MANITOBA HYDRO

ENERGY MANAGER INITIATIVE AGREEMENT

PERFORMANCE REVISION 3

DRAFT

Manitoba Hydro Draft Jun 5, 2018

CONFIDENTIAL

TABLE OF CONTENTS

ARTICLE 1. DEFINITIONS AND APPENDICES 2
ARTICLE 2. GENERAL 4
ARTICLE 3. ENERGY MANAGER 4
ARTICLE 4. ENERGY MANAGEMENT ASSESSMENT WORKSHOP 5
ARTICLE 5. STRATEGIC ENERGY MANAGEMENT PLAN 5
ARTICLE 6. REPORTING 6
ARTICLE 7. FUNDING 6
ARTICLE 8. DEFAULTS & REMEDIES 8
ARTICLE 9. INDEMNITY AND LIMITATIONS OF RESPONSIBILITY AND LIABILITY 10
ARTICLE 10. CONFIDENTIALITY 12
ARTICLE 11. MISCELLANEOUS 12
APPENDIX A ENERGY MANAGER QUALIFICATIONS & DUTIES A-1
APPENDIX B ENERGY MANAGEMENT ASSESSMENT WORKSHOP B-1
APPENDIX C STRATEGIC ENERGY MANAGEMENT PLAN C-1
APPENDIX D PERFORMANCE CONTRACT D-1
APPENDIX E ENERGY MANAGER REPORTS E-1

DRAFT

ENERGY MANAGER INITIATIVE AGREEMENT

THIS AGREEMENT is made and entered into as of the _____ day of _____, _____.

BETWEEN:

MANITOBA HYDRO

("MH"),

- and -

("Applicant"),

DRAFT

WHEREAS the Applicant has expressed their commitment to employ an energy manager that will promote and lead energy efficiency efforts.

AND WHEREAS the Applicant reasonably expects that it can deliver at a minimum the Annual Savings Target.

AND WHEREAS Manitoba Hydro and the Applicant wish to enter into this Agreement to set out the terms and conditions upon which Manitoba Hydro will provide Incentives;

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

ARTICLE 1. DEFINITIONS AND APPENDICES

1.1 Definitions

In this Agreement, unless the context or subject matter indicates otherwise, the following words and phrases shall have the following meanings:

(a) **"Agreement"** means this agreement as it may from time to time be supplemented or amended and in effect, and includes the recitals and the Appendices attached to this Agreement;

(b) **"Annual Savings Target"** means first year electricity savings arising from activities of the Energy Manager and relating to projects completed and in service in the 12 month period commencing on the Commencement Date.

(c) **"Applicable Laws"** means any federal, provincial and local laws including statutes, regulations, rulings, orders, administrative interpretations and other governmental restrictions, in each case, as amended from time to time, relating to the matter or item being contemplated or discussed;

(d) **"Applicant Default"** has the meaning ascribed thereto in ARTICLE 8.1;

(e) **"Bankrupt or Insolvent"** means, with respect to a Person:

(i) the Person has started proceedings to be adjudicated a voluntary bankrupt or consented to the filing of a bankruptcy proceeding against it;

(ii) the Person has filed a petition, application or similar proceeding seeking reorganization, arrangement or similar relief under any bankruptcy, protection, insolvency or creditor protection law;

(iii) a receiver, liquidator, trustee or assignee in bankruptcy has been appointed for the Person and such appointment is not being contested by the Applicant and has not been dismissed, stayed or vacated within sixty (60) days thereof, or the Person has consented to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy;

(iv) the Person has voluntarily suspended the transaction of its usual business;

(v) a court has issued an order declaring the Person bankrupt or insolvent and such order is not being diligently contested by the Applicant and has not been dismissed, stayed or vacated within sixty (60) days thereof; or

(vi) the Person is insolvent within the meaning of the Bankruptcy and Insolvency Act (Canada) for a period of greater than forty-five (45) days from the date that the Person became aware of such insolvency;

(f) **"Business Day"** means any day other than Saturday, Sunday or any statutory or civic holiday observed in the Province of Manitoba;

(g) **"Commencement Date"** The Commencement Date shall be the first day the Parties agree that the Energy Manager begins their duties and shall be used for determining reporting deadlines, acceptability of energy savings opportunities, and for calculating energy savings and incentives;

(h) **"Energy"** means the electricity and natural gas purchased from Manitoba Hydro by the Applicant during a defined period;

DRAFT

(i) **"Energy Manager"** has the meaning ascribed thereto in ARTICLE 3(a)

(j) **"Evidence"** includes consultant paid invoices, employee timesheets or accounting records. Manitoba Hydro may, acting reasonably, accept or reject all or part of the Evidence and may require submission of additional Evidence.

