
**AMENDED AND RESTATED BRUCE POWER SHARING IN TRANSFERS AND
REFINANCINGS AGREEMENT**

Among

BRUCE POWER L.P.

- and -

OMERS ADMINISTRATION CORPORATION

- and -

TRANSCANADA CORPORATION

- and -

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

DATED as of the 3rd day of December, 2015

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**AMENDED AND RESTATED BRUCE POWER SHARING IN TRANSFERS AND
REFINANCINGS AGREEMENT**

This Amended and Restated Bruce Power Sharing in Transfers and Refinancings Agreement is dated as of the 3rd day of December, 2015 among Bruce Power L.P., a limited partnership created under the laws of Ontario having its principal place of business near Tiverton, Ontario; OMERS Administration Corporation, the administrator of the Ontario Municipal Employees Retirement System, a pension plan registered under the laws of Ontario; TransCanada Corporation, a corporation incorporated under the laws of Canada; and the Independent Electricity System Operator, a corporation without share capital existing under the *Electricity Act, 1998* (Ontario).

WHEREAS the Government of Ontario, through the Minister of Energy, wished to provide for the long-term supply of generating capacity within the Province of Ontario by proceeding with the Refurbishment of, among others, Units 3 to 8 of the Facility;

AND WHEREAS Bruce Power A L.P., the Ontario Municipal Employees Retirement Board, TransCanada Corporation and the Ontario Power Authority entered into the Bruce Power Sharings in Transfers and Refinancing Agreement dated as of the 17th day of October, 2005 (the “**Original STAR Agreement**”) as amended by the First Amending Agreement dated as of the 28th day of August, 2007 and the Second Amending Agreement dated as of the 31st day of August, 2007 (the Original STAR Agreement, as it has been amended to date is hereinafter referred to as the “**STAR Agreement**”);

AND WHEREAS Ontario Municipal Employees Retirement Board has continued as OMERS Administration Corporation pursuant to section 31 of the *Ontario Municipal Employees Retirement System Act, 2006* (Ontario);

AND WHEREAS effective January 1, 2015, the Ontario Power Authority was amalgamated with the System Operator pursuant to Schedule 7 of the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (Ontario);

AND WHEREAS the Parties wish to provide for the sharing by OMERS Administration Corporation and TransCanada Corporation, or either of them, as the case may be, with the Counterparty of half of any gains that both or either of them may actually receive above a threshold rate of return in the case of certain direct or indirect transfers of economic interests in the Generator or the Generator Assets (as defined herein), or that are projected to be received by both or either of them in the case of certain direct or indirect financings or refinancings connected to the Generator;

AND WHEREAS on December 3, 2015 and December 4, 2015, Bruce Power A L.P. will transfer all of its assets, including all of its right, title and interest in the STAR Agreement, to the Generator, the Generator will assume all of Bruce Power A L.P.'s obligations, including all of its obligations under the STAR Agreement, with the effect that the Generator will be continuing the business of Bruce Power A L.P., and Bruce Power A L.P. will be dissolved prior to the Effective Time, and the Counterparty will have waived compliance in respect of such transactions by Bruce Power A L.P. and the Generator under the STAR Agreement pursuant to the Assignment, Assumption, Waiver and Consent Agreement between Bruce Power A L.P., the Generator, OMERS Administration Corporation, TransCanada Corporation and the Counterparty dated December 3, 2015;

AND WHEREAS Units 1 and 2 have been refurbished in accordance with the terms of the Original BPRIA and the Parties desire to refurbish Units 3 through 8, inclusive, in accordance with the terms of the Implementation Agreement;

AND WHEREAS the Parties wish to amend and restate the STAR Agreement;

NOW THEREFORE, in consideration of the mutual agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Capitalized terms used herein and not otherwise defined shall have the meaning ascribed thereto in the Implementation Agreement as such agreement exists on the date hereof. Other capitalized terms have the following meanings:

“Adjusted Distribution Base Case” means, at a particular time in respect of a Partner, the schedule of “net cash available for distribution” amounts set forth in the Distribution Base Case multiplied by the PPI of the applicable Partner, as modified to reflect the Refinancing Cash Inflows to, and Refinancing Cash Outflows from, the Partner of each prior Incurrence undertaken by the Partner or attributed to the Partner pursuant to Section 3.1, and to reflect any earlier Refinancing Payment or Transfer Payment made by the related TopCo, in each case on a basis that does not duplicate any previous allocation of the benefits associated therewith to the Counterparty and also by treating the related Gain as a Refinancing Cash Outflows from the Partner as of the date of such payment (such Gain being equal to two times the related Refinancing Payment or Transfer Payment divided by the applicable TopCo’s DIP-P). No other modifications to the original Distribution Base Case, other than in relation to the modifications of Refinancing Cash Inflows and Refinancing Cash Outflows resulting from prior Incurrences, shall be reflected in such Adjusted Distribution Base Case. For greater certainty, Refinancing Cash Outflows shall reflect any early repayment of a prior Incurrence indicated in such Adjusted Distribution Base Case.

“Affiliate” mean an “Affiliate” as defined in the Implementation Agreement except where expressly provided otherwise in the definition of **“Arm’s Length Refinancing”**, **“EBITDA”** and **“Non-Arm’s Length Refinancing”**.

“After-Transfer” means the moment in time immediately after a Transfer for purposes of determining DIP-G, DIP-P and PPI, as applicable.

“Agreement” means this Amended and Restated Bruce Power Sharing in Transfers and Refinancings Agreement, including all recitals, Exhibits and Schedules attached hereto and the STAR Technical Schedule and all schedules attached thereto, as it or they may be amended, amended and restated or replaced from time to time.

“Arm’s Length Refinancing” means a Refinancing undertaken by a Borrower from a Person that is not an Affiliate of the Borrower, and in the case of the Generator, for purposes of this definition, “Affiliates” shall include all of its limited partners and its general partner, and all of the shareholders of its general partner, and each of their respective Affiliates.

“Attestation Certificate” means a duly completed certificate of a senior officer of the Generator or a TopCo, as the context requires, in the form of the certificate set forth in Exhibit 1.1, which certificate shall accompany a Statement and attest to the matters contemplated in the Statement.

“Beneficial Interest” means, in respect of an entity's interest in another entity or in specified assets, the entity's direct and indirect beneficial, legal and/or equitable ownership interest in, and all valuable legal, equitable and economic rights and interests owing or derived from, such other entity or assets, including obligations owed to such first entity pursuant to shareholder or partner loans advanced by such first entity, determined on a consolidated basis without duplication. For greater certainty, “Beneficial Interest” excludes arm's length third party debt.

“Borrower” means, in respect of a Refinancing, an obligor undertaking a borrowing thereunder.

“Bruce Linked” means, in relation to an entity undertaking a Refinancing that is not Primarily connected to the Generator that (a) the recourse of a lender providing such Refinancing is limited (by way of covenant or security) to a specified group of assets (which may include Intermediate Investments) 50% or more of the value of which is directly or indirectly derived from or contingent upon a Beneficial Interest in the Generator; or (b) 50% or more of the cashflows available to the entity to service such Refinancing is directly or indirectly derived from or contingent upon cashflows from, or which can be reasonably attributed to, a Beneficial Interest in the Generator. Any calculation used in determination of whether an entity is Bruce Linked will be done in a consistent manner for the Generator and such entity.

“Business Day” means a day, other than a Saturday or Sunday or statutory holiday in the Province of Ontario or the Province of Alberta or any other day on which banking institutions in Toronto, Ontario or Calgary, Alberta are not open for the transaction of business.

“Cashflows from Previous Transfers/Refinancings” has the meaning ascribed to it in Schedule 4.

“Confidential Information” means all information in whatever form (whether written, oral, electronic or documentary) of a Party, as applicable, that is of a confidential or proprietary nature or otherwise not generally available to the public (including, for example, terms or information redacted from the form of this Agreement made public as agreed to by the Parties), the STAR Technical Schedule, all information provided or obtained pursuant to the provisions of this Agreement, and all confidential information in the custody or control of a Party, whether recorded or not and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of a Party in connection with this Agreement. For greater certainty, Confidential Information shall:

- (a) include: (i) any document, electronic record, correspondence, note, extract or analysis containing, recalling or recording Confidential Information and all new information which is derived at any time from or reflects the review of any such Confidential Information described above, whether created by a Party or any third party at the request or direction of a Party and all copies and extracts thereof whether created by a Party or a third party at the request or direction of a Party; and (ii) all information that a Party is obliged, or has the discretion, not to disclose under applicable Laws and Regulations;

- (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of a Party of any duty of confidentiality owed by a Party to the others or to any third party; (ii) a Party can demonstrate to have been rightfully obtained by it, without any obligation of confidence, from a third party who, to the knowledge of such Party, had the right to transfer or disclose it to the Party free of any obligation of confidence; (iii) a Party can demonstrate to have been rightfully known to or in the possession of such Party at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by a Party; and
- (c) in the case of the Generator, include information that is of a confidential or proprietary nature or otherwise not generally available to the public of any of its suppliers, contractors or subcontractors of any tier.

“**Corporations Tax Act**” and “**CTA**” mean the *Corporations Tax Act* (Ontario), R.S.O. 1990, c. C.40, and the regulations promulgated thereunder, as amended from time to time.

“**Counterparty**” means the IESO, and its successors and permitted assigns, and not, for certainty, the System Operator.

“**DBRS**” means DBRS Ratings Ltd., or its successors.

“**Designated Entity**” means, in respect of a TopCo, each entity that is:

- (a) any of (i) the TopCo, (ii) an Intermediate Entity of such TopCo, or (iii) an Affiliate of such TopCo;
- (b) either (i) Primarily connected to the Generator, or (ii) Bruce Linked; and
- (c) designated by such TopCo at the relevant time as a “Designated Entity” by notice in writing to the Counterparty, which notice may be given by such TopCo in its sole and absolute discretion.

“**DIP-G**” means the DIP of a TopCo in the Generator from time to time.

“**DIP-G (Original)**” means the DIP of each TopCo in the Generator on the date hereof and is 48.537434%.

“**DIP-I**” means the DIP of a TopCo in an Intermediate Entity from time to time.

“**DIP-P**” means the DIP of a TopCo in a Partner from time to time. On the date hereof, the DIP-P of each of the TopCos in their respective Partners is 100%.

“**Distribution Base Case**” means the base case of distributions of the Generator attached as Exhibit 3.2 of the STAR Technical Schedule. For greater certainty, such base case is on an after tax basis dated as of the Effective Date and does not include costs, expenses, revenues or distributions of the Generator related to the Excluded Business.

“**Downstream Investment Percentage**” and “**DIP**” mean, in respect of an entity’s Beneficial Interest in another entity, the product of the percentage Beneficial Interest of the Intermediate Investments in each Intermediate Entity in a chain through which the first entity derives a

Beneficial Interest in the second entity (provided that if the first entity derives a Beneficial Interest in the second entity through one or more other chains of ownership, the DIP shall include the sum of the percentages resulting from the application of such calculation in respect of each such chain), subject to reasonable adjustment and modification to reflect the nature and entitlements of Beneficial Interests in the Intermediate Entity or Intermediate Entities that take a form other than ownership of common shares, as contemplated in Section 2.5. In determining a Downstream Investment Percentage, debt owing between Intermediate Entities shall be treated on a consolidated basis having regard to any difference in TopCo's ultimate proportion of Beneficial Interest in such entities and to avoid duplication.

"EBITDA" means, for an entity in respect of a reporting period, and without duplication, the net consolidated income of the entity for the reporting period before interest expense, charges to Affiliates (including management fees), mark-ups to Affiliates, income taxes, depreciation and amortization. To the extent applicable, each of the foregoing will be as determined in accordance with GAAP and reflected in the consolidated financial statements (which shall be the audited financial statements if such entity prepares audited financial statements) of the entity for such reporting period. In the case of a TopCo or an Intermediate Entity, for purposes of this definition, "Affiliates" will include the Generator, and in the case of a determination of the EBITDA of OMERS Administration Corporation where OMERS Administration Corporation is purported to be Primarily connected to the Generator, such consolidation shall take place by consolidating at the level of all Affiliates in which OMERS Administration Corporation owns a direct Beneficial Interest and not for OMERS Administration Corporation itself.

"Effective Date" means January 1, 2016, being the date the amendment and restatement of this Agreement shall become effective in accordance with Section 7.1(a).

"Effective Time" means the beginning of the hour ending 01:00 hours (ET) on the Effective Date.

"Employee Trust" means Bruce Power Employee Investment Trust or its successors.

"Excluded Business" means: (i) the business and undertakings of the Generator related to the marketing and trading functions of the Generator in respect of retail and wholesale Electricity supply or conservation, and retail and wholesale demand response, including any Financial Contracts, Physical Delivery Contracts, transmission rights agreements, or load-related Ancillary Service agreements entered into in connection with any of the foregoing to which the Generator is a party or an arranger, broker or aggregator, and any other trading or hedging activities related to the foregoing, but excluding any Financial Contracts or Physical Delivery Contracts in respect of Bruce Energy that the Generator enters into in accordance with the provisions of section 1.10(b) of the Implementation Agreement; (ii) the intangible property, inventory, activities, undertakings, revenues and goodwill related to the production or sale of By-products; (iii) the business and undertakings of the Generator related to all other activities undertaken by the Generator that are not directly or indirectly related to the Facility or the site on which the Facility is located; and (iv) revenues and Goodwill from Dynamic Capabilities; and in the case of (i) and (iii) above, includes the assets, property, personnel, inventory, revenue and goodwill related thereto.

"Fair Market Value" and **"FMV"** mean, in respect of an asset, investment or business, the amount determined by a Valuator appointed in accordance with Section 4.1(b) or by any other means specified herein that reasonably equals the monetary consideration that a prudent and informed buyer of the asset, investment or business (assuming no legal impediment to

ownership and the application of the asset, investment or business to its highest and best use) would pay to a prudent and informed seller of the asset, investment or business, each acting at arm's length with the other and under no compulsion to act, having due regard to the applicable principles and procedures set forth in Schedule 3, giving due consideration to the nature of the Transfer for which FMV is being determined, particularly having regard to whether the transaction is a sale of a Beneficial Interest in the Generator, or a sale of Generator Assets by the Generator.

"Gain" means the amount calculated in accordance with Section 2.2(d) or Section 3.2(b), as the case may be.

"General Partner" means Bruce Power Inc. and any other Person who becomes a general partner of the Generator.

"Generator" means Bruce Power L.P., and its successors and permitted assigns.

"Generator Assets" means Bruce A and Bruce B and such other assets and property of the Generator as may be used primarily for the purpose of operating and maintaining Bruce A and Bruce B, or either of them, which, for greater certainty, do not include any Electricity, By-products, Related Products or Liquid Investments or any assets, property, activities, undertakings, revenues or goodwill of the Excluded Business.

"G FMV" has the meaning ascribed to it in Schedule 3.

"GA FMV" has the meaning ascribed to it in Schedule 3.

