

This Energy Efficiency Equipment Participant Agreement (the “**Agreement**”) is between the Halifax Regional Municipality (“**HRM**”) and _____ (the “**Participant(s)**”), being the owner(s) of the property described below (the “**Property**”).

Description and Location of the Property (e.g., residential home, mobile trailer)				
Participant(s) Ownership Interest in Property		Participant(s) Address (indicate if differs from Property location)		
Fee Simple? Yes <input type="checkbox"/> No <input type="checkbox"/>		Other? _____		
Energy Efficiency Equipment Contractor (name)				
Energy Efficiency Equipment (description)	HRM Property Assessment # (if applicable)	Property Identification # (PID) (if applicable)	HRM Project Reference ID	Date of Approval

In consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, HRM and the Participant(s) agree that the following are terms and conditions shall govern the Participant(s) involvement in HRM’s program for the financing and installation of energy efficiency equipment on the Property under its Energy Equipment By-Law (Number S-500) (the “**Program**”):

1. The Program

1.1 The Program involves the financing and installation of HRM-approved equipment that reduces the amount of non-renewable energy used by the Property and/or utilizes a renewable energy source on the Property (the “**Energy Efficiency Equipment**” or “**EEE**”). The Program consists of the following components:

- a) Property owners seeking to participate in the Program must complete the Program’s registration form(s) found at website(s) described in written communication by HRM, as such document(s) may be amended from time to time in HRM’s sole and absolute discretion (the “**Program Registration**”). In order to be considered for participation in the Program, the proposed installation of EEE must demonstrate conformity with HRM-approved EEE specifications and satisfy the HRM-generated assessment criteria, as these specifications and criteria may be amended from time to time in HRM’s sole and absolute discretion (the “**Assessment**”). HRM will determine the eligibility of property owners seeking to participate in the Program by reviewing (i) the answers provided by the property owner(s) in the Program Registration and (ii) the results of the Assessment.
- b) If approved, installation of EEE at the Property will be undertaken by a contractor or contractors eligible to install EEE (the “**Contractor**”) pursuant to an agreement between the Participant(s) and the Contractor (the “**Sales Contract**”).
- c) HRM will make direct payment to the Contractor of an amount that is equal to or less than 105% of the Quoted Cost, with the payment amount being in HRM’s sole and absolute discretion (the “**Approved Payment**”). The provision of the Approved Payment is conditional on the Participant(s) delivering the project completion documents described at section 10.2.
- d) HRM will levy a charge against the Property in the amount of the Approved Payment (the “**Charge**”).
- e) The Participant(s) will make payments in satisfaction of the Charge in accordance with the payment terms contemplated in this Agreement.

1.2 In order to be eligible to participate in the Program, the Participant(s) must in HRM’s sole determination and to its absolute satisfaction

- a) be the sole owner(s) in fee simple of the Property, or otherwise have an ownership interest that is contemplated under the Energy Equipment By-Law (Number S-500);
- b) if it is a non-profit, a registered charity or society, provide HRM with a copy of a motion passed by its board of directors, or other documentation HRM might reasonable require, demonstrating corporate authorization to participate in the Program and consent to the attachment of a charge against the Property;
- c) not be using the Property in the operation of a “business or industry” as these terms are described in section 71(2) of the *Halifax Regional Municipality Charter*,

- d) successfully complete the Program Registration;
- e) arrange for the Contractor to submit documents necessary for the completion of the Assessment that
 - i. properly details the estimated costs and predicted savings over the projected lifespan of the EEE;
 - ii. demonstrates a positive return on investment expectation, or a positive net present value, and the expected payback measured in years,
 - iii. utilize a RETScreen model or equivalent that includes financial analysis and notes on assumptions,
 - iv. includes a quote detailing the estimated total (inclusive of tax) for the purchase of EEE and its installation at the Property, warranties, maintenance plan and all other incidental costs (the “**Quoted Cost**”),
 - v. if applicable, proposes to install EEE capable of producing and transmitting data about the performance of the EEE at the Property (“**EEE Data**”) during the whole of the term of this Agreement, and
 - vi. otherwise meets the Program’s criteria;
- f) enter into this Agreement by affixing signature(s) below; and
- g) within thirty (30) days of receiving HRM’s approval to participate in the Program, deliver an executed original of this Agreement to HRM at the address or email noted in section 13.1.