(k) **"GST"** means the goods and services tax imposed under the Excise Tax Act (Canada) as that Act may be amended or replaced from time to time;

(l) **"Losses"** has the meaning ascribed thereto in ARTICLE 9.6;

(m) **"Manitoba Hydro Default"** has the meaning ascribed thereto in ARTICLE 8.3

(n) **"Manitoba Hydro Indemnitee"** has the meaning ascribed thereto in ARTICLE 9.6;

(o) **"Party"** means, as the case may be:

(i) Manitoba Hydro and its successors and permitted assigns; or

(ii) The Applicant and its successors and permitted assigns;

(iii) and "Parties" means all of Manitoba Hydro, the Applicant and their respective successors and permitted assigns;

(p) **"Performance Incentive"** has the meaning ascribed thereto in ARTICLE 7;

(q) **"Person"** means an individual, body corporate, firm, partnership, limited partnership, joint venture, legal representative or other legal entity and, if applicable, includes the Applicant or Manitoba Hydro, as the case may be;

(r) **"Persons"** means more than one Person;

(s) **"Taxes"** means all applicable taxes, levies or charges imposed by the Government of Canada, the government of any province or territory of Canada or the government of any city or municipality in Canada;

(t) **"Term"** has the meaning ascribed thereto in ARTICLE 2(b);

(u) **"Verified Energy Savings"** means electricity and/or natural gas savings which have met the measurement and verification requirements of MH. Verified Energy Savings are calculated on an annual basis.

1.2 Attached to and forming an integral part of this Agreement are the following appendices:

APPENDIX A	ENERGY MANAGER QUALIFICATIONS & DUTIES
APPENDIX B	ENERGY MANAGEMENT ASSESSMENT WORKSHOP
APPENDIX C	STRATEGIC ENERGY MANAGEMENT PLAN
APPENDIX D	PERFORMANCE CONTRACT
APPENDIX E	ENERGY MANAGER REPORTS

DRAFT

ARTICLE 2. GENERAL

(a) Manitoba Hydro (MH) has created the Energy Manager Initiative (the "Program"), to provide financial assistance to MH customers, who hire or appoint an employee to perform the services of an energy manager (the "Energy Manager") within their organization. The Energy Manager will be retained to develop and implement energy management within the organization; this includes, without limitation, developing an energy management plan, identifying and implementing energy savings opportunities, and reporting on progress.

(b) The term ("Term") of this Agreement shall be one year commencing on the Commencement Date and, upon the mutual agreement of the parties, may be extended for an additional year, two times, on the anniversary date of the Commencement Date at which time this Agreement shall terminate unless it is terminated earlier or extended as permitted or contemplated under this Agreement.

ARTICLE 3. ENERGY MANAGER

(a) The Energy Manager (EM) is a permanent employee of the Applicant who meets the minimum requirements described in APPENDIX A.

(b) The Applicant shall seek to hire externally, or appoint internally, an EM in accordance with ARTICLE 3(a). MH has the right to review and approve the EM's qualifications or request further documentation to support the candidate's suitability for the Program. If a candidate does not meet the minimum requirements, MH may approve the candidate for the Program at their sole discretion.

(c) The Applicant shall, subject to the prior written approval of MH, hire or appoint the EM in accordance with all Applicable Laws. The Applicant shall be responsible for, and shall pay for, all costs and expenses incurred with respect to the EM's employment.

(d) The Applicant will use reasonable efforts to provide the EM with the resources required in order to successfully complete the duties in APPENDIX A. (e.g. training, equipment, access to operations staff, funding for initiatives)

(e) For the purpose of verifying the EM duties are in agreement with those set out in APPENDIX A of this Agreement, MH may conduct a general review of the EM's activities and proposed projects, which may include site visits, as determined from time to time at MH's sole discretion.

(f) During the EM's employment and the Term of this agreement, MH shall provide financial assistance as outlined in ARTICLE 7 to support the Applicant in implementing energy management.

(g) MH will determine if the EM requires training at a course determined by MH ("Training"). The Applicant shall ensure the EM attends any Training require by MH. During Training, the Applicant shall pay for the EM's salary, or hourly or other rates, Training fees and other expenses. In accordance with ARTICLE 7(k) of this Agreement, MH shall reimburse the Applicant the Training fee.

DRAFT

ARTICLE 4. ENERGY MANAGEMENT ASSESSMENT WORKSHOP

(a) The purpose of the Energy Management Assessment Workshop ("Workshop") is to determine to what extent energy management practices are integrated into the operations of the organization and to engage senior management in defining the organization's objectives pertaining to energy management.

(b) The Applicant, with the EM, shall conduct a Workshop which meets the requirements of APPENDIX B. The Applicant may seek Consultant services to deliver the Workshop. MH shall provide planning support and must be included in the Workshop.

(c) In accordance with ARTICLE 7(l), MH will reimburse the Applicant for Consultant services to conduct the Energy Management Assessment Workshop, up to a maximum value of $10,000.

(d) If applicable, the Applicant shall provide Evidence of the scope of work, deliverables, and costs associated with the Consultant Workshop to MH for review and for confirmation of eligibility under the Program prior to conducting the Workshop.

ARTICLE 5. STRATEGIC ENERGY MANAGEMENT PLAN

(a) The purpose of the Strategic Energy Management Plan (SEMP) is to articulate the commitment and strategy for implementing energy management within the organization.

(b) In accordance with the duties outlined in APPENDIX A, the EM will develop a SEMP, meeting the minimum requirements outlined in APPENDIX C, using the information and insight obtained during the EMA Workshop.

(c) The SEMP shall be submitted within 6 months of the Commencement Date and updated every 12 months thereafter. Deadlines are listed in APPENDIX D.

(d) MH shall provide support in the form of bi-weekly coaching with the EM to help develop, document, and finalize the SEMP. After the SEMP is finalized, continued support will be available from MH as required to the EM.