"IESO" means the Independent Electricity System Operator, a corporation without share capital existing under the Electricity Act and resulting from the amalgamation of the Independent Electricity System Operator established under Part II of the Electricity Act and the OPA pursuant to Schedule 7 of the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* (Ontario), or its successors.

"Implementation Agreement" means the Amended and Restated Bruce Power Refurbishment Implementation Agreement dated as of December 3, 2015 between the Generator and the Counterparty, as it may be amended, amended and restated or replaced from time to time.

"including" means "including, without limitation,".

"Incurrence" means:

- (a) in the case of the incurrence of a Refinancing by way of notes, bonds or other similar instruments, whether or not issuable in series, each issuance of any such instrument thereunder;
- (b) in the case of the incurrence of a Refinancing by way of a committed term credit facility available in multiple tranches that may not be borrowed at the same time, each advance of borrowed funds to the Borrower in respect of each such tranche thereunder; and
- (c) in the case of the incurrence of a Refinancing by way of a committed credit facility (including revolving, term, letter of credit, letter of guarantee or hedge

facilities) pursuant to a credit or loan agreement entered into by the Generator, the first advance of borrowed funds (or issuance of a letter of credit or guarantee, or confirmation of hedge) to the Borrower thereunder.

“Inter-Investor Transfer” means a Transfer from a TopCo or an Affiliate of such TopCo to another TopCo or an Affiliate of another TopCo, in each case that does not reduce the aggregate DIP-G of the TopCos taken together. For greater certainty, a transaction referred to in clause A of the definition of “Transfer” is not an Inter-Investor Transfer.

“Interest Rate” means the annual rate of interest established by the bank with which the Generator conducts day-to-day banking, from time to time, or if inapplicable, Canadian Imperial Bank of Commerce, as the interest rate it will charge for demand loans in Canadian dollars to its commercial customers in Canada and which it designates as its “prime rate” based on a year of 365 or 366 days, as applicable. Any change in such prime rate shall be effective automatically on the date such change is announced by such bank.

“Intermediate Entity” means, in respect of a TopCo, an entity (including a Partner) through which the TopCo derives a Beneficial Interest in the Generator.

“Intermediate Investment” means, in respect of a TopCo, a Beneficial Interest (including a Partnership Interest) in an Intermediate Entity of such TopCo.

“Investment Grade” means a senior, unsecured, non-credit enhanced, long term debt credit rating issued or ascribed by a nationally recognized rating agency in a rating category signifying “investment grade”. On the date hereof, Investment Grade includes a rating of or better than “BBB-” by S&P, “BBB (low)” by DBRS, and “Baa3” by Moody’s.

“IRR” means, for a specified period commencing on or after January 1, 2016 and calculated as of the Effective Date, the annualized internal rate of return associated with assets or investments determined on the basis of the cash inflows and cash outflows (and in the case of Refinancings, “Refinancing Cash Inflows” and “Refinancing Cash Outflows”) associated or deemed to be associated with such assets or investments during such period in each case as specified in this Agreement and, for certainty, on an after-tax basis. The IRR of an investment and series of returns on such investment can be calculated based on the following formula:

NPV= 0	=	$\sum_{t=0}$	$\frac{CF_t}{(1+IRR)^{Y(t)}}$	=	CF_0	+	$\frac{CF_1}{(1+IRR)^{Y(1)}}$...	$\frac{CF_t}{(1+IRR)^{Y(t)}}$
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Where:

CF_t = a specified after-tax cashflow (positive or negative) at time “t”.

CF₀ = the amount specified in Schedule 1 of the STAR Technical Schedule in the case of a Transfer or in the case of a Refinancing, as applicable, and shall be as of the Effective Date.

IRR = the discount rate such that the net present value of all associated CF_ts will equal zero.

Y(t) = the number of days from January 1, 2016 (i.e., t=0) to time “t”, divided by 365.

NPV = net present value.

“**ITA**” means the *Income Tax Act* (Canada), R.S.C. 1985 (5th Supp;) c.1.

“**Liquid Investments**” means cash, cash equivalents, negotiable instruments, securities or other liquid investments of the Generator, including such items held by the Generator for the purposes of securing or satisfying its obligations accrued to employees under the Bruce Power Supplementary Pension Plan or the Bruce Power Pension Plan, or both of them.

“**Material Adverse Effect**” means any change (or related changes taken together) in, or effect on, the affected Party that materially and adversely affects the ability of such Party to perform its obligations hereunder.

“**Moody’s**” means Moody’s Investor Service, Inc., or its successors.

“**Non-Arm’s Length Refinancing**” means a Refinancing undertaken by an entity to borrow from a Person that is an Affiliate of such entity, and in the case of the Generator, for purposes of this definition, “Affiliates” shall include all of its limited partners and its general partner, and all of the shareholders of its general partner, and each of their respective Affiliates.

“**Non-Arm’s Length Transfer**” means a Transfer from one entity to another entity that is an Affiliate of such entity that does not reduce the DIP-G of any TopCo.

“**Non-Designated Entity**” means a TopCo or, in respect of a TopCo, an Intermediate Entity or an Affiliate of such TopCo, in each case that is not a Designated Entity.

“**Original STAR Agreement**” has the meaning ascribed to it in the recitals.

“**Other Parties**” means the Generator and each of the TopCo’s and their respective successors and permitted assigns, and “**Other Party**” means any one of them.

“**Parties**” means the Generator, each of the TopCos and the Counterparty and their respective successors and permitted assigns, and “**Party**” means any one of them.

“**Partner**” means an entity that is a partner in the Generator and through which a TopCo holds a Beneficial Interest in the Generator that is other than a nominal economic interest held by a general partner or a trustee of the Employee Trust. On the date hereof, the Partners comprise the following:

- (a) BPC Generation Infrastructure Trust; and
- (b) TransCanada Energy Investments Ltd.

“**Partners’ Percentage Asset Interest Change**” and “**PPAIC**” mean, in respect of the Partners and a deemed sale of a Partnership Interest arising from an actual Transfer of Generator Assets, a fraction the numerator of which is the GA FMV of the Generator Assets subject to a Transfer and the denominator of which is the G FMV of the Generator at such time, which fraction shall be multiplied by 100%.

“Partner’s Percentage Interest” and **“PPI”** mean, at a particular time, the investment interest that a Partner (and for purposes of Section 5.1(i) and Section 9.12 only, the Unions and the Employee Trust) has in the Generator, which shall equal the percentage that the Partner’s (or a Union’s or the Employee Trust’s) Partnership Interest is of all Partnership Interests in the Generator at the time. On the date hereof, the PPI of each Partner in the Generator is 48.537434%.

“Partnership Interest” means a partnership interest and any other Beneficial Interest directly in the Generator.

“Payment Date” has the meaning ascribed to it in Section 4.2.

“Permitted Transfer” means any of the following:

- (a) a Non-Arm’s Length Transfer;
- (b) an Inter-Investor Transfer;
- (c) a Transfer of an interest in a TopCo (whether or not publicly listed);
- (d) a Transfer of an interest in an Intermediate Entity that (i) is publicly listed as at the date of this Agreement, or (ii) is not publicly listed as at the date of this Agreement but the initial public listing of which has been effected in compliance with the provisions of Sections 2.1 and 2.2;
- (e) the sale, assignment, transfer, conveyance or other disposition by the Generator of either or both of Bruce A and Bruce B to OPG upon the termination of the OPG Lease;
- (f) a Transfer by the Generator in the ordinary course of business of assets having a Fair Market Value that, together with the Fair Market Value of other Transfers made in reliance upon this clause (f) during the most recent 12 month period, would not exceed \$10,000,000 (as such amount is adjusted annually as at January 1 pursuant to the provisions of Schedule 2); and that does not change any TopCo’s DIP-G;
- (g) other than dispositions contemplated in clause (h) below, dispositions of properties, assets and other rights which are replaced by similar properties, assets or other rights in the ordinary course of business, which for greater certainty, includes the sale of strategic spares to other generators in situations of urgency or concerns about system reliability; and
- (h) the return, credit or sale of unused inventory or equipment at the conclusion of Asset Management Work or Refurbishment Work, the proceeds of which (x) in the case of Refurbishment Work, shall reduce the Refurbishment Costs and shall be applied as provided in Section 4.9 and Exhibit 4.9 of the Implementation Agreement, and (y) in the case of Asset Management Work, shall reduce the Asset Management Costs for the purposes of calculating Operating Efficiency Amounts, as provided in Exhibit 4.3 of the Implementation Agreement.

“Pre-Transfer” means the moment in time immediately before a Transfer for purposes of determining DIP-G, DIP-P and PPI, as applicable.

“Primarily” means, when used to describe the degree of connection between an entity and the Generator that, for a specified reporting period, either:

- (a) 50% or more of the first entity’s EBITDA for such period was, directly or indirectly, derived from or contingent upon its Beneficial Interest in the Generator; or
- (b) 50% or more of the first entity’s total consolidated net book value of its assets as of the last day of such period was, directly or indirectly, derived from or contingent upon its Beneficial Interest in the Generator.

The foregoing determinations shall be made based on the information reported in the financial statements of the first entity for the period corresponding to such specified reporting period and, as required, the financial statements of any other entity through which the first entity derives its Beneficial Interest in the Generator (excluding extraordinary items) or, if such other entity does not have financial statements for the specified period or if such statements do not accurately reflect such entity’s investment or interest in the specified entity or specified assets, then applicable determinations shall be based on a reasonable estimate by a senior officer of the applicable TopCo based on all information available to it and the application of GAAP applicable to such entity.

“Refinancing” means the issuance, incurrence or assumption of indebtedness for borrowed money and any refinancing thereof, including any extension, renewal, refunding or amendment to the amount, term, amortization or rate of interest or amount of fees or other financial compensation relating thereto, and the incurrence of obligations with respect to bankers’ acceptances and contingent reimbursement obligations relating to letters of credit and other financial instruments, and the establishment of a facility permitting same, other than any of the following which, for purposes of this Agreement, will not constitute a Refinancing or an Incurrence:

- (a) any of the following transactions undertaken by the Generator to the extent that the aggregate principal amount owing by the Generator thereunder does not exceed \$400,000,000 (as such amount is adjusted annually as at January 1 pursuant to the provisions of Schedule 2):
 - (i) borrowings undertaken by the Generator in the ordinary course for working capital purposes;
 - (ii) equipment or capital leases entered into in the normal course of business by the Generator as lessee and for greater certainty, excluding the OPG Lease, other than leases entered into as part of a sale and leaseback transaction; and
 - (iii) indebtedness issued, incurred or assumed by the Generator to finance all or part of the cost of acquiring an asset and secured exclusively by a purchase money security interest in such asset;

- (b) incurrence of obligations relating to letters of credit or letters of guarantee or other performance security, including the issuance thereof or the establishment of credit facilities for obtaining or issuing letters of credit or letters of guarantee or other performance security, provided that such letters of credit or letters of guarantee or other performance security are used as security for (i) the Generator's obligations pursuant to Laws and Regulations regarding the Bruce Power Supplementary Pension Plan or its obligations pursuant to Laws and Regulations regarding solvency deficiencies under the Bruce Power Pension Plan, or (ii) the performance of the Generator's obligations under trade contracts and other obligations of a like nature (other than for borrowed money) incurred in the normal course of the Generator's business;
- (c) Arm's Length Refinancings undertaken by Affiliates of a TopCo which are Primarily connected to the Generator, or are Bruce Linked, which in the aggregate principal amount for all such TopCo's Affiliates, do not exceed \$120,000,000 (as such amount is adjusted annually as at January 1 pursuant to the provisions of Schedule 2) at any time;
- (d) a Non-Arm's Length Refinancing;
- (e) the Refinancing undertaken pursuant to the credit agreement dated as of September 24, 2008 between The Manufacturers Life Insurance Company, as agent, the lenders from time to time party thereto, and Bruce Power A L.P., as amended by a first amending agreement to the credit agreement made as of September 16, 2011 and a second amending agreement expected to be made on or before January 31, 2016 pursuant to a waiver agreement dated November 27, 2015 and which shall not increase the principal amount of loans outstanding or available thereunder or amend the amortization period therefor and as assumed by the Generator; provided, however, any further extension, renewal, refunding or amendment to the amount, term, amortization or rate of interest or amount of fees or other financial compensation relating thereto on or after the Effective Date (other than fees payable to the lenders in connection with the execution of the second amending agreement) shall be a Refinancing; and
- (f) for greater certainty, any Transfer or any transaction listed in clause (A), (B), (C) or (D) of the definition of Transfer,

and, for the foregoing purposes and in relation to each Incurrence, such Incurrence shall be determined on a deemed fixed interest rate basis in respect of floating rate indebtedness, and on a deemed Canadian dollar equivalent basis in respect of non-Canadian dollar indebtedness, by reference to any floating for fixed interest rate swap and/or currency swap into Canadian dollars entered into by the Borrower in connection with, or allocated by the applicable Borrower on a commercially reasonable and good faith basis to, such indebtedness, net of the applicable period costs to the applicable Borrower of such swap, including the "spread" applied by any provider of such swap; provided that if no such swap has been entered into or can reasonably be allocable by the Borrower in respect of such floating rate or non-Canadian dollar indebtedness, such Incurrence shall be determined on a deemed fixed interest rate basis of such indebtedness and on a deemed Canadian dollar equivalent basis by reference to the fixed interest rate and Canadian dollar exchange rate that would have been available to the Borrower had the Borrower entered into, on a commercially reasonable and good faith basis, a floating for fixed interest rate swap and/or currency swap into Canadian dollars in connection with such

indebtedness, net (without duplication) of the applicable period costs to the Borrower of such swap, based on indicative quotes for such a swap obtained in good faith from appropriate market participants at the time of such Refinancing. Furthermore, a sale, assignment, transfer, conveyance or other disposition of a shareholder or a Partner loan made by a TopCo or Intermediate Entity to the Generator, that is not convertible into equity and that does not receive consideration, other than interest payable on such loan, based upon a participating interest in the Generator, shall be a "Refinancing" for purposes of this Agreement.

"Refinancing Cash Inflows" means all borrowings or advances made (in the case of clauses (a) and (b) in the definition of Incurrence) or the maximum amount of borrowings that may be advanced at any one time (in the case of clause (c) in the definition of Incurrence) to the Borrower in respect of an Incurrence.

"Refinancing Cash Outflows" means all payments in respect of interest (including prescribed interest rate hedges), principal, and prescribed fees made by the Borrower in respect of an Incurrence. Such payments shall be as scheduled for such Incurrence except that in the case of a prior Incurrence that is being taken into account in the determination of a new Adjusted Distribution Base Case or to determine Cash Flows from Previous Transfers/Refinancings, Refinancing Cash Outflows shall include all actual cash outflows of such prior Incurrence, including costs related to such Incurrence, premiums, "makewhole", spreads and net breakage fees.

"Refinancing Payment" has the meaning ascribed to it in Section 3.2(c).