1.3 A contractor will be eligible to install EEE under the Program if

- a) HRM approves of the Participant(s)’ participation in the Program;
- b) the Contractor submits documents needed for completion of the Assessment that, in HRM’s sole determination and to its absolute satisfaction
 - i. properly details the estimated costs and predicted savings over the projected lifespan of the EEE;
 - ii. demonstrates a positive return on investment expectation, or a positive net present value, and the expected payback measured in years,
 - iii. utilize a RETScreen model or equivalent that includes financial analysis and notes on assumptions,
 - iv. includes the Quoted Cost,
 - v. provides for the installation of EEE capable of producing EEE Data and transmitting same to a data storage facility of HRM’s choosing for the duration of this Agreement,
 - vi. contemplates completion of the EEE installation within six (6) months of execution of the Sales Contract,
 - vii. otherwise meets the Program’s criteria; and
- c) the Contractor utilizes EEE that, in HRM’s sole determination, meets applicable CSA or equivalent standards for use in the Program.

1.4 This Agreement is deemed to be the agreement referenced in sections 2B(f), 3B and 5A of the Energy Equipment By-Law (Number S-500). Further, EEE is “energy equipment” as this term is defined at section 2(b) of the By-Law. By signing this Agreement, the Participant hereby consents to a charge being levied upon and against the Property in a manner contemplated in the By-Law and this Agreement. Pursuant to section 7 of By-Law S-500, the Charge constitutes a lien upon and against the Property, notwithstanding any change in ownership, until the amount of the Charge, any applicable interest and penalties for missed payments are paid in full. By-Law S-500 provides HRM with a method of enforcing the payment of charges owing by the Participant(s) to HRM for the installation of the EEE at the Property. The Charge takes priority over all other liens and may be collected in the same manner as other property taxes until the Charge is paid in full (see section 104A of the *HRM Charter*).

2. Participant(s)’ Representations, Covenants, Responsibilities and Acknowledgements

2.1 The Participant(s) represents and covenants that

- a) if the Property is owned in fee simple, the Participant(s) is/are the sole lawful owner(s) of the Property, and if more than one person owns the Property all such Property owners have signed this Agreement as Participants; and
- b) the Participant(s) is/are not presently using the Property in the operation of a business or industry.

2.2 The Participant(s) is responsible for

- a) providing accurate information to HRM and the Contractor to assist in completion of the Assessment;
- b) reviewing and approving the plan of installation for the EEE (including architectural features and qualities) and providing the Contractor with ongoing instructions during the installation of the EEE at the Property;
- c) applying to relevant government authorities and utilities for appropriate permits and approvals, or authorizing the Contractor to obtain such permits and approvals on the Participant(s)’ behalf;
- d) entering into an “Interconnection Agreement” with Nova Scotia Power Inc., if and as required;
- e) advising the Contractor and HRM if there are any hazardous substances at or in the Property, or other defects, deficiencies or impediments that might impact the installation of the EEE;
- f) arranging and paying for maintenance of the EEE per the Sales Contract;
- g) arranging and paying for repairs to the EEE, including repairs to remedy defects and deficiencies pursuant to warranty or maintenance provisions in the Sales Contract;

- h) all costs incurred to move the EEE for any reason, including repair of the roof;
- i) informing Participant(s)' insurance provider that EEE has been installed and modifying insurance coverage;
- j) advising anyone who is negotiating with the Participant(s) to purchase (or to otherwise receive) an ownership interest in the Property, in writing and in advance of the transfer, that a Charge will be or has already been affixed as a lien against the Property as a result of the installation of the EEE;
- k) providing anyone who purchases or otherwise acquires title to the Property with a copy of this Agreement;
- l) obtaining and maintaining internet service and, if required, a user login and password made known to HRM, in order to permit the transmission of EEE Data in the manner contemplated under this Agreement;
- m) and HRM will have no involvement in and is not responsible for
 - i. retaining a Contractor,
 - ii. negotiating the form and content of the Sales Contract,
 - iii. ensuring installation of the EEE in accordance with the Sales Contract, this Agreement and the Program (to give one example, by enforcing timelines with respect to the installation of the EEE),
 - iv. enforcing the terms of the Sales Contract (for one example, requiring the Contractor to resolve performance issues with the EEE),
 - v. authorizing payments once the work is complete by arranging for the provision of project completion documents per section 10.2 once the EEE is installed and functioning properly at the Property, and
 - vi. maintaining lien holdbacks, if any, under the Sales Contract and arranging for the discharge of any builders' liens that may be registered against the Property.