(e) MH will provide Up Front Funding as per ARTICLE 7(f) to support the SEMP development phase.

DRAFT

ARTICLE 6. REPORTING

(a) Reports serve as the method for the Applicant to claim energy savings and apply for incentives under the Program. Reports also enable the Applicant's organization to better manage their operations and improve their energy performance over time.

(b) The EM shall prepare the Reports meeting the minimum requirements of APPENDIX E. Additional information the Applicant deems useful for their own reporting purposes may be included.

(c) The EM will use reasonable efforts to deliver each Report to MH by the submission deadline. Submission deadlines shall be set at regular intervals, as set out and agreed to in APPENDIX D.

(d) The Applicant shall review and approve, by signature, each report prior to the EM submitting two hard copies to MH.

(e) MH shall review the Reports to ensure completeness, accuracy, and progress since the previous Report and will provide its approval or comments on the Report to the EM within a reasonable time. If MH does not approve the Reports, such documents will need to be revised by the EM in order to address the noted deficiencies and re-submit for MH's approval.

ARTICLE 7. FUNDING

(a) During the Term of this Agreement, MH will provide assistance in the form of a financial Performance Incentive (PI). PI shall be paid to the Applicant for the Verified Energy Savings realized as a result of the EM's efforts.

(b) OPTIONAL CLAUSE: Performance Incentives provided under this agreement shall only be used by the Applicant for sole purpose of funding energy conservation related activities and measures.

(c) In order to qualify, Verified Energy Savings are electricity and/or natural gas savings verified under one of the existing demand side management (DMS) programs (i.e. Performance Optimization, Natural Gas Optimization, Commercial Lighting Program, etc.). For clarity, the PI under this agreement is in addition to any incentives received through existing DSM programs.

(d) If a measure is not eligible for an incentive through existing DSM programs (e.g. simple payback less than 1 year), the energy savings should be documented and submitted to the Performance Optimization Program for validation. The savings may then be included for Performance Incentives through the EMI.

(e) The Performance Incentive shall be paid at a rate of \$0.02/kWh and \$0.03/m^3 for electricity and natural gas savings respectively as documented in APPENDIX D.

(f) Up Front Funding (UFF)

DRAFT

1. A portion of the Performance Incentive will be paid to the Applicant upon entering this Agreement and notification of the Commencement Date.

2. For clarity, UFF is an advance on future Performance Incentives for energy saving and the amount is determined based on the Annual Savings Target established in APPENDIX D. The UFF amount is found in APPENDIX D.

3. If both Parties agree to an extension as per ARTICLE 2(b), and the Applicant has met the AST for the previous 12 month period, UFF for the second 12 month period will be calculated based on the revised AST and paid when the extension takes effect.

(g) Using the Reports outlined in ARTICLE 6, the EM must provide a list of projects verified during the reporting period for which the EM is seeking a Performance Incentive.

(h) Upon approval by MH of the Reports, the Performance Incentive amount owed for that reporting period shall be paid. The amount owed shall be calculated as follows:

1. The product of the electrical Incentive Rate and the total electrical Verified Energy Savings approved in the Report; plus

2. The product of natural gas Incentive Rate and the total natural gas Verified Energy Savings approved in the Report; minus

3. The remaining portion of Up Front Funding paid to date and not yet recovered through PI.

(i) If the amount of the calculation in ARTICLE 7(h) results in a negative value, the amount shall be deemed to be $0. The Applicant will not be required to repay any portion of the UFF.

(j) The maximum amount of the PI paid out for each twelve (12) month period of the Term, starting on the Commencement Date, shall not exceed Maximum Annual Incentive value in APPENDIX D.

(k) In addition to the PI described in this Agreement, MH will reimburse the Applicant if, pursuant to ARTICLE 3(g) of this Agreement, MH requires the EM to attend certain Training. MH will reimburse reasonable Training fees, up to the maximum in APPENDIX D, relating to certain MH-approved Training, provided that the Applicant has given MH Evidence of the following satisfactory to MH:

1. Applicant acquires pre-approval from MH prior to taking the Training, and

2. Payment by the Applicant of the Training fee; and

3. The successful completion by the EM of the Training within the required timeframe.

DRAFT

(l) MH will reimburse the Applicant if, pursuant to ARTICLE 4 of this Agreement, the Applicant engages a Consultant to provide an Energy Management Assessment Workshop. The Amount of this funding shall not exceed the maximum provided for in APPENDIX D. Evidence of the scope of work, deliverables, and costs associated with the workshop must be provided to MH, for their approval, prior to conducting the workshop. The workshop deliverables and Evidence of payment must be provided to MH in order to receive payment of funding.

(m) Funding provided under ARTICLE 7(k) and ARTICLE 7(l) shall not deduct from the maximum PI amount described in ARTICLE 7(j).

(n) MH shall provide payments towards PI to the Applicant in accordance with this ARTICLE 7 subject to the following conditions being satisfied:

1. The Applicant having provided Evidence to MH acting reasonably that the Applicant has obtained all internal corporate approvals required with respect to this Agreement.

2. The Applicant or the EM having delivered the following to MH

    a. Reports, as per ARTICLE 6;

    b. The Applicant's GST/PST registration number;

    c. Evidence of the costs and expenditures for the EMs services; and

    d. For each payment toward the Performance Incentive, the Applicant having delivered the necessary documents and evidence specified as being required for each payment.