"Reorganization Condition" has the meaning ascribed to it in Section 7.1(b).

"Restricted Entity" means any of:

- (a) the Generator;
- (b) a Partner; or
- (c) a Designated Entity.

"S&P" means Standard & Poor's, a division of The McGraw-Hill Company Inc., or its successors.

"Senior Conference" has the meaning ascribed to it in Section 9.1.

"STAR Agreement" has the meaning ascribed to it in the Recitals.

"STAR Technical Schedule" means that certain schedule of technical and financial information dated the date of this Agreement and delivered to the Counterparty by the Other Parties.

"Statement" means a detailed written statement delivered by a TopCo pursuant to Section 2.2(f) or Section 3.2(d).

"successor", when used to refer to a third Person in this Agreement, includes any Person replacing such third Person and exercising similar powers, performing similar functions or having similar responsibilities and obligations as such third Person.

“Term” has the meaning ascribed to it in Section 7.1(a).

“TopCo” means each of (a) OMERS Administration Corporation and its successors, and (b) TransCanada Corporation and its successors, in each case for so long as it has a DIP-G greater than 0. For greater certainty, “successor” does not include an assignee or a Transferee.

“Transfer” means, by an entity in relation to specified assets or investments, directly or indirectly:

- (a) a sale, assignment, transfer, conveyance or other disposition by the entity of all or part of its Beneficial Interest in the specified assets or investments to another entity; or
- (b) a transaction or series of transactions under which the entity shifts all or part of the economic risk and/or economic return associated with the specified assets or investments to another entity without transferring its legal or beneficial ownership of such specified assets or investments.

For greater certainty, but without limitation (except as provided in clause A below), a Transfer would include any transaction by an entity that involves:

- (i) a monetization of the specified assets or investments that shifts all or part of the economic risk and/or economic return associated with the specified assets or investments to any other entity;
- (ii) a securitization of or in respect of some or all of the cashflows or revenues derived from the specified assets or investments;
- (iii) a lease by the entity of some or all of the property comprising the specified assets or investments;
- (iv) a grant of a royalty interest or a concession relating to all or part of the specified assets or investments;
- (v) the declaration of a trust for the benefit of another entity in or in respect of the specified assets or investments;
- (vi) the issuance of equity securities of or interests in the entity;
- (vii) the public listing of such entity’s equity securities on any stock exchange;
- (viii) a sale, grant or other disposition of a participating interest in the entity;
- (ix) a reorganization, consolidation, recapitalization, merger or amalgamation of the entity;
- (x) a sale, assignment, transfer, conveyance or other disposition of a shareholder loan or a Partner loan (being a loan from a Partner to the Generator), in either case that is convertible into equity of the Generator or that receives consideration based upon a participating interest in the Generator by a TopCo or Intermediate Entity; or

- (xi) any other transaction or series of transactions which has or have an analogous effect to the foregoing;

provided, however, that notwithstanding any other provision hereof, none of the following shall be considered to be a Transfer or deemed sale by a Partner for the purposes of this Agreement:

- A. the issuance of equity securities of or any equity interests in, or shareholder loans or partner loans in lieu of such equity securities or interests to, an entity or a reorganization, consolidation, recapitalization, merger or amalgamation of an entity, if and so long as after giving effect to such issuance, loans, reorganization, consolidation, recapitalization, merger or amalgamation the aggregate DIP-G of the Partners, the Unions and the Employee Trust, taken together, has not been reduced; provided further, however, that the sum of the DIP-Gs of the Unions and the Employee Trust does not exceed 15% in the aggregate as a consequence thereof;
- B. any sale of production by the Generator in the ordinary course of its business, including sales of Electricity or Related Products by the Generator;
- C. any sale, assignment, transfer, conveyance or other disposition by the Generator of Beneficial Interests pursuant to the Excluded Business or of the Excluded Business itself, in whole or in part;
- D. any purchase, sale, hedging or rolling over of Liquid Investments by the Generator in the ordinary course of its management and investment of Liquid Investments;
- E. any Incurrence under a Refinancing, any granting of security by a Borrower or a guarantor of such Borrower, or any realization of security or similar proceedings by a lender or lenders, or agent on their behalf, under a Refinancing, or any disposition by or on behalf of such lenders to a third party; and
- F. any sale, assignment, transfer, conveyance or other disposition of a shareholder or a Partner loan made by a TopCo or Intermediate Entity to the Generator, that is not convertible into equity and that does not receive consideration, other than interest payable on such loan, based upon a participating interest in the Generator.

“Transfer Payment” has the meaning ascribed to it in Section 2.2(e).

“Transferee” means, in respect of a particular Transfer, the applicable transferee of the assets or investments subject to such Transfer.

“Transferor” means, in respect of a particular Transfer, the applicable transferor of the assets or investments subject to such Transfer.

“Trigger Rate” means an IRR equal to the amount set forth at Section 1.1(1) of the STAR Technical Schedule.

“Unions” means, collectively, the Power Worker’s Union Trust No. 1, the Power Worker’s Union Trust No. 2, and their respective successors, and **“Union”** means either of them.

“Valuator” means a recognized investment bank or accounting firm with recognized valuation credentials that is independent of the Parties and which has experience in valuing electrical power generation businesses and which is appointed pursuant to Section 4.1(b) to make one or more of the calculations, determinations and/or valuations in this Agreement.

1.2 Schedules and Exhibits

The following schedules and exhibits are attached to and form part of this Agreement:

Schedule 1	CF ₀ Input Values in relation to Transfers and Refinancings (see Schedule 1 of the STAR Technical Schedule)
Schedule 2	Adjustments for CPI
Schedule 3	Principles and Procedures to Determine Fair Market Value
Schedule 4	Methodology to Determine IRR in Respect of Transfers
Exhibit 1.1	Form of Attestation Certificate
Exhibit 2.1	Preapproved Transferee Jurisdictions (see Exhibit 2.1 of the STAR Technical Schedule)
Exhibit 2.3	Sample Calculations (see Exhibit 2.3 of the STAR Technical Schedule)
Exhibit 3.2	Distribution Base Case (see Exhibit 3.2 of the STAR Technical Schedule)
Exhibit 9.2	Arbitration Rules

1.3 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.4 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders. The words “hereof”, “hereto”, “hereunder” and similar expressions mean and refer to this Agreement and not any particular article, section, paragraph, subparagraph, clause or subclause; and the expression “Schedule”, “Exhibit”, “Article”, “Section”, “paragraph”, “subparagraph”, “clause” or “subclause” followed by a letter or a number means and refers to the specified schedule, exhibit, article, section, paragraph, subparagraph, clause or subclause, respectively, of this Agreement.

1.5 Currency

All currency amounts in this Agreement are stated and shall be paid in Canadian dollars, unless otherwise specified. All references to **“dollar”**, **“dollars”** or **“\$”**, are references to the lawful money of Canada, unless otherwise specified.

1.6 Laws and Regulations

Unless otherwise specified, any reference in this Agreement to any statute includes every regulation made thereunder and any reference in this Agreement to any law and regulation shall be a reference to such law and regulation as amended, re-enacted or replaced from time to time. Without limiting the generality of the foregoing, any reference herein to a particular provision or part of the ITA or similar legislation of any province or territory in Canada will include a reference to that provision or part as it may be renumbered or amended from time to time and any successor provision or part or any renumbering or amendment thereof. Except where the ITA is referred to together with the tax legislation of a particular province or territory, all references to the ITA shall be deemed to include a reference to any applicable income tax legislation of a province or territory in Canada and all references to a provision of the ITA shall be deemed to include a reference to any equivalent provision under the applicable income tax legislation of a province or territory in Canada.

1.7 Entire Agreement

This Agreement, together with the Implementation Agreement, shall constitute the entire agreement between the Parties pertaining to the subject matter of this Agreement. There are no warranties, conditions or representations (including any that may be implied by statute) and there are no agreements in connection with the subject matter of this Agreement except as specifically set forth or referred to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made, prior to the date hereof, by a Party to this Agreement, or its directors, officers, employees or agents, to another Party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement.

1.8 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of any provision of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver or operate as a waiver of, or estoppel with respect to, any subsequent failure to comply, unless otherwise expressly provided. The Other Parties acknowledge that (i) communications from the System Operator to the Generator as a market participant will not constitute an amendment, waiver, consent or approval hereunder and (ii) an amendment, waiver, consent or approval hereunder from the Counterparty will not constitute a communication from the System Operator to the generator as a market participant.

1.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

1.10 Preparation of Agreement

The terms and conditions of this Agreement are the result of negotiations between the Parties who acknowledge and agree that any doubt or ambiguity in the meaning, application or enforceability of any term or provision of this Agreement shall not be construed or interpreted against or in favour of any Party when interpreting such term or provision by reason of the

extent that a Party or its legal and other professional advisors participated in the preparation of this Agreement.

1.11 Cumulative Effect of Calculations

The Parties acknowledge that the calculations and payments contemplated by this Agreement on a day in respect of the incremental economic effect of Transfers and Refinancings (both positive and negative effects) are intended to take into account the consequences of each earlier Transfer and Refinancing, in each case without duplication and so that, subject to any applicable assumptions herein and any specific terms hereof, the cumulative effect of all such earlier transactions are fairly reflected in the valuation of the actual or anticipated costs and benefits, directly or indirectly, of all such Transfers and Refinancings, taken together, to the TopCo on the basis contemplated herein.

1.12 Calculations, Determinations and Valuations

If a calculation, determination or valuation hereunder requires a Person making such calculation, determination or valuation to apply mathematical, financial, accounting or valuation principles, or to exercise judgement, in order to fairly calculate and reflect, on the basis contemplated herein, the imputed benefits of a Refinancing, a Transfer, or a series of Transfers or Refinancings, or both, to a TopCo, or to determine the allocable portion of such benefits payable by the TopCo to the Counterparty, then such Person shall apply such principles, make such judgements and, as necessary, exercise any discretion, reasonably, in good faith and in a manner that, in its opinion, acting reasonably, achieves the objectives hereof, in each case having regard to such surrounding circumstances as such Person reasonably considers relevant in connection therewith and to the economic consequences to the Parties resulting therefrom. Without limiting the generality of the foregoing, any calculation of EBITDA and any determination of "Primarily" or "Bruce Linked" in respect of a TopCo or its Intermediate Entities shall be done on a consistent basis for the Generator and such Entity.

ARTICLE 2 TRANSFERS

2.1 Transfer Restrictions

Except for a Permitted Transfer, the Generator shall not undertake, agree to, permit or give effect to, any Transfer by the Generator in respect of the Generator Assets (including, for greater certainty, any transaction in relation to the Generator contemplated in clauses (i) to (xi) of the definition of "**Transfer**"), and each TopCo shall not undertake, agree to, permit or give effect to, any Transfer by such TopCo or cause or permit any Intermediate Entity in which it has a direct or indirect Beneficial Interest (including for greater certainty any general partner of the Generator, even if the general partner's economic interest is nominal), to undertake, agree to, permit or give effect to, any Transfer of an Intermediate Investment or any Transfer of a Beneficial Interest in the Generator, as applicable, in each case unless such Transfer is a Transfer effected in compliance with the following conditions in the following circumstances:

- (a) at any time before January 1, 2017, any Transfer of an Intermediate Investment or any Transfer of a Beneficial Interest in the Generator, unless the prior written consent of the Counterparty has been obtained;

- (b) at any time on or after January 1, 2017 and before the earlier of (i) December 31, 2023 and (ii) the date that an election is made under Article 9 of the Implementation Agreement that terminates the Refurbishment of all remaining Units to be Refurbished, in the case of a Transfer that results in a TopCo holding a DIP-G that is less than 24%, unless the prior written consent of the Counterparty has been obtained;
- (c) at any time before the earlier of (i) the date when the last Unit to be Refurbished under the Implementation Agreement has achieved Commercial Operation, and (ii) the date that an election is made under Article 9 of the Implementation Agreement that terminates the Refurbishment of all remaining Units to be Refurbished, in the case of a Transfer that results in a Person, other than a TopCo or an Affiliate of a TopCo, acquiring Control of the Generator, or that results in any change of Control of the Generator (other than acquisition of Control by a TopCo or an Affiliate of a TopCo) after such Person has acquired Control of the Generator, unless the prior written consent of the Counterparty has been obtained, which consent shall not be unreasonably withheld, conditioned or delayed;
- (d) at any time, in the case of a Transfer that results in a Person that is not a Canadian Person and that is not a resident of a country listed in Exhibit 2.1 of the STAR Technical Schedule owning an ownership interest in the Generator or an Intermediate Entity or being a Secured Lender, unless the prior written consent of the Counterparty has been obtained, which consent shall not be unreasonably withheld, conditioned or delayed;
- (e) in the case of a Transfer proposed to become effective on or after January 1, 2017, and that is not subject to Section 2.1(b), 2.1(c) or 2.1(d), prior written notice thereof has been delivered to the Counterparty.

Without limiting the obligation of the TopCo to make any applicable Transfer Payment, in no case will the Counterparty be entitled to a fee or any other consideration for providing its consent or otherwise in connection with any of the foregoing Transfers. In each of the circumstances described in Sections 2.1(a), 2.1(b), 2.1(c), 2.1(d) and 2.1(e) (other than, for greater certainty, a Permitted Transfer) the applicable TopCo shall provide the Counterparty with written confirmation, satisfactory to the Counterparty, acting reasonably, that:

- (i) all consents, licenses, permits and other approvals of each Governmental Authority necessary to give effect to such Transfer have been obtained (including, if necessary, from the CNSC);
- (ii) the Transferee shall have agreed in favour of the applicable TopCo to permit the TopCo access to such information relating to the Transferee and any intermediate entities through which the Transferee would hold its Beneficial Interest in the Generator necessary to make the determinations required hereby from time to time; and
- (iii) the Generator, the Transferee or its ultimate parent is then rated by two or more nationally recognized rating agencies at least one notch above the lowest rating that is Investment Grade issued by the applicable rating agency (on the date hereof, for example, a credit rating of "BBB" by S&P,

“BBB” by DBRS and “Baa2” by Moody’s, would be an acceptable credit rating for the Generator, a Transferee or its ultimate parent).

The applicable TopCo shall provide to the Counterparty prompt prior written notice of each Permitted Transfer.