2.3 The Participant(s) acknowledge, understand and agree that

- a) by completing the Program Registration, signing this Agreement and returning both to HRM, the Participant(s) may be entered into the Program, after which HRM may levy a charge against the Property in the amount of the Charge and cause the Charge to be payable according to the payment terms described in section 11.3;
- b) the Quoted Cost is only an estimate provided by the Contractor and the Approved Payment may not cover all of the amount actually billed to the Participant(s) under the Sales Contract (the amount actually billed to the Participant(s) is referred to in section 10.2(a) as the "Actual Cost");
- c) the Approved Payment will not exceed 105% of the Quoted Cost (HST included);
- d) HRM will only make the Approved Payment to the Contractor if the requirements of this Agreement with respect to the Approved Payment have been met;
- e) once the EEE has been installed and the Approved Payment has been made, the Participant(s) will make timely payments in satisfaction of the Charge and pay any other amounts due to HRM in accordance with the payment terms described in section 11.3 and more generally in this Agreement;
- f) the Participant(s) is/are not an agent of HRM and will not hold out to the Contractor that the Participant(s) can in any way bind HRM to a course of action as a result of the Participant(s)' involvement in the Program;
- g) HRM is not an agent for the Participant(s); and
- h) the Participant(s) have had the opportunity to seek and receive
 - i. advice from banking/financial advisors relative to the Participant(s)' participation in the Program and what impact, if any, permitting the Charge to form a first lien on and against the Property might have on existing security and mortgage interests in the Property, and
 - ii. independent legal advice with respect to this Agreement.

3. Permits & Approvals

The Participant(s) agrees to enter into a Sales Contract that will result in EEE being supplied and installed at the Property in accordance with the Program and this Agreement, and in compliance with the requisite permits and approvals. The Participant(s) will, at the Participant(s)' sole effort, cost and risk, apply for and comply with any permit or approval necessary to install and operate the EEE, or cause the Contractor to undertake this task. This Agreement will not be construed as or deemed to be a commitment by HRM, when acting as a municipal permitting authority, to process the Participant(s)' applications for permits or approvals in a manner that differs from its normal practices and procedures. Nothing in this Agreement will abridge, extinguish, impair or fetter the right of HRM, acting in its capacity as a municipal permitting authority, to either reject or impose conditional approval with respect to any permit application that either the Participant(s) or the Contractor submits to HRM, acting as a municipal permitting authority, relative to the installation of EEE.

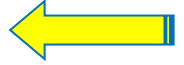
4. No Representation or Warranty

HRM makes no representation or warranty on its part in this Agreement, or otherwise, related to the design, installation, functionality or performance of the Energy Efficiency Equipment. HRM expressly disclaims any and all representations or warranties at common law or by statute with respect to the Energy Efficiency Equipment, associated equipment or materials, including but not limited to warranties related to workmanship, quality, merchantability, non-infringement, fitness for purpose or performance. Without limiting the foregoing, HRM

disclaims any representations or warranties, whether expressed or implied, that the Energy Efficiency Equipment will, once installed,

- a) qualify for the making of an Approved Payment by HRM to the Contractor under the Program; or
- b) reduce energy consumption at the Property, achieve the expected energy savings or result in a lowering of the Participant(s)' utility bills.

Participant(s) initials confirm agreement with section 4 _____ / _____



5. Limitation of Liability and Indemnity

5.1 HRM, its Mayor, members of Regional Council, officers, employees and agents will not be liable under any theory of relief or recovery to the Participant(s) for any damages or loss of any kind or nature (inclusive of direct, indirect and consequential damages) arising at law or in equity (whether in negligence, contract, tort, or under any other provision of law) related or connected to (i) the design, installation or operation of the Energy Efficiency Equipment, (ii) any negligence or wrongdoing on the part of the Contractor with respect to its acts or omissions on the Property, or (iii) anything done under this Agreement or the Program; but excepting liability arising out of gross negligence or wilful misconduct on the part of HRM.

Participant(s) initials confirm agreement with section 5.1 _____ / _____



5.2 The Participant(s) indemnifies and saves harmless HRM, its Mayor and members of Regional Council, officers, employees and agents from and against any losses, costs, damages, liens, charges, claims, demands, suits, proceedings, recoveries and judgments arising from or related to the Participant(s)' performance or non-performance of the Participant(s)' obligations under this Agreement or the Sales Contract.