All conditions must be met to MH's satisfaction, in its sole discretion.

DRAFT

ARTICLE 8. DEFAULTS & REMEDIES

8.1 Events of Default of Applicant

Throughout the Term, and of the following shall constitute an Event of Default of the Applicant upon its occurrence and no cure period shall be applicable:

(a) Applicants failure to comply with any obligation of covenant under this Agreement, which failure has a material adverse impact on MH;

(a) The Applicant is Bankrupt or Insolvent;

(b) The Applicant's dissolution of liquidation;

(c) The Applicant's fraud in connection with this Agreement; or

(d) any representation or warranty made by the Applicant in this Agreement that is false or misleading and that is material in respect of the purpose and object of this Agreement and would reasonably be expected to result in a material adverse impact on MH.

(each a "**Applicant Default**")

8.2 Manitoba Hydro Remedies upon Applicant Default

Upon the occurrence of an Applicant Default, MH shall be entitled to, in addition to any other right or remedy available to it under this Agreement or otherwise, in its sole discretion:

(a) Cease funding;

(b) Require the Applicant to repay incentives and funding;

(c) Adjust incentives and funding;

(d) Terminate this Agreement on 10 days notice to the Applicant; and/or

(e) Exercise and combination of the foregoing.

If MH terminates this Agreement pursuant to this ARTICLE 8.2, the Applicant will, upon written demand from MH, repay MH any funding demanded by MH.

8.3 Events of Default of MH

(a) Throughout the Term, any of the following shall constitute an event of default of MH upon its occurrence and no cure period shall be applicable:

(i) MH's dissolution or liquidation, provided that division of MH into multiple entities shall not constitute dissolution or liquidation; or

(ii) MH's filing of a petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of Canada or under any insolvency act of any Province, or MH voluntarily taking advantage of any such law or act by answer or otherwise;

(b) Any of the following shall constitute an event of default of MH if MH has failed to cure such default within thirty (30) days after the date of written notice from Applicant to MH hereof:

(i) MH's failure to comply with any obligation or covenant under this Agreement, which failure has a material adverse impact on the Applicant;

(ii) MH's failure to comply with any other obligation under this Agreement, which failure does not have a material adverse impact on the Applicant but that causes pecuniary loss to the Applicant;

(iii) MH's failure to make any payment due hereunder (net of outstanding damages and any other rights of offset that MH may have pursuant to this Agreement); or

(iv) any representation or warranty made by MH is false or misleading in any material respect, and would reasonably be expected to result in a material adverse impact on the Applicant;

(each a **"MH Default").**

DRAFT

8.4 MH Default

Upon a MH Default, the Applicant shall be entitled to terminate this Agreement.

8.5 Termination

Subject to extension by mutual agreement of the Parties or early termination pursuant to this Agreement, this Agreement will terminate 1 year after the Commencement Date

8.6 Extension of Term

MH and the Applicant may, by written Agreement, extend the term of the EM and the term of this Agreement on terms and conditions acceptable to them including, without limitation, the amount of Performance Incentives, the incentive payment schedule and a new scope of work for such extended term.

8.7 Survival

Any rights and obligations of the parties which are expressly stated to survive termination or which by their nature are continuing rights and obligations, will survive termination of this Agreement.

ARTICLE 9. INDEMNITY AND LIMITATIONS OF RESPONSIBILITY AND LIABILITY

9.1 Representations and Warranties

Notwithstanding the fact MH or its representatives may have reviewed the information contained in the Applicant's Reports, it is understood and agreed that MH, not being a contractor, system designer or manufacturer of any of the energy saving measures contemplated in the Reports, makes no representations or warranties whatsoever relating to such measures including, without limitation, any representations or warranties relating to the merchantability and fitness for a particular purpose, fitness of design, expected or anticipated electrical energy savings or whether the requirements of any law, rule specification or contract will be satisfied.

9.2 Limitations of Responsibility

The only responsibility or obligation that MH is assuming in respect of or relating to the EM is the contribution of funding in accordance with the terms of this Agreement. MH assumes no other responsibility or obligation in respect of or relating to the EM.

Subject to the foregoing, all responsibilities and obligations in respect of or relating to the EM including the following, without limitation, belong solely to the Applicant.

(a) all decisions relating to the engagement, compensation, supervision, termination or severance of the Energy Manger;

(b) the payment of all costs and expenses relating to the EM and incurred by the Energy Manger in carrying out its duties under this Agreement;

(c) the services of the EM; or

(d) any projects carried out by the Applicant upon the recommendation of the EM.

DRAFT

9.3 Release by the Applicant

The Applicant agrees and acknowledges that, notwithstanding the fact that MH or its representatives have approved the EM, MH shall not be responsible for the performance, actions, qualifications, abilities, work, or workmanship of any EM.

9.4 Limitations of Report Approval

MH's review and approval under this Agreement of any Reports, potential energy savings estimates, Evidence, or other documentation is limited to this Agreement and will not constitute acceptance for any other purposes.

9.5 Limitations of Taxes

MH will not be responsible for any tax liability imposed on the Applicant as a result of any MH incentives or reimbursements given pursuant to this Agreement.