2.2 Transfer Payments

Notwithstanding that an Inter-Investor Transfer is a Permitted Transfer, Inter-Investor Transfers shall be subject to a TopCo’s obligation to make a Transfer Payment, if applicable, in respect of such a Transfer, and for purposes of this Section 2.2 “Permitted Transfers” shall not include an Inter-Investor Transfer. In the case of any Transfer other than a Permitted Transfer, as a condition subsequent to the completion of the proposed Transfer, the applicable TopCo shall pay, or cause its applicable Intermediate Entity to pay or, if the Generator Transfers Generator Assets the TopCos shall collectively cause the Generator to pay, the Counterparty on the applicable Payment Date the Transfer Payment. A Transfer Payment payable to the Counterparty pursuant to this Section 2.2 in connection with any Transfer by a TopCo or by an Intermediate Entity of such TopCo of or in respect of a Beneficial Interest in the Generator, or any Transfer by the Generator of or in respect of Generator Assets or having the effect of changing a TopCo’s DIP-G (including, for greater certainty, any transaction contemplated in clauses (i) to (xi) of the definition of “Transfer” that is not a Permitted Transfer shall be calculated as follows:

- (a) the TopCo shall estimate the G FMV (and, if the Transfer is a sale of some or all of the Generator Assets by the Generator, the GA FMV subject to such Transfer) immediately prior to the Transfer;
- (b) the TopCo shall determine the PPI immediately prior to the Transfer;
- (c) the TopCo shall determine the IRR in accordance with Schedule 4 that would be associated with a deemed sale of its Partnership Interest by such TopCo’s Partner for deemed proceeds as determined in accordance with Schedule 4;
- (d) the TopCo shall calculate the amount that would be its Partner’s Gain in relation to the deemed sale described in Section 2.2(c) as the amount, if any, that would need to be subtracted from the “Implied Transfer Net Proceeds of a Partner” determined in accordance with Schedule 4 in order to reduce the IRR associated with such deemed sale to the then applicable Trigger Rate;
- (e) the TopCo shall calculate 50% of the product of (A) X (B) or of (A) X (C), as applicable:

where,

(A) the amount, if any, determined in Section 2.2(d) and

(B) where the Transfer is of a Beneficial Interest in an Intermediate Entity (including in its Partner), or of a Partnership Interest, the percentage change in the DIP-G (Original) of such TopCo resulting from such Transfer determined as follows:

(Pre-Transfer DIP-G – After-Transfer DIP-G) / DIP-G (Original), and

(C) where the Transfer is a sale of some or all the Generator Assets by the Generator, the PPAIC multiplied by the then current DIP-P of such TopCo,

(such product being the “**Transfer Payment**”);

- (f) as soon as reasonably practicable but not later than 30 days after the effective date of the Transfer, the TopCo shall deliver to the Counterparty a detailed statement setting forth the basis for the determinations and calculations described in Sections 2.2(a) to 2.2(e), inclusive in reasonable detail and with such related information as may be reasonably necessary to enable the Counterparty (including its advisors) to independently confirm the basis, accuracy and fairness of the determinations and calculations; the TopCo shall also deliver, if applicable, an update of such statement within such 30 day period if further information becomes available which is relevant to such determinations and calculations;
- (g) the Counterparty shall review the determinations and calculations described in Sections 2.2(a) to 2.2(e), inclusive in order to determine if, in its opinion acting reasonably, the determinations and calculations are fair and accurate and, if it agrees, it shall so confirm by written notice to the TopCo;
- (h) unless the Counterparty delivers written notice to the TopCo of its conclusion that there is a reasonable basis to question the fairness and/or accuracy of any of the calculations and determinations described in Sections 2.2(a) to 2.2(e), inclusive as soon as reasonably practicable but no later than 75 days after the latest date of delivery of the detailed statement and related information described in Section 2.2(f), such calculations and determinations and, if applicable, the determination of the amount of the Transfer Payment, shall, subject to Section 4.6, be deemed to be accepted; and
- (i) if the Counterparty delivers a notice described in Section 2.2(h) to the TopCo, the Transfer Payment associated with the Transfer payable pursuant to Section 2.1 shall be the amount determined by a Valuator appointed pursuant to Section 4.1(b) as the amount that would properly and fairly result from the calculations and determinations described in Sections 2.2(a) to 2.2(e), inclusive, as set forth in a written report of the Valuator delivered by it to the Counterparty and the TopCo;

provided, however, that the Parties agree that in applying the foregoing provisions in connection with a second or subsequent Transfers or Refinancings, the order of application of Sections 2.2(a) to 2.2(e), inclusive may require modification in order to take proper account of earlier Transfers or Refinancings on a basis that is consistent with the intentions expressed in Section 1.11.

2.3 Determination of IRR and Sample Calculations

All IRR calculations required to be made pursuant to Section 2.2 shall be made in accordance with the applicable principles and procedures set forth in Schedule 4. The input values used in

the sample calculations set out in Exhibit 2.3 to the STAR Technical Schedule relating to the calculations, determinations and payments contemplated by this Article 2 are for purposes of illustration only. Any Party may propose additional sample calculations which, if agreed to by all Parties, acting reasonably, will be added to Exhibit 2.3 to the STAR Technical Schedule.

2.4 Other Transfers

If a Transfer by the Generator or an Intermediate Entity is undertaken by way of an issuance of Beneficial Interests to third parties or by way of any corporate reorganization that has the effect of reducing a related TopCo's DIP-G, the provisions of Section 2.2 shall be applied in respect of such Transfer on the basis contemplated in Section 2.2 and Schedule 4, and a Transfer Payment shall be made, subject to such modifications to the calculations, net proceeds, IRR calculations, and to the amount of any Transfer Payment, in each case as may be reasonably necessary to address the form and economic substance of such Transfer, the nature of any consideration paid in connection therewith, and the overall reduction in the Generator's Beneficial Interest in the Generator Assets or TopCo's DIP-G, as applicable, resulting from the Transfer, in determining any related Gain resulting from the Transfer and making any payment required hereunder in connection therewith.

2.5 Changes in Structure

Without limiting Section 2.1, the Generator and each TopCo shall not directly or indirectly undertake, agree to, permit or give effect to, any of the following transactions unless the Parties acting reasonably and in good faith have agreed to adjustments to the calculations, determinations and payments provided for in this Agreement in order to properly and fairly reflect the consequences thereof hereunder:

- (a) the acquisition or holding by the Generator of assets or property other than Generator Assets; provided, however, this Section 2.5(a) shall not apply to assets or property related to the Excluded Business;
- (b) the creation or holding of Partnership Interests in which the general partner of the Generator would have more than a 0.1% Beneficial Interest in the Generator;
- (c) the replacement of the General Partner of the Generator with one or more general partners that are not Controlled by either or both TopCos;
- (d) the holding of a TopCo's Beneficial Interest in the Generator through more than one limited partner in the Generator;
- (e) the creation of multiple Intermediate Entities each entitled to receive, directly or indirectly, only a part of the distributions or to be attributed a smaller percentage of the book value of the Generator which results or could result in one or more of such Intermediate Entities or any existing Intermediate Entities no longer being Primarily connected to the Generator or Bruce Linked;
- (f) any other transaction the TopCo reasonably determines would give rise to problems in the interpretation and implementation of this Agreement, having regard to the objective of making payment to the Counterparty of the applicable portion of any Gain resulting from a Transfer or Refinancing.

The Counterparty acknowledges that either of the TopCos and the Generator, acting together, may propose one or more such transactions in the future that would not have the effect of changing a TopCo's DIP-G or Beneficial Interest in the Generator Assets. In such circumstances, and provided no other transaction is to take place in connection with such proposed transaction which is restricted by Section 2.1, the Counterparty and each other Party hereto, shall consider in good faith, acting reasonably, any proposal by the Generator, or a TopCo, in respect of adjustments to the calculations, determinations and payments provided for herein. The reasonable costs of the Counterparty in connection therewith shall be borne by the Party making such proposal.

ARTICLE 3 REFINANCING

3.1 Attributed Incurrences

- (a) An Incurrence under a Refinancing shall be attributed to a TopCo's Partner in the amount determined in accordance with Section 3.1(b), for the purposes of Section 3.2, if:
- (i) the Refinancing is undertaken by the Generator; or
 - (ii) the Refinancing is undertaken by a Designated Entity in respect of such TopCo (which Designated Entity may be a Partner) that is, at the time of the Incurrence, (A) Primarily connected to the Generator, or (B) Bruce Linked,

and in the case of this clause (ii) only if such Refinancing involves, directly or indirectly, one or more of the following given in favour of the Person or Persons providing or lending such Refinancing or in favour of any Affiliate of such Person or Persons:

- (A) a grant of a security interest, mortgage or charge over the ownership of a Restricted Entity or the assets of a Restricted Entity;
- (B) a pledge or assignment of all or any part of the cashflows from or payable to a Restricted Entity;
- (C) a guarantee, indemnity or other support of the obligations of such Designated Entity by a Restricted Entity;
- (D) a covenant or covenants or other written assurances or comfort by a Non-Designated Entity that a Restricted Entity controlled by it will not incur indebtedness for borrowed money or will not grant a security interest over all or any portion of its assets; and
- (E) a covenant or covenants or other written assurances or comfort by a Restricted Entity not to incur indebtedness for borrowed money or not to grant a security interest over all or any portion of its assets.

- (b) The amount of an Incurrence subject to attribution under Section 3.1(a) that shall be attributed to the applicable Partner of a TopCo for the purposes of Section 3.2 shall be determined, without duplication, as follows:
 - (i) if the Refinancing is undertaken or guaranteed (other than in relation to a Refinancing undertaken by a Designated Entity referred to in Section 3.1(b)(ii)) by the Generator, the amount of the Incurrence shall be deemed for attribution purposes to be the product of (A) the amount of the Incurrence, and (B) the Partner's PPI in the Generator as of the time of the Incurrence, and all borrowings and payments (including in respect of interest, principal and premiums, if any), made (in the case of clauses (a) and (b) in the definition of Incurrence) or that could be made (in the case of clause (c) in the definition of Incurrence) in respect of the Incurrence shall be attributed to such Partner based on such PPI; or
 - (ii) if the Refinancing is undertaken or guaranteed (other than in relation to a Refinancing undertaken by another Designated Entity or the Generator) by a Designated Entity of such TopCo, the amount of such Incurrence shall be deemed to be attributed to such Partner, and all borrowings and payments (including in respect of interest, principal and premiums, if any), made (in the case of clauses (a) and (b) in the definition of Incurrence) or that could be made (in the case of clause (c) in the definition of Incurrence) in respect of the actual Incurrence shall be attributed to the Partner.
- (c) If an Incurrence permits the Borrower to delay a repayment date or the maturity date in respect of an Incurrence, for the purposes of attributing the Incurrence the repayment of borrowings shall be deemed to take place on the latest scheduled repayment date permitted under the Refinancing.

3.2 Calculation of Refinancing Payments

Each TopCo shall pay, or cause to be paid to, the Counterparty on the applicable Payment Date the amount of any Refinancing Payment determined in accordance with the following provisions in respect of each Incurrence that is attributed to the Partner of such TopCo pursuant to Section 3.1(a)(i), and the applicable TopCo shall pay, or cause to be paid to, the Counterparty on the applicable Payment Date the amount of any Refinancing Payment determined in accordance with the following provisions in respect of each Incurrence that is attributed to the Partner of such TopCo pursuant to Section 3.1(a)(ii), and in either of the foregoing cases the amount of such Refinancing Payment will be determined in accordance with the following provisions:

- (a) the TopCo shall calculate the IRR associated with any Incurrence undertaken by the Partner of such TopCo, or any Incurrence attributed to the Partner of such TopCo pursuant to Section 3.1, based on (A) such Partner's Adjusted Distribution Base Case immediately prior to such Incurrence, plus (B) the attributed Refinancing Cash Inflows (which shall be deemed for such purpose to be available to the Generator but adjusted by such Partner's PPI) from the Incurrence (including the amount of actual borrowings in respect of the Incurrence), minus (C) the attributed Refinancing Cash Outflows (which shall be deemed for such purpose to be payments made by the Generator but adjusted

by such Partner's PPI) in connection with the Incurrence, including in respect of the repayment of principal and the payments in respect of interest (including prescribed interest rate hedges) and prescribed fees. For greater certainty Refinancing Cash Inflows shall include actual borrowings of principal or issuances of fixed-term debt instruments associated with such Incurrence and reduction of deemed tax (calculated using the same rate as is used in determining the Partner's Adjusted Distribution Base Case immediately prior to such Incurrence) as a result of the deduction of interest, prescribed fees, costs and any premium which are deductible for purposes of the ITA and the CTA, and any premium associated with such Incurrence, in each case imputed for purposes of the IRR calculation, as of the date of actual receipt or payment. In the case of a prior Incurrence that is being taken into account in the determination of such new Adjusted Distribution Base Case, Refinancing Cash Outflows shall also include all actual cash outflows of such prior Incurrence, including early repayments of such Incurrence, the costs related to such Incurrence, premiums, "makewhole", spreads and net breakage fees;

- (b) the TopCo shall calculate the Gain associated with the Incurrence as the amount, if any, that would need to be subtracted from the attributed Refinancing Cash Inflow on the date of the Incurrence in order to reduce the IRR calculated on the basis described in Section 3.2(a) to the then applicable Trigger Rate, which Gain shall be deemed to be attributed to the Partner of such TopCo;
- (c) each TopCo shall calculate an amount equal to 50% of the Gain attributed to its Partner pursuant to Section 3.2(b) multiplied by the DIP-P of such TopCo (such amount being the "**Refinancing Payment**");
- (d) as soon as reasonably practicable but not later than 30 days after the effective date of the Incurrence, such TopCo's Partner shall deliver to the Counterparty a detailed statement setting forth the basis for the determinations and calculations described in Sections 3.2(a), 3.2(b) and 3.2(c) in reasonable detail and with such related information as may be reasonably necessary to enable the Counterparty and its Representatives to independently confirm the basis, accuracy and fairness of the determinations and calculations;
- (e) the Counterparty shall review the determinations and calculations described in Sections 3.2(a), 3.2(b) and 3.2(c) in order to determine if, in its opinion acting reasonably, the determinations and calculations are fair and accurate and, if it agrees, it shall so confirm by written notice to the TopCo;
- (f) unless the Counterparty delivers written notice to a TopCo of its conclusion that there is a reasonable basis to question the fairness or accuracy of any of the calculations and determinations described in Sections 3.2(a), 3.2(b) and 3.2(c) as soon as reasonably practical but no later than 75 days after the date of delivery of the detailed statement and related information described in Section 3.2(d), then such calculations and determinations and, if applicable, the determination of the amount of the Refinancing Payment, shall, subject to Section 4.6, be deemed to be accepted; and
- (g) if the Counterparty delivers a notice described in Section 3.2(f) to a TopCo, the Refinancing Payment associated with the Incurrence payable pursuant to this

Section 3.2 shall be the amount determined by a Valuator appointed pursuant to Section 4.1(b) as the amount that would properly and fairly result from the calculations and determinations described in Sections 3.2(a), 3.2(b) and 3.2(c), as set forth in a written report of the Valuator delivered by it to the Counterparty and the applicable TopCo.

3.3 Sample Calculations

The input values used in the sample calculations set out in Exhibit 2.3 to the STAR Technical Schedule relating to the principles set forth in this Article 3 are for purposes of illustration only. Any Party may propose additional sample calculations which, if agreed to by all Parties, acting reasonably, will be added to Exhibit 2.3 to the STAR Technical Schedule.