Participant(s) initials confirm agreement with section 5.2 _____ / _____



6. Incentives, Rebates and Environmental Credits

It is the responsibility of the Participant(s) to apply for and obtain incentives and rebates that may become available from the federal, provincial or municipal government or public utility in respect of or related to EEE and, more generally, energy efficiency upgrades.

7. Ownership, Disclosure and Confidentiality of Data and Written Material

7.1 Any written material that is provided by the Participant(s) to HRM, or information provided to HRM that might later become available in a written format, is subject to Part XX of the *Municipal Government Act* ("MGA"). Pursuant to the MGA, the public has a right to seek access to such written material, which HRM must then disclose subject to those provisions of the MGA that safeguard against the disclosure of "confidential" and "personal information". Further, HRM may be required to disclose written materials received from the Participant(s) pursuant to subpoena or court order.

7.2 Subject to this Agreement, HRM will be the owner of, and have sole and exclusive property rights to, EEE Data transmitted to HRM during the term and anytime thereafter. HRM hereby grants to the Participant(s) a non-transferrable, non-exclusive right to access and use the EEE Data during the term of this Agreement on an "as is, where is basis"; that is, without warranty or representation. Except as is provided for in this Agreement, HRM will not disclose to third parties any "personal information" (as this term is defined in the MGA) included in the EEE Data without first receiving the written consent of the Participant(s). HRM will be combining the EEE Data with data collected from other participants in the Program for its own use, and may disclose this aggregate data (in an open data format or via individual licenses) to third parties. Notwithstanding the termination of this Agreement, HRM will continue to have the right to access, collect and use EEE Data generated by Energy Efficiency Equipment at the Property for purposes related to or arising out of the Program, unless and until the Participant(s) provides HRM with written notice discontinuing HRM's access to the EEE Data.

7.3 In order to afford HRM with its ownership rights in respect of the EEE Data, the Participant(s) will cause the Contractor to arrange for the solar monitoring/data transmission equipment that will be attached to the EEE to transmit the EEE Data to a data storage facility of HRM's choosing during the term of this Agreement. If required, Participant(s) will provide HRM with the user login, password or other information necessary for HRM to access and retrieve the EEE Data.

8. Installation of the Energy Efficiency Equipment at the Participant(s)' Property

8.1 If the Contractor or the Participant(s) causes the installation of the EEE to be stopped or delayed for any reason, including reasons related to safety (for example, the existence of structural deficiencies or hazardous material) or discovery of unforeseen conditions, this is a matter to be resolved between the Participant(s) and the Contractor by reference to the Sales Contract. If HRM, the Participant(s) or Contractor discovers any deficiencies with the Property relative to compliance with codes, standards, or other applicable regulations, the Participant acknowledges that HRM may be obligated to report such deficiencies to the applicable regulatory authority.

per annum, which accrues daily on the outstanding balance. Payments in satisfaction of the Charge will be made separately from property taxes.

11.4 Upon the Participant(s) or any subsequent owner of the Property paying HRM all outstanding amounts within the period of repayment, the Charge will be collected and the lien will no longer operate against the Property. If the Charge, along with any applicable interest and penalties for missed payments, remains unpaid at the end of the period of repayment or payments are not paid in accordance with the account statement, HRM may initiate its process to recover outstanding lienable charges and the Property may be subject to a tax sale. The Participant(s) may choose to pay off the balance of any amounts owed to HRM at any time, without penalty.

11.5 Subject to this Agreement, the Participant(s) have an unfettered right to sell, transfer, charge, mortgage, encumber or otherwise deal with the Property without the consent of HRM. Should the Property be sold or transferred to another person or entity after the creation of the Charge, HRM may initiate a process to bring the Property to tax sale unless

- a) a lump sum payment representing the amount owed to HRM in respect of the Charge, any applicable interest and penalties for missed payments is received by HRM from the proceeds of the sale; or
- b) all amounts due to HRM under this Agreement up to the date of transfer are paid in full and HRM continues to receive payments in accordance with the account statement following the date of transfer.