9.6 Indemnification by the Applicant

Subject to the other provisions of this Agreement, the Applicant agrees to indemnify and hold harmless MH, its shareholders (including the Government of Manitoba), directors, officers, employees and agents (in this ARTICLE 9 each a "MH Indemnitee") from and against any and all actions, suits, claims, proceedings, demands, assessments and judgments, costs, losses, liabilities, damages and expenses (including, without limitation, settlement costs and actual legal fees and disbursements incurred in respect thereof) (in this ARTICLE 9 collectively, "Losses") arising from or in connection with:

(a) any inaccuracy of any representation or warranty made by the Applicant in this Agreement, any certificates delivered pursuant to this Agreement or pursuant to any agreements contemplated herein;

(b) the actual or alleged preparation or implementation of the Reports, including any actions or omissions by the EM in the preparation or implementation of the Reports and in carrying out its duties under this Agreement;

(c) any breach of any covenant, obligation or agreement made by the Applicant in or pursuant to this Agreement or in any agreements delivered by the Applicant pursuant to the terms of this Agreement.

For certainty, if any other provision of this Agreement addresses the manner in which MH is to be compensated as a result of the occurrence of any of the actions or circumstances referred to above, then this ARTICLE 9.6 shall not apply with respect to such occurrence.

9.7 Indemnification by MH

MH agrees to indemnify and hold harmless the Applicant, its partners and their shareholders, directors, officers, employees and agents (in this ARTICLE 9, each a "Applicant Indemnitee") from and against any and all Losses arising from or in connection with:

(a) any inaccuracy of any representation or warranty made by MH in this Agreement, any certificates delivered pursuant to this Agreement or pursuant to any agreements contemplated herein; or

DRAFT

(b) any breach of any covenant, obligation or agreement made by MH in or pursuant to this Agreement or in any agreements delivered by MH pursuant to the terms of this Agreement.

ARTICLE 10. CONFIDENTIALITY

10.1 Confidential Information

Each of MH and the Applicant will keep confidential any confidential information made available by one Party to the other in connection with the matters arising under this Agreement, and will not disclose such confidential information except with the prior written consent of the Disclosing Party or as may be required by applicable law.

10.2 Energy Manager Information

The Applicant will comply with the Personal Information Protection Act and ensure that it has obtained the consent of the EM prior to disclosing any personal information of the EM to MH.

10.3 Account Information Release

The Applicant hereby consents to MH providing the Applicant's MH account information to the EM and/or a consultant for the purposes of developing or conducting the Workshop.

ARTICLE 11. MISCELLANEOUS

11.1 Communications

In any advertisements or promotional materials relating to the Applicant's participation in the Program, the SEMP, or implementation of any energy savings measures which result from this Agreement, MH and the Applicant will each give recognition to the participation of the other in fair and accurate terms; but any logos, copyrighted or trademarked names or terms of a Party will not be used without prior written consent of that Party.

11.2 Cooperation

MH and the Applicant agree to provide all reasonable cooperation to the other in their mutual objective to successfully implement the Program.

11.3 Applicable Law

This Agreement is made under, subject to and will be interpreted exclusively in accordance with, the laws of the Province of Manitoba and the applicable federal laws of Canada, including Manitoba and federal law governing conflict of laws. Other than disputes, differences or questions specified in ARTICLE 9, any dispute, disagreement suit, action or proceeding arising out of or relating to this Agreement may be brought in the Manitoba Court of Queen's Bench, Winnipeg Centre, and the Parties agree that such court has exclusive jurisdiction in respect of any such proceeding.

DRAFT

11.4 Entire Agreement

This Agreement, together with any other agreements and documents to be delivered pursuant hereto, together constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties and there are no warranties, representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein and therein.

11.5 Time is of the Essence

Time is of the essence of this Agreement and in the performance of all of the covenants and conditions hereof.

11.6 Modifications and Amendments

This Agreement may not be modified, changed or supplemented, except by written agreement signed by the Parties hereto.

11.7 Notices

Any notice, direction other instrument required or desired to be given hereunder shall be given in writing and shall be either delivered personally or sent by electronic mail or by prepaid registered post addressed to:

(a) **The Applicant** at:

(mail)

Attention:
Email:

with a copy to:

Attention:
Email:

(b) **Manitoba Hydro** at:

(mail)	Manitoba Hydro P.O. Box 815, Station Main Winnipeg, Manitoba R3C 2P4
(personal delivery)	820 Taylor Ave. Winnipeg, Manitoba R3M 3T1
Attention:	Power Smart Programs Department Senior Technology Development Engineer

DRAFT

Email: squigley@hydro.mb.ca

with a copy to:

Attention: Energy Management Engineer
Email: amarcynuk@hydro.mb.ca

and, any such notice delivered in accordance with ARTICLE 11.7, if delivered personally, shall be deemed to have been effectively given and received at the time of actual delivery and if given by facsimile shall be deemed to have been effectively given and received on the next Business Day following the day of transmission. Any Party hereto may change its address for the purpose of this ARTICLE 11.7, by giving notice of such change of address to the other Party hereto in the manner provided for in this ARTICLE 11.7. Real-time or routine communications concerning the Program shall be exempt from this ARTICLE 11.7.

11.8 Representative for Notices

Each Party shall maintain a designated representative to receive notices. Either Party may, by written notice to the other Party, change the representative or the address to which such notices and communications are to be sent.