3.4 No Consent Required

No consent of the Counterparty shall be required in respect of:

- (a) any Incurrence or Refinancing, or, subject to Section 2.1(d), any granting of security in connection with either of the foregoing; or
- (b) realization of security or similar proceedings by a Secured Lender in respect of a Secured Lender's Security Agreement entered into under a Refinancing, or any disposition by or on behalf of such Secured Lender to a third party in accordance with section 13.2 of the Implementation Agreement provided that such transferee is a resident of Canada or of a country listed in Exhibit 2.1 of the STAR Technical Schedule, or, if not, the prior written consent of the Counterparty has been obtained, which consent shall not be unreasonably withheld, conditioned or delayed.

3.5 Negative Covenant – Refinancings by Non-Designated Entities

No TopCo shall permit a Non-Designated Entity of such TopCo which is either (i) Primarily connected to the Generator, or (ii) Bruce Linked, to enter into a Refinancing unless the prior written consent of the Counterparty has been obtained, which consent may be withheld in its sole and absolute discretion.

3.6 Designated Entities

The Parties acknowledge that, on the date hereof, the Designated Entities in respect of TransCanada Corporation are TransCanada Energy Management Inc. and TransCanada Energy Investments Ltd., and the Designated Entity in respect of OMERS Administration Corporation is BPC Generation Infrastructure Trust. A Designated Entity designated by a TopCo shall cease to be a Designated Entity in respect of such TopCo and shall become a Non-Designated Entity at the time that such TopCo, in its sole and absolute discretion, delivers notice in writing to such effect to the Counterparty; provided, however, that such a notice shall not reduce the amount payable in respect of a Refinancing Payment otherwise determined hereunder in respect of Refinancings occurring prior to the effective date of such notice.

ARTICLE 4 STATEMENTS AND PAYMENTS

4.1 Determinations and Calculations

- (a) Fair Market Value – Fair Market Value where required to be determined herein shall be determined based on the principles and procedures set forth in Schedule 3.
- (b) Appointment of a Valuator – If required, a Valuator shall be identified and appointed in the manner and on the basis set forth in Schedule 3.
- (c) Information – If requested, each TopCo and the Generator shall provide the Counterparty with copies of all relevant material documentation relating to a related Transfer or Refinancing, together with such other information relating thereto as may be requested by the Counterparty, acting reasonably. A Statement may be delivered by the applicable Party to the Counterparty by facsimile or electronic means. The Counterparty may, acting reasonably, audit at any time, whether before, during or after a Transfer or Refinancing (but no later than two years after the end of the Contract Year in which such Statement was issued), such Transfer or Refinancing, including the documentation, determinations, calculations and valuations relating thereto. Each Statement delivered hereunder shall be accompanied by an Attestation Certificate relating to the calculations, determinations and information set forth therein or accompanied therewith.

4.2 Payment

Any Transfer Payment or Refinancing Payment payable to the Counterparty pursuant hereto shall be paid to the Counterparty in full no later than the date (the "**Payment Date**") of delivery of the Statement pursuant to Section 2.2 or 3.2 as applicable. Any and all payments required to be made pursuant hereto shall be made by wire transfer to the account designated in Section 4.5 or as otherwise agreed by such TopCo and the Counterparty.

4.3 Interest

The Party owing a Transfer Payment or Refinancing Payment shall pay interest on any late payment to the Counterparty from the Payment Date to the date of payment thereof. The interest rate applicable to such late payment shall be the Interest Rate plus 2%, calculated daily and compounded monthly. Under no circumstances shall any payment of interest pursuant to any provision of this Agreement result in a receipt by a Party of interest at a criminal rate as construed by the *Criminal Code* (Canada) and any such payment of interest shall be redetermined using the highest rate of interest which is not prohibited by the *Criminal Code* (Canada).

4.4 Interest Rate Equivalency

For the purposes of disclosure pursuant to the *Interest Act* (Canada), the yearly rate of interest to which any rate of interest payable under this Agreement (which is to be calculated on any basis other than a full calendar year) is equivalent may be determined by multiplying such rate by a fraction, where the numerator is the actual number of days in the calendar year during the

period the yearly rate of interest is to be ascertained and the denominator is the number of days interest is to be paid.

4.5 Payment Account Information

The Counterparty may change its account information listed in Section 4.5 of the STAR Technical Schedule from time to time by written notice to the other Parties in accordance with Section 8.2.

4.6 Adjustment to Statement

Each Statement shall be subject to adjustment for errors in arithmetic, computation or other errors raised by a Party during the period of two (2) years following the end of the Contract Year in which such Statement was issued. If there are no complaints raised, or if any complaints raised in the time period have been resolved, such Statement shall be final and subject to no further adjustment after the expiration of such two (2) year period.

4.7 Disputed Statement

If the Counterparty disputes a Statement or any portion thereof in good faith, the Party owing any amount set forth in the Statement shall, notwithstanding such dispute, pay any amount not in dispute to the Counterparty. The Counterparty shall provide written notice to the applicable Party setting out the portions of the Statement that are in dispute with a brief explanation of the dispute; provided, however, that any determination of Fair Market Value in accordance with Schedule 3 that is accurately reflected in a Statement may not be, for greater certainty, disputed by the Counterparty. If it is subsequently determined or agreed that an adjustment to the Statement is appropriate, the applicable Party will promptly (and, in any event, within ten (10) Business Days) prepare and deliver a revised Statement to the Counterparty. Any overpayment or underpayment of a Statement shall bear interest at the Interest Rate plus 2%, calculated daily and compounded monthly, from and including the time of such overpayment or underpayment to the date of the refund or payment thereof. Payment pursuant to the revised Statement shall be made on the tenth (10th) Business Day following the date on which the revised Statement is delivered to the Counterparty. If a Statement dispute has not been resolved between the relevant Parties within five (5) Business Days after receipt of written notice of such dispute by the relevant Party, the dispute may be submitted by either Party to a Senior Conference pursuant to the terms of Section 9.1 and thereafter to formal dispute resolution in accordance with the terms of Section 9.2.

4.8 Statements and Payment Records

The Parties shall keep all books and records necessary to support the information contained in and with respect to each Statement and any payment made thereunder in accordance with Section 8.1.

ARTICLE 5 REPRESENTATIONS

5.1 Representations of the Generator and the TopCo's

Each Party other than the Counterparty represents to the Counterparty on a several basis only (and in respect of itself, only and in respect of its Partner, only if it is the TopCo of such Partner)

as follows as of the date hereof, and acknowledges that the Counterparty is relying on such representations in entering into this Agreement:

- (a) In respect of the Generator, is a limited partnership existing under the laws of the Province of Ontario, in respect of the OMERS Administration Corporation, is a corporation without share capital created by the continuance of the Ontario Municipal Employees Retirement Board under the laws of Ontario, and in respect of TransCanada Corporation, is a corporation incorporated under the laws of Canada.
- (b) It is registered or otherwise qualified to carry on business in the Province of Ontario, and has the requisite power to enter into this Agreement and to perform its obligations hereunder.
- (c) This Agreement has been duly authorized, executed and delivered by such Party and is a valid and binding obligation of such Party enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may only be granted solely in the discretion of a court of competent jurisdiction.
- (d) The execution and delivery of this Agreement by it and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of such Party under:
 - (i) any contract or obligation to which it is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;
 - (ii) its constitutional or constating documents, as applicable;
 - (iii) any judgment, decree, order or award of any Governmental Authority or arbitrator;
 - (iv) any licence, permit, approval, consent or authorization held by the Generator; or
 - (v) any Laws and Regulations;that could have a Material Adverse Effect on such Party.
- (e) There are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against or being contemplated by such Party or, to the knowledge of such Party, threatened against such Party.
- (f) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of such

Party, threatened against such Party, that could have a Material Adverse Effect on such Party.

- (g) All requirements for such Party to make any filing, declaration or registration with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to entering into this Agreement have been satisfied.
- (h) It is not, and each of the Partners is not, a non-resident of Canada for the purposes of the ITA.
- (i) The Partners, the Unions, and the Employee Trust comprise all the limited partners of the Generator. After satisfaction of the Reorganization Condition, the PPI of the Partners, the Unions, and the Employee Trust in the Generator shall be as follows:
 - (i) BPC Generation Infrastructure Trust: 48.537434%;
 - (ii) TransCanada Energy Investments Ltd.: 48.537434%;
 - (iii) Power Worker's Union Trust No. 1: 0.692282%; and
 - (iv) Power Worker's Union Trust No. 2: 1.543610%; and
 - (v) Society of Energy Professionals Trust: 0.428800%.
 - (vi) Bruce Power Employee Investment Trust: 0.248440%
- (j) The DIP-G (Original), after satisfaction of the Reorganization Condition, shall be as follows:
 - (i) OMERS Administration Corporation: 48.537434%; and
 - (ii) TransCanada Corporation: 48.537434%.

5.2 Representations of the Counterparty

The Counterparty represents to each other Party as follows as of the date hereof, and acknowledges that each of the other Parties hereto is relying on such representations in entering into this Agreement:

- (a) The Counterparty is a corporation without share capital existing under the Electricity Act and has the requisite power to enter into this Agreement and to perform its obligations hereunder.
- (b) This Agreement has been duly authorized, executed and delivered by the Counterparty and is a valid and binding obligation of the Counterparty enforceable in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency and other laws affecting the rights of creditors generally and except that equitable remedies may be granted solely in the discretion of a court of competent jurisdiction.

- (c) The execution and delivery of this Agreement by the Counterparty and the consummation of the transactions contemplated by this Agreement will not result in the breach or violation of any of the provisions of, or constitute a default under, or conflict with or cause the termination, cancellation or acceleration of any material obligation of the Counterparty under:
- (i) any contract or obligation to which the Counterparty is a party or by which it or its assets may be bound, except for such defaults or conflicts as to which requisite waivers or consents have been obtained;
 - (ii) the constating documents, by-laws or resolutions of the directors (or any committee thereof) of the Counterparty;
 - (iii) any judgment, decree, order or award of any Governmental Authority or arbitrator;
 - (iv) any licence, permit, approval, consent or authorization held by the Counterparty; or
 - (v) any Laws and Regulations;
- that could have a Material Adverse Effect on the Counterparty.
- (d) There are no bankruptcy, insolvency, reorganization, receivership, seizure, realization, arrangement or other similar proceedings pending against, or being contemplated by the Counterparty or, to the knowledge of the Counterparty, threatened against the Counterparty.
- (e) There are no actions, suits, proceedings, judgments, rulings or orders by or before any Governmental Authority or arbitrator, or, to the knowledge of the Counterparty, threatened against the Counterparty, that could have a Material Adverse Effect on the Counterparty.
- (f) All requirements for the Counterparty to make any declaration, filing or registration with, give any notice to or obtain any licence, permit, certificate, registration, authorization, consent or approval of, any Governmental Authority as a condition to entering into this Agreement have been satisfied, including without limiting the generality of the foregoing, the receipt by the Counterparty of a direction from the Minister of Energy contemplated by subsections 25.32(4) and (7) of the Electricity Act directing the Counterparty to execute and deliver this Agreement in respect of the initiative to maintain a reliable long-term supply of electricity by proceeding with the refurbishment of the Province of Ontario's existing nuclear fleet initiated by the Ministry of Energy, on behalf of the Government of Ontario.
- (g) The Counterparty is registered for HST purposes under the ETA and its HST registration number is 870513959RT-0002.
- (h) The Counterparty is not a non-resident of Canada as provided for under the ITA.

- (i) This Agreement complies with the regulations made pursuant to the Electricity Act.

5.3 Effective Date of Representations

The representations of the Parties contained in Sections 5.1 and 5.2 are made with effect only on the date of this Agreement.

ARTICLE 6 CONFIDENTIALITY AND FIPPA

6.1 Counterparty Confidential Information

From the date of this Agreement to and following the expiry of the Term:

- (a) each Other Party shall keep all Confidential Information of the Counterparty confidential and secure; provided, however, each Other Party may disclose Confidential Information of the Counterparty in confidence to:
 - (i) those directors, agents and Representatives of such Other Party, of any Affiliate of such Other Party, of its general partner, of any Limited Partner or, of the direct and indirect Persons that control any Limited Partner, in each case, as applicable;
 - (ii) the respective lenders or potential lenders or rating agencies of such Other Party, of any Limited Partner or, of the direct and indirect Persons that control any Limited Partner, and such lenders' or rating agencies' respective employees, directors, agents, representatives and advisors;
 - (iii) any bona fide potential investors in such Other Party, or in any Partner or Intermediate Entity, and such investors' respective employees, directors, agents, representatives and advisors;who in each of the foregoing cases have a need to know it, have acknowledged that the Confidential Information of the Counterparty is confidential and have agreed to non-disclosure of such Confidential Information on terms substantially similar to those contained in this Agreement; and
 - (iv) to any Governmental Authority or stock exchange or other Person if legally compelled by a Governmental Authority or stock exchange under any Laws and Regulations or the requirements of any stock exchange, subject to the provisions of Section 6.4; and
- (b) except as necessary for the purpose of complying with its obligations under this Agreement, each Other Party shall not directly or indirectly exploit or use any Confidential Information of the Counterparty.

6.2 Other Party Confidential Information

From the date of this Agreement to and following the expiry of the Term:

- (a) the Counterparty shall keep all Confidential Information of each Other Party confidential and secure provided, however, that subject to Sections 6.2(d) and 6.2(c), the Counterparty may disclose Confidential Information of each Other Party in confidence to:
- (i) those directors, agents and Representatives of the Counterparty;
 - (ii) Affiliates of the Counterparty and their agents and Representatives; and
 - (iii) the Ministry of Energy, the Ontario Financing Authority, the Office of the Premier of Ontario, the Executive Council of Ontario, the Ministry of the Attorney General and the Ontario Cabinet Office and their respective Representatives and agents;

who in each case have a need to know it in connection with the administration and management of this Agreement and the Implementation Agreement, approval of or monitoring of compliance with or performance under this Agreement and the Implementation Agreement, to conduct independent planning for the electricity system or forecasting of the adequacy and reliability of electricity resources for Ontario for the medium term and long term or, for any Person referred to in (iii) above, for government policy purposes, and who have acknowledged that the Confidential Information of each Other Party is confidential (and the Counterparty further acknowledges is highly confidential pursuant to subsection 20(1) of the *Electricity Act*), and have agreed to non-disclosure of such Confidential Information on terms substantially similar to those contained in this Agreement and, specifically in the cases of the Ministry of Energy and the Ontario Financing Authority, such parties have entered into a non-disclosure agreement with the Other Parties in a form acceptable to the Other Parties, acting reasonably, so providing and pursuant to which, *inter alia*, such Parties have acknowledged and agreed to the provisions of Section 6.5 insofar as that section relates to FIPPA and to advise the applicable Other Party, if either of them are legally compelled to disclose any Confidential Information of such Party;

- (b) notwithstanding any other provision hereof, including Section 6.2(a), the Counterparty shall not be entitled to disclose Confidential Information to:
- (A) any other nuclear generator in Ontario; or
 - (B) any Transmitter or distributor of Electricity in Ontario;
- (c) notwithstanding any other provision hereof, including Section 6.2(a), the Counterparty shall not disclose Confidential Information: (i) except for disclosure to officers and directors of the System Operator who have a need to know in connection with the administration and management of this Agreement and the Implementation Agreement, to conduct independent planning for the electricity system or forecasting of the adequacy and reliability of electricity resources for Ontario for the medium and long term, to the employees of the System Operator responsible for market operations, market control, market assessment, market enforcement and compliance, including those persons in the System Operator's Control Centre, and Market Assessment and Compliance Division and any

successors thereof in such capacities; and (ii) except for a disclosure permitted pursuant to Section 6.2(a)(iii), to any Governmental Authority and in accordance with the provisions of Section 6.2(a), unless legally compelled to do so by such Governmental Authority under any Laws and Regulations (which in the case of the System Operator will not include bulletins or guidelines of the System Operator) and in compliance with the provisions of Section 6.4(b);

- (d) except as necessary for the purpose of complying with its obligations under this Agreement, the Counterparty shall not directly or indirectly exploit or use any Confidential Information of such Other Party, or any of them.