11.6 It is common practice for a charge, along with any applicable interest and penalties for missed payments, to be paid out and discharged when a property is sold or otherwise transferred. If, for whatever reason, the Property is transferred to a new owner with the Charge remaining in place against the Property, the Participant(s) will continue to be responsible to HRM for all of the Participant(s)' obligations and liabilities under this Agreement until HRM signs an Assignment, Novation and Release prepared in a form and including content to its reasonable satisfaction thereby releasing the Participant(s) from their obligations and liabilities under this Agreement. HRM will not sign an Assignment, Novation and Release until the following conditions have been met to its sole and absolute satisfaction:

- a) the Participant(s) provides HRM with a registered copy of the warranty deed or other transfer document acceptable to HRM, acting reasonably, showing a transfer of the Property from the Participant(s) to the new owners;
- b) amounts due per this Agreement in repayment of the Charge (including interests and penalties) owed during that part of the term of this Agreement when the Participant(s) owned the Property have been paid in full; and
- c) the Participant(s) provide HRM with an Assignment, Novation and Release that has been executed both by the Participant(s) and the new owner(s) and which meets with HRM's reasonable satisfaction.

11.7 Should the Charge not operate as a lien against the Property for any reason other than its repayment in full, the Participant(s) shall nevertheless continue to be responsible and liable to pay over to HRM, in accordance with the account statement provided by HRM, a sum equal to the unpaid amount of the Charge along with any applicable interest and penalties for missed payments, until the total of these amounts is paid in full. Should repayment proceed in this manner, the Participant(s) will continue to be liable to HRM for all of their obligations and liabilities under this Agreement notwithstanding the transfer of the Property to a new owner.

12. Default

12.1 HRM may declare the Participant(s) to be in default of this Agreement if the Participant(s):

- a) makes a materially false or misleading representation or submits materially false or misleading information to HRM;
- b) fails to install the EEE on the Property in accordance with this Agreement;
- c) fails to make payment to HRM as it becomes due; or
- d) makes application to sever or subdivide the Property without first paying the remainder of the Charge and any applicable interest and penalties for missed payments.

12.2 In the event HRM has declared the Participant(s) to be in default of this Agreement pursuant to section 12.1, HRM may immediately exercise one or more of the following remedies:

- a) remove the Participant(s) from the Program;
- b) terminate HRM's obligations under this Agreement;
- c) require immediate payment from the Participant(s) the Charge remaining against the Property and any applicable interest and penalties for missed payments; and
- d) pursue a court action to recover any damages or losses suffered by HRM.

13. General Terms

13.1 *Contact Information.* Any documents required to be provided, or written demand or notice to be given to HRM under this Agreement will be delivered by email or by registered mail to the following address:

Attention: Solar City Program Officer

Solar City Program
Energy & Environment
Planning and Development
Halifax Regional Municipality
PO Box 1749, Halifax Nova Scotia, B3J 3A5

Or email

solarcity@halifax.ca

13.2 Audit. The Participant(s) will at all times during the term of this Agreement keep and maintain records generated or received by the Participant(s) in respect of (i) the Program Registration, (ii) the project completion documents referenced under section 10.2, (iii) this Agreement, and (iv) the Sales Contract. The Participant will, at its own effort and expense, make such records available for inspection and audit by HRM at all reasonable times.

13.3 Verification. HRM reserves the right, exercisable on 5 business days' written notice to the Participant(s), and at HRM's effort and expense, to have an HRM representative or third-party contractor verify that the installed EEE accords with the particulars of the project completion documents referenced under section 10.2. By conducting such a verification, the HRM representative is not making any representations or warranties with respect to the installed Energy Efficiency Equipment, nor engaging in an inspection of the Property for the purpose of issuing permits and approvals, and under no circumstance shall HRM be considered to have made such a representation, warranty or inspection by the exercise of its verification rights under this section 13.3.

Participant(s) initials confirm agreement with section 13.3 _____ / _____



13.4 Assignment. The Agreement binds HRM, the Participant(s) and their respective successors, heirs and assigns. HRM may assign this Agreement, in whole or part, without notice and for any purpose. The Participant(s) may only assign this Agreement with the written consent of HRM, with consent may be unreasonably withheld.

13.5 No Waiver of Rights. Any condoning, excusing or overlooking by a non-breaching party of any default will not operate as a waiver of the non-breaching party's rights hereunder in respect of any subsequent default.

13.6 Governing Law. The Agreement will be governed by the laws of the Province of Nova Scotia. Any dispute arising in respect of this Agreement will be determined by a court of competent jurisdiction in the Province of Nova Scotia.

14. Signatures

The parties have executed this Agreement on the date it is signed by the last person to sign it, as is indicated by the date associated with that party's signature. This Agreement will become effective when all parties have signed it.

Signature lines for Participant(s) and Halifax Regional Municipality, including fields for Name, Title, Signature, and Date. Includes yellow arrows pointing to signature lines.