11.9 Divisions to Agreement

The division of this Agreement into Articles, Sections, Subsections, Paragraphs and Appendices and the insertion of headings are for convenience of reference only and do not affect the interpretation of this Agreement.

11.10 Singular Wording

Words in the singular include the plural and vice versa. Words importing gender include the masculine, feminine and neuter genders.

11.11 Technical Terminology

Technical or industry specific phrases or words not otherwise defined in this Agreement have the well known meaning given to those terms within the industry or trade as of the date in which they are applied or used.

11.12 Statutory References

Reference to a statute means, unless otherwise stated, the statute and regulations, if any, under that statute, in force from time to time, and any statute or regulation passed and in force which has the effect of supplementing or superseding that statute or those regulations.

11.13 Currency

References to dollars or $ means Canadian dollars.

DRAFT

11.14 Unit Values

If a value used in a calculation in this Agreement must be converted to another unit of measurement for purposes of consistency, in order to compare values or to achieve a meaningful answer, the value will be converted to that different unit for purposes of the calculation.

11.15 General Interpretation Rules

For the purposes of this Agreement, except as otherwise expressly stated:

(a) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section, Subsection or other subdivision;

(b) the word “including” or “includes” shall mean “including without limitation” or “includes without limitation”;

(c) any consent, approval or waiver contemplated by this Agreement must be in writing and signed by the Party against whom its enforcement is sought, and may be given or withheld in the sole and unfettered discretion of the Party from whom it is requested, unless otherwise expressly stated; and

(d) unless otherwise expressly stated in this Agreement, all rights and remedies of a Party under this Agreement are cumulative and not exclusive of any other rights and remedies to which a Party may be lawfully entitled, and a Party shall be entitled to pursue any and all of its remedies concurrently, consecutively or alternatively.

11.16 Non-Merger

Each of the Parties hereby agree that the covenants, representations, warranties and indemnities contained in ARTICLE 9, shall survive the execution, delivery and performance and termination of this Agreement and the execution, delivery and performance of any and all documents delivered in connection with this Agreement.

11.17 Counterparts and Interpretation

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or electronic form and the Parties adopt any signatures received electronic mail as original signatures of the Parties; provided, however, that a Party providing its signature in such manner shall promptly forward to the other Party an original of the signed copy of this Agreement which was sent by electronic mail.

11.18 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

DRAFT

11.19 Waivers

A waiver of any default, breach or non-compliance under this Agreement is not effective unless in writing and signed by the Party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a Party hereto in respect of any default, breach or non-observance or by anything done or omitted to be done by any other Party hereto. The waiver by a Party hereto of any default, breach or non-compliance under this Agreement shall not operate as a waiver of that Party's rights under this Agreement in respect of any continuing or subsequent default, breach or non- observance (whether of the same or any other nature).

11.20 Further Assurances

Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require for the purposes of giving effect to this Agreement.

DRAFT

11.21 Successors and Assigns

This Agreement shall ensure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

MH shall be entitled to assign this Agreement and its rights and obligations hereunder, in whole or in part, to Efficiency Manitoba Inc., and the Applicant hereby grants its express consent to any and all such assignment by MH.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorized representative on the date first stated above:

MANITOBA HYDRO

Per: _____

Name: Colleen Kuruluk

Title: Power Smart Programs Department Manager

I have the authority to bind Manitoba Hydro

THE APPLICANT

Per: _____

Name:

Title:

I have the authority to bind the Applicant.

DRAFT

APPENDIX A ENERGY MANAGER QUALIFICATIONS & DUTIES

DRAFT

INTRODUCTION

The purpose of the Energy Manager is to provide an internal, dedicated resource with the training and experience required to manage energy performance within the Applicant's organization. A successful energy manager will require technical acumen, business knowledge, and both verbal and written communication skills.

This appendix serves two purposes:

1. Establish the minimum required qualifications and duties for an energy manager (EM) under the Energy Manager Initiative (Program).
2. Provide the Applicant with recommended qualifications as well as the typical roles and responsibilities an EM may engage in to help build their job description.

This document helps to ensure potential EM candidates have the training, experience and skills required to be effective in their role.

MINIMUM REQUIREMENTS

A candidate must meet these requirements in order to be considered under the Program:

A. A professional engineer, preferably in mechanical or electrical discipline, with 3+ years of experience in energy engineering, energy management, energy-efficient design of industrial systems and processes, or facility operations.
   OR
B. A Certified Engineering Technician (CET) with 5+ years experience in energy engineering, energy management, energy-efficient design of industrial systems and processes, or facility operations.
   OR
C. No formal education with 10+ years experience in energy engineering, energy management, energy-efficient design of industrial systems and processes, or facility operations.
   AND
D. If not already designated as a Certified Energy Manager (CEM), attain the CEM designation within the term of the Program.

DRAFT

In addition to indentifying and implementing energy saving opportunities, the principle duties an EM must perform during the Program are:

- Coordinate an Energy Management Assessment Workshop,
- Develop and maintain a Strategic Energy Management Plan, and
- Provide regular Performance Reports to Manitoba Hydro.