6.3 Injunctive and Other Relief

Each Party acknowledges that a breach of any provisions of this Article 6 will cause irreparable harm to another Party or to any third party to whom such Party owes a duty of confidence and in respect of each Other Party, may also prejudice significantly such Other Party's competitive position, interfere significantly with such Other Party's contractual or other negotiations, or otherwise result in undue loss to such Other Party, and that the injury to the Party or to any third party may be difficult to calculate and inadequately compensable in damages. To the extent applicable, each Party agrees that each other Party is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third party) or any other remedy against any actual or potential breach of the provisions of this Article.

6.4 Notice and Protective Order

- (a) If an Other Party, or any of them, any Affiliate of such Other Party, its general partner(s), its Limited Partners or Persons that directly or indirectly control any Limited Partner, or to its knowledge any of their respective directors, agents or Representatives, as applicable, become legally compelled to disclose any Confidential Information of the Counterparty, such Other Party will provide the Counterparty with prompt notice to that effect in order to allow the Counterparty to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with the Counterparty and its legal counsel to the fullest extent at the Counterparty's cost and expense. If such protective orders or other remedies are not obtained, such Other Party will disclose or cause such other Person to disclose, only that portion of the Confidential Information of the Counterparty which such Other Party or such Person is legally compelled to disclose, only to such Person or Persons to which such Other Party or such Person is legally compelled to disclose, and such Other Party shall provide notice to each such recipient (in co-operation with legal counsel for the Counterparty) that such Confidential Information of the Counterparty is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if practicable, shall obtain each recipient's written agreement to receive and use such Confidential Information of the Counterparty subject to those terms and conditions.
- (b) If the Counterparty (which for greater certainty and for the purposes of this Section 6.4 includes the System Operator), or any of its directors, agents or Representatives or, to the knowledge of the Counterparty, any Affiliate of the Counterparty including the Ministry of Energy or the Ontario Financing Authority, become legally compelled to disclose any Confidential Information of an Other

Party (or any of them), the Counterparty will provide such Other Party with prompt notice to that effect in order to allow such Other Party to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall co-operate with such Other Party and its legal counsel to the fullest extent at such Other Party's cost and expense. If such protective orders or other remedies are not obtained, the Counterparty will disclose, or cause such Person to disclose (or, in the case of the Ministry of Energy and the Ontario Financing Authority, request that such Persons disclose), only that portion of Confidential Information of such Other Party which the Counterparty or such Person is legally compelled to disclose, only to such Person or Persons to which the Counterparty or such Person is legally compelled to disclose, and the Counterparty shall provide notice to each such recipient (in co-operation with legal counsel for such Other Party) that such Confidential Information of such Other Party is confidential and subject to non-disclosure on terms and conditions equal to those contained in this Agreement and, if practicable, shall obtain each recipient's written agreement to receive and use such Confidential Information of such Other Party subject to those terms and conditions.

6.5 FIPPA Records

The Parties acknowledge that the Counterparty is subject to FIPPA. The Counterparty has reviewed the Confidential Information of each Other Party contained in the STAR Technical Schedule and has considered such Confidential Information to be disclosed to the Counterparty in connection herewith. The Parties agree that such Confidential Information is highly confidential commercial, financial, scientific, technical, and/or labour relations information, and/or contains trade secrets and is supplied in confidence by each Other Party to the Counterparty on that basis. For the purposes of subsection 20(1) of the Electricity Act, the Counterparty hereby designates as confidential or highly confidential the Confidential Information of the Other Parties provided to the Counterparty up to and including the date of this Agreement and acknowledges that the Other Parties have advised it that all Confidential Information to be provided to the Counterparty after the date of this Agreement is considered by the Other Parties to be confidential or highly confidential. The Parties agree that the disclosure of the Confidential Information contained in the STAR Technical Schedule, and the Counterparty acknowledges that the Other Parties have advised it that disclosure of the Confidential Information provided to the Counterparty pursuant to this Agreement, could reasonably be expected to cause irreparable harm and material financial loss to each Other Party and significant prejudice to each Other Parties' competitive position and to interfere with each Other Party's contractual arrangements and the negotiations in which the Parties are engaged. Accordingly, the Counterparty acknowledges that each Other Party is disclosing its Confidential Information to the Counterparty on the basis that all such Confidential Information is exempt from access by and disclosure to others pursuant to section 17(1) of FIPPA and the Counterparty agrees it will treat all Confidential Information contained in the STAR Technical Schedule as being so exempt from the disclosure requirements under FIPPA; provided, however, that the Parties acknowledge and agree that the refusal of the Chief Executive Officer of the Counterparty to disclose any Confidential Information in accordance with section 17(1) of FIPPA may be the subject of an appeal to the Information and Privacy Commissioner as set forth under FIPPA who, upon such appeal, shall have the final decision as to disclosure. In the event that the Counterparty is requested to disclose, and the Counterparty is planning to disclose, to others pursuant to FIPPA all or any part of the Confidential Information disclosed to the Counterparty by any Other Party, the Counterparty will promptly advise such Other Party of such request, so that such Other Party will have the opportunity to make detailed

representations to the appropriate authority about the nature of the information. The Counterparty agrees to comply with Section 6.4(b) of this Agreement in respect of any request for disclosure of any Other Party's Confidential Information pursuant to FIPPA. This Section 6.5 is in addition to, and without limitation of, the obligations of the Counterparty set out in Section 6.2.

6.6 Disclosure of this Agreement other than the STAR Technical Schedule

Notwithstanding this Article 6, the Parties acknowledge and agree that this Agreement, other than the STAR Technical Schedule, does not contain Confidential Information and may be disclosed by a Party without the consent of the other Parties and without the application of Section 6.4.

ARTICLE 7 TERM

7.1 Amendment and Restatement; Term

- (a) As of the Effective Time, the STAR Agreement shall be amended and restated in its entirety by this Agreement. The Parties acknowledge and agree that the terms of the STAR Agreement, including the obligation to maintain Confidential Information in confidence pursuant to the STAR Agreement, continue in full force and effect, unamended by the terms and conditions of this Agreement until the Effective Time, and that the STAR Agreement, as amended and restated as provided herein, shall, upon the Effective Time, be binding upon the Parties and their respective successors and permitted assigns and shall continue after the Effective Time in full force and effect; provided, however that the respective representations and warranties of the Parties in Article 5 will be in full force and effect on the date of this Agreement.
- (b) For purposes of this Section 7.1(b) the "Reorganization Condition" means BALP. will have transferred all of its assets, including all of its right, title and interest in the BPRIA and 100% of its beneficial interest in the sublease dated October 31, 2005 between the Generator, as sublandlord, and BALP, as subtenant, to the Generator, the Generator will have assumed all of BALP's obligations, including all of its obligations under the BPRIA, with the effect that the Generator will be continuing the business of BALP.
- (c) The Generator shall provide notice to the Counterparty as soon as practicable following occurrence of the Reorganization Condition; provided, however, that if on or before 5:00 p.m. (Toronto time), December 15, 2015, the Reorganization Condition has not been met, this Agreement shall immediately terminate and be of no force and effect and none of the Parties shall have any rights, obligations, liabilities under or pursuant to this Agreement to any other Party and it shall for all purposes be, and be deemed to be, null and void ab initio; provided such termination shall not affect the STAR Agreement and the rights and obligations of the Parties thereunder which shall continue unaffected hereby.
- (d) Notwithstanding the amendments effected by this Agreement to the rights and obligations of the Parties contained in the STAR Agreement, each Party acknowledges and agrees that all rights, liabilities and obligations of each Party

existing or arising pursuant to the STAR Agreement and Article 5 hereof prior to the Effective Time, including any causes of action of a Party, shall not merge and shall survive the execution and delivery of this Agreement and the amendment and restatement of the STAR Agreement as at the Effective Time.

- (e) Subject to earlier termination in accordance with the provisions hereof, “**Term**” means that period of time commencing upon the Effective Time and ending at the same time as the termination of the Implementation Agreement provided, however, this Agreement shall terminate automatically with respect to a TopCo, and without any further action required on the part of such TopCo or the Generator, when (i) the DIP-G of such TopCo is 0, or, if the DIP-G is greater than 0, G FMV is 0 (that is, all the Generator Assets (other than Excluded Business) have been subject to a Transfer) and (ii) any Transfer Payment and Refinancing Payment required to be made under this Agreement have been paid to the Counterparty by the applicable Other Party.

ARTICLE 8 CONTRACT OPERATION AND ADMINISTRATION

8.1 Record Retention; Audit Rights

- (a) The Parties shall each keep complete and accurate records and all other data required by any of them for the purpose of proper administration of this Agreement. All such records shall be maintained as required by Laws and Regulations but for no less than for seven (7) years after the creation of the record or data. The Parties, on a confidential basis as provided for in Article 6 of this Agreement, shall provide on reasonable prior notice reasonable access during normal business hours to the relevant and appropriate financial records and data kept by it relating to this Agreement reasonably required to verify information provided in accordance with this Agreement in relation to a Transfer or Refinancing. A Party may use its own employees for purposes of any such review of records, provided that those employees are bound by the confidentiality requirements provided for in Article 6. Alternatively, and at the election of the auditing Party, access shall be through the use of a mutually agreed upon third party auditor provided that such third party auditor is bound by the confidentiality requirements provided for in Article 6. The Party seeking access to such records in this manner shall pay the costs and expenses related thereto including the fees and expenses associated with the use of the third party auditor.
- (b) Notwithstanding any other provision hereof, Section 8.1(a) shall not apply to a Non-Designated Entity except in relation to (i) a Refinancing if such Non-Designated Entity was at one time a Designated Entity which had undertaken a Refinancing and (ii) any Transfer if such Non-Designated Entity was an Intermediate Entity in relation to any Transfer (including a Transfer made by another entity through which a TopCo holds its Beneficial Interest in the Generator in the same chain as such Intermediate Entity).

8.2 Notices

All notices pertaining to this Agreement shall be in writing and shall be given by e-mail or other means of electronic transmission or by hand or courier delivery. Any notice shall be addressed to the other Parties as follows: see Section 8.2 of the STAR Technical Schedule.

Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 2:00 p.m. local time in the place of delivery or receipt. However, if a notice is delivered or transmitted after 2:00 p.m. local time or if such day is not a Business Day, then such notice shall be deemed to have been given and received on the next Business Day. Any Party may, by written notice to the others, change its respective address to which or persons to whom notices are to be sent.

ARTICLE 9 MISCELLANEOUS

9.1 Informal Dispute Resolution

If any dispute arises under or in connection with this Agreement that the relevant Parties cannot resolve, each of the relevant Parties to the dispute shall promptly advise its senior management, in writing, of such dispute and notify each other Party that their respective senior management has been so advised. Within five (5) Business Days following delivery of any such notice, a senior executive (Senior Vice-President or higher) from each relevant Party shall meet, either in person or by telephone (the “**Senior Conference**”), to attempt to resolve the dispute. Each senior executive shall be prepared to propose a solution to the dispute. If, following the Senior Conference, the dispute is not resolved, any relevant Party may require the dispute to be settled pursuant to Section 9.2.

9.2 Formal Dispute Resolution

Except as otherwise specifically provided for in this Agreement, any matter in issue between the Parties as to their rights under this Agreement shall be decided by arbitration pursuant to Section 9.2; provided, however, that unless expressly provided otherwise in this Agreement, the relevant Parties to the dispute have first completed a Senior Conference pursuant to Section 9.1 before commencing arbitration proceedings pursuant to Section 9.2.

- (a) Any disputes arising in respect of this Agreement shall be determined in accordance with Exhibit 9.2, which sets out the sole and exclusive procedure for the resolution of disputes arising in respect of this Agreement. The resolution of disputes pursuant to the terms of Exhibit 9.2 shall be final and binding upon the relevant Parties to the dispute and there shall be no appeal therefrom, including any appeal to a court on a question of law, a question of fact or a question of mixed fact and law.
- (b) Each of the Parties acknowledges that a breach or threatened breach by any of them of any provision of this Agreement may result in another Party suffering irreparable harm which cannot be calculated or fully or adequately compensated by recovery of damages alone. Accordingly, each of the Parties is entitled to equitable relief, including interim, interlocutory and permanent injunctive relief,

specific performance and other equitable remedies, in the event of any breach or threatened breach of the provisions of this Agreement, in addition to any other remedies available to the Parties and nothing in this Section 9.2 shall delay or prevent any Party from seeking such relief.

9.3 Business Relationship

Nothing in this Agreement shall create or be deemed to create a relationship of partners, joint venturers, fiduciary, principal and agent or any other relationship between the Parties.

9.4 Binding Agreement

Except as otherwise set out in this Agreement, this Agreement shall not confer upon any other Person, except the Parties and their respective successors and permitted assigns, any rights, interests, obligations or remedies under this Agreement. This Agreement and all of the provisions of this Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns. For greater certainty, but without limiting the obligations of the TopCos and the Generator hereunder, this Agreement is not binding in any way on a Transferee or assignee in respect of a Transfer except a Transferee or assignee in respect of an Inter-Investor Transfer or a Non-Arm's Length Transfer. Notwithstanding the foregoing, each of the TopCos agrees that it will not effect a Transfer (other than an Inter-Investor Transfer or a Non-Arm's Length Transfer) without first obtaining an undertaking in writing addressed to the Counterparty from the Transferee or assignee that such Transferee or assignee will comply with the covenant set forth in Section 2.1(d).

