual or industrial property right now or in the future.

Indemnity

13. The Recipient shall indemnify and hold the Disclosing Party harmless from any and all loss, liability, cost or expense (including, without limitation, solicitor's costs on a solicitor and client basis and all other costs of defence) caused in whole or in part by the Recipient's breach of any provision of this Agreement. This Article shall survive the termination of this Agreement.

Governing Law

14. This Agreement is governed and shall be construed in accordance with the laws of the Province of Nova Scotia.

General Provisions

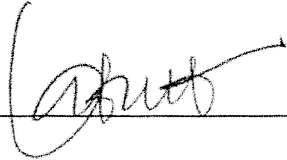
15. This Agreement is binding on the Parties, their administrators, successors, executors and assigns.

Executed and delivered this 6th day of April, 2018.

EfficiencyOne

Nova Scotia Power Incorporated

By: _____

By:  _____

Name:

Name:

Title:

Title:

Karen Hutt
President & CEO

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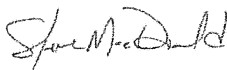
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Executed and delivered this 6th day of April, 2018.

EfficiencyOne

Nova Scotia Power Incorporated

By:



By: _____

Name:

Name: Stephen MacDonald

Title:

Title: Chief Executive Officer

SCHEDULE "A" to CONFIDENTIALITY AGREEMENT

UNDERTAKING

I _____, HAVE READ AND
 AGREE TO ABIDE AND AM BOUND BY THE TERMS AND CONDITIONS SET
 OUT IN THE CONFIDENTIALITY AGREEMENT DATED THE ____ DAY OF
 _____ BETWEEN EFFICIENCYONE AND NOVA SCOTIA
 POWER INCORPORATED.

Dated the ____ day of _____ 201__.

 Witness

 Name:

 Recipient Designate

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SCHEDULE E

EECA PLAN

[Subject to approval by the UARB]

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