RECOMMEND REQUIREMENTS

- Certified Energy Manager (CEM) designation is considered an asset.
- Knowledge of, and/or practical experience with, systems related to the Applicant's facilities and processes.
- Knowledge of energy efficient technologies pertaining to buildings and industrial processes.
- Interest in and enthusiasm for efficient energy use and the ability to present and sell ideas to all levels in the organization
- Ability to gather, combine and analyze data from various sources (energy consumption, system operation, process outputs) to determine interdependencies and trends.
- Be able to prepare written reports on energy performance providing the level of detail appropriate to different stakeholder groups (Senior Management, Building Operators, and Occupants).
- Experience with resource planning as it pertains to Energy Savings Opportunites (ESOs) within a business environment.
- Ability to perform financial analysis calculations for ESOs.
- Clear communicator with excellent presentation, verbal and written communication skills

ROLES & RESPONSIBILITIES

- The EM will be the primary point of contact between MH Customer Engineering Services group and the Applicant with respect to electrical Energy Savings Opportunities (ESOs).
- The EM will be agent of change to implement an energy management plan which instills a culture of energy conservation within the Applicant organization
- The EM will be an advocate for ESOs as they are balanced against other competing business priorities, by developing business cases, to the organization.
- The EM may be the technical expert required to identify, quantify and prioritize ESOs
- Benchmark energy consumption using energy performance indicators relevant to the Applicant's unique business environment.
- Create inventories of energy consuming equipment and processes.
- Implement energy surveys identifying specific energy saving opportunities.
- Define and review energy efficiency objectives and targets.
- Create an organizational energy management plan.
- Implement a structured energy management program.
- Evaluate ESOs and quantify potential savings.
- Prepare budgets and business cases to support energy efficiency projects.
- Implement energy efficiency improvement projects.
- Management of facility energy consumption.

DRAFT

APPENDIX B ENERGY MANAGEMENT ASSESSMENT WORKSHOP

DRAFT

INTRODUCTION

An Energy Management Assessment (EMA) is strategic tool to assess the energy management practices within the organization. The EMA workshop brings together a cross section of senior management and operations staff to discuss the questions presented in the EMA tool.

The purpose of this guideline is to provide the scope of work and deliverables for a typical EMA Workshop. These elements provide the Applicant and Energy Manager (EM) with a framework of the activities required to ensure the EM can develop and coordinate an EMA workshop within their organization.

SCOPE OF WORK

The EMA Workshop will generally consist of the following:

1) Pre-Workshop Planning Meeting(s)
   a) Attendees will include, at a minimum: Manitoba Hydro, the EM, and Consultant if one is required.
   b) Identify what Applicant information is required prior to the workshop.
   c) Identify what Utility information is required prior to the workshop.
   d) Identify key stakeholders required for the workshop.
   e) Estimate schedule, confirm date of workshop or schedule date to reconvene if necessary.

2) Energy Management Assessment (0.5 Days)
   a) Stakeholders will include Applicant senior management team, the EM, & Manitoba Hydro.
   b) Consultant will provide a facilitator and tool(s) to conduct the EMA.
   c) EMA business areas should be assessed in terms of:
      i) Finance and budgeting
      ii) Supply management and procurement standards
      iii) Operations and maintenance
      iv) Planning and business development
      v) Leadership, support, commitment and policies
      vi) HR, HR processes (performance evaluation, job descriptions and recruitment, etc.) and training
      vii) Reporting
      viii) People's behaviors.
   d) Estimated length of 3 - 4 hours.
   e) Relevant to the Applicant's industry.

3) Strategic Energy Management Plan (SEMP) development (1-1.5 Days)
   a) Attendees will include a subset of the attendees from EMA workshop, at a minimum the EM, and Manitoba Hydro.
   b) Begin SEMP development according to Appendix C
   c) Develop action plan to address the outcomes from the EMA.
   d) Provide recommended next steps for Applicant to achieving action items.
   e) Determine timeline for completing actions.
   f) Develop success criteria and measurement & verification criteria for each action item.
   g) Identify training required for EM to execute EMA Action Plan (Based on organizational priorities).

DRAFT

DELIVERABLES

The following deliverables are an outcome of the above activities:

1) Energy Management Assessment Report
   a) Overall Current Score
   b) Current State.
   c) Desired State.
   d) Level of Effort Required.
   e) Overall Priority.
   f) Recommended timeline to revisit EMA.
2) Energy Management Assessment Action Plan
   a) Relationship between attribute score and Action Item.
   b) Action required.
   c) Priority.
   d) Action Owner
   e) Timeline to complete action item(s).

DRAFT

APPENDIX C STRATEGIC ENERGY MANAGEMENT PLAN

DRAFT

INTRODUCTION

A Strategic Energy Management Plan (SEMP) differs from a regular plan in that, although they both have action items that need to be implemented, a strategic plan is very specific the Applicant organization's current situation and to your unique vision and goals.

The purpose of this guideline is to outline the key elements of a SEMP for an Applicant engaged in the Energy Manager Initiative. In an effort to keep the SEMP concise, detailed supporting information may be kept in a companion document.