9.5 Assignment

- (a) Except as set out in this Section 9.5, neither this Agreement nor any of the rights, interests or obligations under this Agreement may be assigned by any Party, including by operation of Laws and Regulations, without the prior written consent of the other Parties, which consent may be withheld in its sole discretion.
- (b) Notwithstanding any other provision hereof, the Counterparty may, without the consent of the other Parties hereto, assign this Agreement to any Person to whom the Implementation Agreement is validly assigned by the Counterparty in accordance with the terms thereof, on notice to the other Parties hereto; provided however that such assignee has the ability pursuant to Laws and Regulations to recover all amounts paid or payable to the Generator pursuant to the Implementation Agreement directly or indirectly from Electricity consumers in the Province of Ontario or such assignee has the full faith and credit of the Government of Ontario. No assignment by a Party or any of its successors or permitted assigns hereunder shall be valid or effective unless and until the assignee agrees with each other Party in writing to assume all of the assigning Party's obligations and be bound by the terms of this Agreement. If a valid assignment of this Agreement is made by a Party in accordance with this Section 9.5, each other Party acknowledges and agrees that, upon such assignment and assumption and notice thereof by the assigning Party to each other Party, the assigning Party shall be relieved of and released from all its duties, obligations and liabilities hereunder.

9.6 Opinion of Parties Counsel

Concurrently with the execution and delivery hereof, each Party shall deliver to the other Parties (i) a legal opinion from a law firm acceptable to the other Parties, acting reasonably, and in substantially the form and substance delivered in connection with the Original STAR Agreement; and (ii) an officer's certificate addressed to such law firm and the other Parties setting out the factual matters upon which such law firm is relying in order to deliver such opinion.

9.7 Counterparts

This Agreement may be executed in two or more counterparts, and all such counterparts shall together constitute one and the same Agreement. It shall not be necessary in making proof of the contents of this Agreement to produce or account for more than one such counterpart. Any Party may deliver an executed copy of this Agreement by facsimile, but such Party shall promptly deliver to each other Party an originally executed copy of this Agreement.

9.8 Rights and Remedies Not Limited to Contract

Unless expressly provided in this Agreement, the express rights and remedies of any Party set out in this Agreement are in addition to and shall not limit any other rights and remedies available to any Party, at law or in equity.

9.9 Further Assurances

Each of the Parties shall, from time to time on written request of any other Party, do all such further acts and execute and deliver or cause to be done, executed or delivered all such further acts, deeds, documents, assurances and things as may be reasonably required in order to fully perform and to more effectively implement and carry out the terms of this Agreement.

9.10 Several Liability Only

The liability of each TopCo and the Generator is a several liability, and not a joint and several liability hereunder, and nothing herein shall create or be construed to create any joint and several liability or impose any other obligation or liability whatsoever in respect of the performance or non-performance of the terms hereof (i) by a TopCo or its Affiliates, Intermediate Entities or Partners in respect of another TopCo or any of its Affiliates, Intermediate Entities, Partners or the Generator or (ii) by the Generator in respect of a TopCo or any of its Affiliates or Intermediate Entities, as applicable.

9.11 Substitute Performance

A TopCo may perform some or all of its obligations hereunder by providing for substitute performance thereof by another Person (including a Borrower or a Transferor, a "**Performing Person**" for the purposes of this Section 9.11), provided that a TopCo's obligations hereunder shall be absolute and unconditional and shall not be released, discharged, diminished, limited or in any way affected by any matter, act, failure to act, or circumstance whatsoever prior to the satisfaction of such obligations in full, including:

- (a) any lack of power, incapacity or disability of a Performing Person;

- (b) any lack of validity, illegality, unenforceability, impossibility, impracticability, frustration of purpose, force majeure or act of government or governmental authority of or relating to such obligations or the Performing Person;
- (c) any irregularity, defect or informality, or any fraud, on the part of the Performing Person;
- (d) the financial condition, insolvency or bankruptcy or, where applicable, reorganization or winding-up of the Performing Person;
- (e) any defence, right of set-off, counterclaim, combination of accounts, cross-claim or other right or privilege available to, or a discharge of, the Performing Person with respect to such obligations; or
- (f) any loss or impairment of any right of any Person to claim subrogation, reimbursement, contribution or indemnity from another Person;

which circumstances shall not reduce, relieve or excuse TopCo's obligations hereunder or permit any delay in the performance thereof.

For greater certainty, this provision shall not constitute the Counterparty's consent to an assignment to or an assumption by a Performing Person of a TopCo's obligations hereunder, but rather is only intended to permit a TopCo to satisfy its obligations hereunder through the actual performance of such obligations by to or by another Person. No actions, omissions, conduct or dealings by the Counterparty in relation to, in respect of or with a Performing Person shall constitute the substitution or replacement of a TopCo's obligations hereunder or the waiver thereof. The acceptance by the Counterparty of any performance by a Performing Person in respect of an obligation hereunder shall not preclude, diminish, limit or in any way affect the exercise of rights against the TopCo by the Counterparty hereunder.

9.12 Inapplicability to Unions and Employee Trust

For greater certainty, the foregoing provisions of this Agreement relating to Transfers and Refinancings do not apply to the Unions or to the Employee Trust. It is intended by the Counterparty that the foregoing provisions apply to the Union, The Society of Energy Professionals Trust and the Employee Trust if their collective PPI in the Generator increases above 15%. The TopCos and the Generator agree that in any such event, they shall use commercially reasonable efforts to have such Union, The Society of Energy Professionals Trust or the Employee Trust, as applicable, become subject to the provisions of this Agreement, *mutatis mutandis*. Each reference to a Union, The Society of Energy Professionals Trust or Employee Trust includes its respective successors.

9.13 Time of Essence

Time is of the essence in the performance of the Parties' respective obligations under this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have executed this Agreement by the undersigned duly authorized representatives as of the date first stated above.

BRUCE POWER L.P., by its general partner, BRUCE POWER INC.

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

TRANSCANADA CORPORATION

OMERS ADMINISTRATION CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE 1

CF₀ INPUT VALUES IN RELATION TO TRANSFERS AND REFINANCINGS

TRANSFERS

For purposes of Section 2.2 and “CF₀”, see Schedule 1 of the STAR Technical Schedule

REFINANCINGS

For purposes of Section 3.2 and “CF₀”, see Schedule 1 of the STAR Technical Schedule

SCHEDULE 2

ADJUSTMENTS FOR CPI

The dollar amounts referred to in the definitions of “Permitted Transfer” and “Refinancing” are in 2015 dollars and shall be subject to adjustment on the first day of each calendar year thereafter by the CPI Adjustment Factor described below:

$$\text{CPI Adjustment Factor} = \frac{\text{CPI}_y}{\text{CPI}_{y-1}}$$

Where:

CPI_y is the annual average CPI calculated for the twelve-month period ending on December 31 of the calendar year “y”

CPI_{y-1} is the annual average CPI calculated for the twelve-month period ending on December 31 of the calendar year immediately preceding calendar year “y-1”

annual average CPI is the simple average of the twelve monthly CPIs in a specified twelve-month period ending December 31 (rounded to the first decimal place)

For the purposes of this calculation, the quotient of CPI_y divided by CPI_{y-1} shall be rounded to the third decimal place

SCHEDULE 3

PRINCIPLES AND PROCEDURES TO DETERMINE FAIR MARKET VALUE

If, in relation to a calculation of the amount of a Transfer Payment payable pursuant to Section 2.2, the Fair Market Value of (i) the total enterprise value of the Generator (not including the Excluded Business) less all arm's length debt of the Generator (being the principal amount of all arm's length obligations that result in the projected cash outflows contemplated by the first sentence of paragraph 1 below) at the applicable time ("**G FMV**"), and (ii) if applicable, the total enterprise value of the Generator Assets subject to a Transfer (not including the Excluded Business) less all arm's length debt of the Generator (as determined above) assumed by the Transferee at the applicable time, or that the Generator is required to repay in connection with such Transfer at the applicable time, as applicable, ("**GA FMV**"), is required to be determined, such determination shall, unless otherwise specified in the Agreement, be made by a Valuator jointly chosen by the Counterparty and such TopCo, acting reasonably and in good faith as soon as reasonably practicable. If a Valuator is not appointed as a result of a dispute or disagreement between the Counterparty and such TopCo, then either Party may apply to an appropriate Court of the Province of Ontario to appoint such Valuator.

The Counterparty and the TopCo shall instruct the Valuator to determine the Fair Market Value of the Generator Assets having regard to the following general principles and procedures:

1. If the net proceeds of a Transfer contemplated by paragraph 4 of this Schedule 3 cannot be determined or do not meet the definition of Fair Market Value, then the determination of the Fair Market Value shall be made on a discounted cash flow basis of the then projected cash flows of the Generator or the Generator Assets (including, for greater certainty, obligations under capital leases, including the OPG Lease), as applicable, to the end of the term of the Implementation Agreement. Examples of information a Valuator would require, but are not limited to, include: (i) historical financial statements of the Generator (including MD&A); (ii) management's latest business plan and long-term projections; and (iii) management's latest budget. To the extent that a Valuator believes a technical expert is also required to assist in the preparation of the projected cash flows of the Generator Assets, the Valuator may retain a technical expert, and the technical expert may have access to all operational and technical information regarding the Generator available to the Parties, as may be reasonably required for the Valuator to perform its determination of Fair Market Value.
2. The discount rate to be used for purposes of paragraph 1 above shall be determined by the Valuator as at the time of the Transfer in question, acting reasonably, by determining the weighted average cost of capital of the Generator at such time.
3. If a Valuator is appointed, the applicable TopCo shall provide such information to the Valuator as is reasonably required by the Valuator in connection with the determination of Fair Market Value, and shall reasonably cooperate with the Valuator, provided, however, that insofar as a Transfer relates to any assets not comprising part of the Generator Assets, information relating to such other assets, or the proceeds of such Transfer, (collectively, "**Non-Bruce Information**") need not be provided to the Valuator unless the TopCo determines, in its sole discretion, to provide Non-Bruce Information. A TopCo might choose to provide the Valuator with Non-Bruce Information, for example, where the value of such other assets are not appreciable in relation to the Generator

Assets and that, therefore, the proceeds of such Transfer could be relevant to the determination of Fair Market Value. If the TopCo does provide Non-Bruce Information, the Valuator shall consider such information in making its determination of Fair Market Value. Absent the provision of Non-Bruce Information by the TopCo, the Valuator will be instructed to not try to reconcile the proceeds of a Transfer which includes assets other than the Generator Assets in connection with a determination of Fair Market Value.

4. Where the underlying assets of the Transfer only comprise a Beneficial Interest in the Generator or the Generator Assets, the net proceeds of the Transfer, if provided by the TopCo, shall be evidence of Fair Market Value provided that they meet the definition of Fair Market Value. The Valuator shall also deduct therefrom the actual expenses incurred in respect of such Transfer. For greater certainty, Excluded Business shall not be considered by the Valuator.
5. To the extent such information is provided by the TopCo, the Valuator will adjust downward the determination of Fair Market Value in regard to actual expenses incurred in respect of the Transfer reasonably apportioned to a Beneficial Interest in the Generator or the Generator Assets.
6. The identity of the Transferee will be relevant to the determination of Fair Market Value if the nature of the Transferee, and purpose of the Transfer in relation to the Generator Assets, is to create incremental value to the Generator or the Generator Assets as, for example, obtaining tax efficiencies in connection with a Transfer to an Income Fund. In such circumstances, it can reasonably be assumed that the Transferor will obtain a premium to the Fair Market Value otherwise determined, and the Valuator shall be required to consider same. In such circumstances, the TopCo would be required to provide relevant information relating to such Transfer to the Valuator for such purpose (but without limiting in any way paragraph 3 above).
7. The Valuator may retain a technical advisor to look at the capacity factor of the Generator Assets in connection with a valuation, provided that the cost thereof shall be reasonable.
8. If the Valuator specifies a range of values in its determination of Fair Market Value, Fair Market Value shall be the midpoint of the applicable range.
9. Any facts necessary to make a determination of Fair Market Value which cannot be derived from information provided by the TopCo for such purpose, shall be assumed by the Valuator based on information generally available to it, acting reasonably (but without limiting in any way paragraph 3 above);
10. The determination of Fair Market Value by the Valuator shall be final, conclusive and binding on the TopCo and the Counterparty subject only to manifest error in such determination.
11. The Valuator shall be required by an agreement with the TopCo and the Counterparty to become subject to reasonable confidentiality obligations in favour of the TopCo and the Counterparty substantially to the same effect as those set out in Article 6 of the Agreement, mutatis mutandis.

12. The Valuator shall be required, as a condition of its retention, to provide the applicable Parties with its determination of Fair Market Value within 30 days following its appointment.
13. All fees, disbursement and other costs and expenses associated with the determination of Fair Market Value by the Valuator in accordance with the provisions of the Agreement shall be borne by the Counterparty and the applicable TopCo equally.

SCHEDULE 4

METHODOLOGY TO DETERMINE IRR IN RESPECT OF TRANSFERS

1. Each IRR calculation required to be made under Article 2 of the Agreement in respect of a Partner shall be determined as of the time of the applicable Transfer by applying the formula contained in the definition of IRR to the after tax “cash inflows” and after tax “cash outflows” (as referred to in such definition) comprising the following:
 - (a) **Cash Flow from Operations of a Partner** (as such term is defined in this Schedule);
 - (b) **Capital Investments of a Partner** (as such term is defined in this Schedule);
 - (c) **Deemed Income Taxes Payable by a Partner** (as such term is defined in this Schedule) for each taxation year or part thereof occurring in the specified period referred to in the definition of “IRR”;
 - (d) **Implied Transfer Net Proceeds of a Partner** (as such term is defined in this Schedule);
 - (e) **“Other Cash Inflows”**, meaning such other after tax “cash inflows” from the Partner to the Generator as the Valuator may reasonably determine (or as the Generator may reasonably determine if a Valuator has not been appointed, subject to review and revision by any Valuator subsequently appointed, as appropriate); and
 - (f) **“Other Cash Outflows”**, meaning such other after tax “cash outflows” from the Generator to the Partner as the Valuator may reasonably determine (or as the Generator may reasonably determine if a Valuator has not been appointed, subject to review and revision by any Valuator subsequently appointed, as appropriate).
 - (g) **“Cashflows from Previous Transfers/Refinancings”**, meaning such after tax net cashflows of the Partner from each previous Transfer by the Partner’s TopCo as provided in Section 2.2, and Refinancing Cash Inflows to (positive value) and Refinancing Cash Outflows from (negative value) the Partner from each previous Incurrence undertaken by the Partner or attributed to the Partner pursuant to Section 3.1, and to reflect any earlier Refinancing Payment or Transfer Payment made by the related TopCo, in each case on a basis that does not duplicate any previous allocation of the benefits associated therewith to the Counterparty and also by treating the related Gain as a Refinancing Cash Outflow from the Partner as of the date of such payment (such Gain being equal to two times the related Refinancing Payment or Transfer Payment divided by the applicable TopCo’s DIP-P).
2. For purposes of determining IRR of a Partner in respect of a Transfer, “CF_t” will be calculated as follows:

$$CF_t = CFOP - CIP - DITPP + ITNPP - OCI + OCO + CPTR$$

Where:

CF _t	=	“CF _t ” as used in the definition of IRR
CFOP	=	Cash Flow from Operations of a Partner
CIP	=	Capital Investments of a Partner
DITPP	=	Deemed Income Taxes Payable by a Partner
ITNPP	=	Implied Transfer Net Proceeds of a Partner
OCI	=	Other Cash Inflows
OCO	=	Other Cash Outflows
CPTR	=	Cashflows from Previous Transfers/Refinancings

For certainty, CF_t may be a positive or negative amount.