STRATEGIC ENERGY MANAGEMENT PLAN

The SEMP shall be approved by a member of the Applicant's executive team and include, at a minimum, these elements:

1. **Organization Overview**
    a. Operations:
        i. List of sites,
        ii. Processes
        iii. Key Performance Indicators (KPI) used to measure your Organization's performance.
        iv. Business structure
        v. Key stakeholders and/or groups and their responsibilities in regards to energy management.
    b. Financial Assessment:
        i. budget cycle and important dates,
        ii. hurdle rates,
        iii. budget size.
2. **Situation Analysis**
    a. Described to which extent the organization has incorporated energy management to date providing highlights from the Energy Management Assessment results.
    b. Discuss internal and external trends and environmental factors which may affect your organization's outlook and the potential impacts that may have on energy performance.
    c. Calculate your organization's current energy use in terms of Energy Performance Indicators (EnPI), breakdown, end use analysis, baseline and trends.
    d. Assess your organization's energy savings potential via benchmarking and documenting recently completed energy savings opportunities (ESO) as well as known ESOs yet to be implemented.
3. **Commitment to Energy Management**
    a. Define your vision for energy management within the organization and explain why energy management is important to your organization.
    b. Provide a statement of commitment in principle to energy management; this could be through an energy policy.
    c. Identify the energy conservation goals and/or targets for your organization.
4. **Actions**
    a. Summarize action items from EMA and SEMP workshop that will be focused on for current SEMP ensure each action has an owner, timeline, budget, and scope.
    b. Develop an ESO project list, an ongoing process for scoping ESOs, and provide a summary of the most important ESOs and provide the entire list as a companion document.

DRAFT

APPENDIX D PERFORMANCE CONTRACT

DRAFT

INTRODUCTION

This Performance contract defines several key parameters of the Agreement for the Energy Manager Initiative. Parameters include incentive rates, maximum incentive values, and submission deadlines for deliverables (EMA workshop, SEMP, and Performance Reports).

APPLICANT INFORMATION

Company:	City of Winnipeg PP&D
Senior Manager:	TBD
Energy Manager:	TBD
Annual Salary:	N/A

APPLICANT ENERGY PROFILE

Annual Electricity Use	69,685,727	kWh
Annual Natural Gas Use	8,025,436	m^3
Annual Savings Target	2,500,000	kWh

PERFORMANCE INCENTIVE

Electricity Incentive Rate	0.02	$/kWh
Natural Gas Incentive Rate	0.03	$/$m^3$
Up Front Funding	$ 25,000.00	
Maximum Annual Incentive	$ 100,000.00	/Year

ADDITIONAL FUNDING LIMITS

Training	$ 5,000	/Year
EMA Workshop	$ 10,000	/Term

KEY DATES

Commencement Date:	1-Aug-18
Term:	12 months
Reporting Periods:	3 months
End Date:	31-Jul-19

Deliverable	Start	End	Due
EMA Workshop			30-Nov-18
Report 1	1-Aug-18	31-Oct-18	30-Nov-18
Report 2	1-Nov-18	31-Jan-19	28-Feb-19
SEMP			28-Feb-19
Report 3	1-Feb-19	30-Apr-19	31-May-19
Report 4	1-May-19	31-Jul-19	31-Aug-19

DRAFT

APPENDIX E ENERGY MANAGER REPORTS

DRAFT

INTRODUCTION

The Energy Manager is to submit quarterly Performance Reports to Manitoba Hydro to quantify the energy savings identified, in process, and verified during the quarter. This document outlines the key requirements of the report and provides example formatting for the information to ensure clear, concise reporting which meets the requirements of the program.

REPORT FORMAT

The Energy Manager Report must include the following sections:

1. Executive Summary
2. Project List
3. Energy Monitoring
4. EMA Action Plan Update
5. Approval

Below is a brief description of each section:

1. EXECUTIVE SUMMARY

Provide a one-page summary of the Report highlighting major activities accomplished during the reporting period relating to energy management within the organization. Also include updates to energy performance indicators (EnPIs) and progress towards energy savings targets.

2. PROJECT LIST

The Report must include a summary table showing energy conservation measures identified, in work, and verified during the reporting period, as well as the updated totals for each category on a cumulative basis (e.g. Year To Date). The table should include the following information:

- Project title or brief description
- Quarter in which the project was identified.
- The source through which the project was identified.
- The estimated energy savings in kWh and/or m3.
- The Manitoba Hydro PSPO application number (if applicable)
- The verified energy savings if the project has been verified.
- The estimated completion date (ECD) or actual completion date if the project is closed.

Previously identified projects not yet in work and projects verified in previous quarters should not be included in the summary but should be included on a complete project list as an appendix.

Action items for each project, delivery dates, and assigned person(s) should be included as well as any help needed.

DRAFT

3. Energy Monitoring

Report on recent energy consumption using CUSUM analysis. The analysis should include organization or site level data (i.e. monthly) and include data from the full term, not only the recent reporting period. Changes in the rate of energy consumption should be identified and potential drivers described or targeted for future investigation.

A summary chart should also be included tracking the verified energy savings versus the energy savings target, baseline, and/or benchmark. Energy should be related to business performance in terms of the energy performance indicators (EnPI) defined in the SEMP.

Variances in energy performance from the target should be described and any mitigation plans to ensure the verified and target are consolidated by the end of the term.

4. EMA Action Plan Update

Provide a copy of the EMA Action Plan with updates to the details of the action items along with any barriers to completing them.

5. Approval

The Report must be approved by a member of senior management within the Customer's organization prior to submission to Manitoba Hydro. This can be the individual directly responsible for the energy manager or a member of the leadership team supporting the energy management mandate.

DRAFT