3. For greater certainty, IRR shall be determined as of the Effective Date on a cumulative basis having regard to past Refinancings and Transfers from and after January 1, 2016, consistent with the calculations contained in Exhibit 2.3 to the STAR Technical Schedule.
4. In this Schedule 4, the following capitalized terms have the following meanings:

“Cash Flow from Operations of a Partner” means, in respect of a Partner in relation to a financial year of the Generator, the daily average of the Partner’s Percentage Interest in both of Bruce A and Bruce B on and after the Effective Date in such financial year (or portion thereof after the Effective Date), multiplied by the net cash flow from operations of the Generator determined by reference to the cash flow statement (which shall form part of the Generator’s financial reporting materials) (the **“Cash Flow Statement”**) of the Generator for such financial year. Cash Flow from Operations of a Partner shall equal net income of the Generator, excluding net income attributable to the Excluded Business plus or minus (as indicated below) non-cash items (which are identified on the Cash Flow Statement of the Generator (excluding the Excluded Business), which list shall include items in the future having an equivalent financial impact) determined at the Generator as follows:

- (+/-) non-cash interest expense less interest income
- (+/-) non-cash taxes payable less taxes recoverable
- (+) Depreciation and Amortization
- (-/+) Increase/(decrease) in accounts receivable
- (-/+) Increase/(decrease) in inventories
- (-/+) Increase/(decrease) in prepaid expenses
- (+/-) (Increase)/decrease in accounts payable and similar provisions
- (+/-) (Increase)/decrease in employee future benefits
- (+) Pension and other employee post-employment benefit expense
- (-) Pension and other employee post-employment benefit contributions
- (-) Actual cash obligation payments associated with capital leases
- (-/+) Unrealized investment gains and losses

For purposes of the definition of IRR, Cash Flow from Operations of a Partner represents “cash outflows” of the Generator, as referred to in such definition. For greater certainty, Cash Flow

from Operations of a Partner does not include an amount equal to two times the amount of any Refinancing Payment or two times the amount of any Transfer Payment paid by the Partner or its TopCo or an Intermediate Entity of such TopCo to the Counterparty in the year of the applicable Refinancing or Transfer giving rise to such payment, which amount shall be subtracted from Cash Flow from Operations otherwise determined. For greater certainty, Cash Flow from Operations shall not include any cash flow from Excluded Business and net income of the Generator shall not include income or expenses of Excluded Business.

“Capital Investment of a Partner” means, in respect of a Partner, the amount of the aggregate investment of such Partner in or related to the Generator after the Effective Date. Such amount, as of any time, shall equal the aggregate of the following:

- (i) such Partner’s share of CF_0 (as used in the definition of IRR) (being the CF_0 multiplied by such Partner’s PPI as at the applicable date of calculation); and
- (ii) all subsequent investments (howsoever made) by such Partner in the Generator to fund Refurbishment Costs, Asset Management Costs and maintenance capital expenditures and capital invested to cover working capital and operation losses (Fair Market Value shall be determined for any non-monetary consideration).

Capital Investment of a Partner in any financial year of the Generator from and after January 1, 2016 shall be determined from the Cash Flow Statement of the Generator in such year. Capital Investment of a Partner shall also include the Partner’s Percentage Interest of any undistributed cash flow of the Generator used for the purpose of funding capital expenditures and maintenance capital expenditures, including Refurbishment Costs and Asset Management Costs. For purposes hereof, Capital Investment of a Partner shall be adjusted to the actual date such investment is made. In addition, for purposes of the definition of IRR, Capital Investment of a Partner represents “cash inflows” of the Generator, as referred to in such definition. (See section 2 of this Schedule 4.)

“Deemed Income Taxes Payable by the Partner” for a taxation year or period means, in respect of a Partner, (A) the income of the Generator for each fiscal period or part thereof in such year or period as computed for purposes of Part I of the ITA and Part II of the CTA, (B) multiplied by the Partner’s Percentage Interest, (C) multiplied by a tax rate equal to the maximum marginal combined federal and Ontario tax rate applicable under Part I of the ITA and Part II of the CTA for the taxation year that includes the time of Transfer to a corporation whose sole permanent establishment is in Ontario and that is neither a “private corporation” (as defined in subsection 89(1) of the ITA) nor a “Canadian-controlled private corporation” (as defined in subsection 125(7) of the ITA) and that is subject to tax under the ITA and the CTA.

For purposes of the definition of IRR, Deemed Income Taxes Payable by the Partner shall be subtracted from “cash outflows” of the Generator, as referred to in such definition. (See section 2 of this Schedule 4.) Appropriate adjustments shall be made if a Partner’s Ownership Interest changes during a financial year of the Generator.

“Implied Transfer Net Proceeds of a Partner” means, in respect of a particular Transfer, the implied amount determined as follows:

- (i) the TopCo shall estimate the deemed sale proceeds by its Partner in respect of a deemed sale of the Generator Assets as an amount equal to the product of

(A) the G FMV, and (B) the Partner's PPI determined in Section 2.2(b) of the Agreement;

- (ii) The TopCo shall calculate the Transfer Taxes that would be payable by such Partner if such Partner were a corporation in connection with a sale of its Partnership Interest for the deemed sale proceeds referred to in clause (i) above.

The amount determined in clause (ii) above shall be subtracted from the amount determined in clause (i) above.

Transfer Taxes will not include capital gains taxes arising under Part I of the ITA if, at that time, the TopCo of the Partner making such Transfer or deemed sale is, and holds its interest in the Generator through a corporation that is, exempt from the requirement to pay income tax under Part I of the ITA.

For purposes of the definition of IRR, Implied Transfer Net Proceeds of a Partner represents "cash outflows" of the Generator, as referred to in such definition. (See section 2 of this Schedule 4.)

In order to avoid duplication, any Cash Flow from Operations of a Partner which represent cash flows from operations which have not been distributed and which, directly or indirectly, comprise cash or cash equivalents subject to such Transfer, shall be subtracted from Implied Transfer Net Proceeds of a Partner in order to avoid duplication of amounts which are credited as "cash outflows" for the purposes of determining IRR.

"Transfer Taxes" means the net incremental income tax payable or that would be payable by a Transferor or a deemed seller, as the context requires, under the ITA as a result of a tax on a capital gain (on the date hereof, income tax on the "taxable capital gain", as determined under Subdivision c, Division B of Part I of the ITA) realized by the Transferor or deemed seller under the ITA as a direct consequence of the Transfer or deemed sale, as the context requires, but for greater certainty shall not include any incremental income tax payable as a result of a requirement to 'recapture' any amounts for which deductions or allowances were previously allowed under the ITA in relation to the property subject to such Transfer or deemed sale. In determining the amount of taxes payable by a Transferor or deemed seller, if a deduction, credit, loss carry-over or other amount of a Transferor or deemed seller is utilized to reduce the amount of income, taxable income, or tax payable for any taxation year or period of the Transferor or deemed seller in respect of which taxes are paid by the Transferor or deemed seller or for which the Transferor or deemed seller is liable or, but for the utilization of such deduction, credit, loss carry-over or other amount, would be paid by the Transferor or deemed seller or for which the Transferor or deemed seller would be liable, the amount of taxes shall be determined without taking into account any benefit from such deduction, credit, loss carry-over or other amount, except to the extent that such deduction, credit, loss carry-over or other amount arises from this Agreement.

EXHIBIT 1.1

FORM OF ATTESTATION CERTIFICATE

ATTESTATION CERTIFICATE

FROM: [Generator/TopCo]

TO: Independent Electricity System Operator (the “Counterparty”)

RE: [Transfer Payment][Refinancing Payment] Calculations and Determinations and Related Information

Re: Amended and Restated Bruce Power Sharing in Transfers and Refinancings Agreement dated as of ●, 2015 among Bruce Power L.P., OMERS Administration Corporation, TransCanada Corporation and the Independent Electricity System Operator (the “STAR Agreement”)

The undersigned, in his capacity as [senior officer position] of [Generator/TopCo], and not personally, hereby certifies as follows:

1. All initial capitalized terms used herein and not otherwise defined shall have the respective meanings ascribed to them, either directly or by reference, in the STAR Agreement.
2. This certificate is being delivered pursuant to Section 4.1(c) of the STAR Agreement.
3. The undersigned has read and is familiar with those provisions of the STAR Agreement relating to the calculations, determinations and other matters with respect to which this certificate is being given.
4. The undersigned has made or caused to be made such examinations or investigations as are, in the undersigned’s belief, necessary to enable the undersigned to make the statements expressed herein.
5. Based on my knowledge, having made due and diligent enquiries, the calculations, determinations and valuations set forth in the accompanying Statement, and the information delivered to the Counterparty therewith or otherwise in connection the subject matter thereof, (a) are fair and accurate in all material respects; (b) have been made or provided in accordance with the terms and requirements of, and on the basis contemplated in, the STAR Agreement; (c) in relation to any third party information on which any calculation, determination or valuation is based, are consistent with such third party information, except if and to the extent that such information is known to me to be incorrect, in which case such incorrect information has been specifically identified as such in the Statement; and (d) do not contain or reflect any untrue statement or omit to state or reflect a fact required to be stated or reflected or that is necessary to make the

information, calculations or related materials contained in or accompanying the Statement not misleading.

DATED as of ●.

Name:

Title:

EXHIBIT 2.1

PREAPPROVED TRANSFEREE JURISDICTIONS

(see Exhibit 2.1 of the STAR Technical Schedule)

EXHIBIT 2.3

SAMPLE CALCULATIONS

(see Exhibit 2.3 of the STAR Technical Schedule)

EXHIBIT 3.2

DISTRIBUTION BASE CASE

(see Exhibit 3.2 of the STAR Technical Schedule)

EXHIBIT 9.2

ARBITRATION RULES

Final and Binding Arbitration

1. The Arbitral Tribunal (as defined below) appointed under these arbitration rules (the "Rules") will apply the rules and procedures of the *Arbitration Act, 1991* (Ontario) to any arbitration conducted hereunder ("Arbitration") except to the extent they are modified by the express provisions of these Rules.
2. Each Party acknowledges that it will not apply to the courts of Ontario or any other jurisdiction to attempt to enjoin, delay, impede or otherwise interfere with or limit the scope of the Arbitration or the powers of the Arbitral Tribunal (as defined herein).
3. Each Party further acknowledges that the decision of the Arbitral Tribunal will be final and conclusive and there will be no appeal therefrom whatsoever to any court, tribunal or other authority.

Jurisdiction of Arbitral Tribunal

4. The Arbitral Tribunal shall have the jurisdiction to deal with all matters relating to a dispute arising under Section 9.2 (a "**Dispute**") including, without limitation, the jurisdiction:
 - (a) to determine any question of law, including equity;
 - (b) to determine any question of fact, including questions of good faith, dishonesty or fraud;
 - (c) to determine any question as to the Arbitral Tribunal's jurisdiction;
 - (d) to order any Party to furnish further details, whether factual or legal, of that Party's case;
 - (e) to proceed with the Arbitration notwithstanding the failure or refusal of any Party to comply with these Rules or with the Arbitral Tribunal's orders or directions or to attend any meeting or hearing, but only after giving that Party written notice that the Arbitral Tribunal intends to do so;
 - (f) to request, receive and take into account such written or oral evidence tendered by the Parties or by qualified experts or any other Person as the Arbitral Tribunal determines is relevant, whether or not admissible in law;
 - (g) to make one or more interim decisions, including orders to secure any amount relating to the Dispute;
 - (h) to order the parties to produce to the Arbitral Tribunal and to each other for inspection and to supply copies of any documents or classes of documents in their possession, power or control that the Arbitral Tribunal determines to be relevant;

- (i) to order the parties to make available specified individuals in their employ to give evidence to the Arbitral Tribunal; and
- (j) to express its decisions in any currency or currencies.

Place of Arbitration

- 5. The Arbitration will be conducted in the City of Toronto in the Province of Ontario at the location determined from time to time by the Arbitral Tribunal.

Appointment of Arbitral Tribunal

- 6. As used in these Rules, the term "Arbitral Tribunal" means the Arbitral Tribunal appointed pursuant to section 7 of these Rules.
- 7. The Arbitration will be commenced by delivery of a written complaint (the "Complaint") by the "Applicant" to the "Respondent". The Complaint must describe the nature of the Dispute. The Applicant and the Respondent may agree in writing upon the appointment of a three member Arbitral Tribunal. If within fifteen (15) days of the giving of the Complaint, the Applicant and the Respondent do not reach agreement on the appointment of the Arbitral Tribunal, then each of the Applicant and the Respondent may appoint one Arbitrator and provide the other Party with written notice of such appointment. Within fifteen (15) days of the appointment of such Arbitrators, the Arbitrators so appointed will agree on the appointment of an additional Arbitrator as chair (the "Chair") and give notice to the Applicant and the Respondent of such appointment, failing which the Chair may be appointed by a Judge of the Ontario Court (General Division) on the application of either the Applicant or the Respondent, on notice to the other. Upon the giving of notice by the Arbitrators of the appointment of the Chair, or the appointment by a Judge of the Chair, as the case may be, the Chair and the other Arbitrators previously appointed will constitute the Arbitral Tribunal. The Arbitral Tribunal shall be composed of Persons having appropriate qualifications to address the Dispute.

Decision of Arbitral Tribunal

- 8. Any decision of the Arbitral Tribunal (including its final decision) made with respect to a Dispute or with respect to any aspect of, or any matter related to, the Arbitration (including the procedures of the Arbitration) will be made by a majority of the Arbitral Tribunal. All decisions of the Arbitral Tribunal with respect to a Dispute, except procedural decisions, will be rendered in writing and contain a recital of the facts upon which the decision is made and the reasons therefor.

Pleadings

- 9.
 - (i) Within thirty (30) days of the constitution of the Arbitral Tribunal, the Applicant must deliver to the Respondent and the Arbitral Tribunal a written statement (the "Claim") concerning the Dispute setting forth, with particularity, its position with respect to the Dispute and the material facts upon which it intends to rely.
 - (ii) If the Applicant fails to deliver a Claim within the time limit referred to in section 9(i) above, the Arbitral Tribunal must terminate the proceedings.

- (iii) Within thirty (30) days after the delivery of the Claim, the Respondent may deliver to the Applicant and the Arbitral Tribunal a written response (the "Defence") setting forth, with particularity, its position on the Dispute and the material facts upon which it intends to rely setting forth, with particularity, any additional Dispute for the Arbitral Tribunal to decide.
- (iv) If the Respondent fails to deliver within the time limit referred to in (iii) above, the Arbitral Tribunal will continue the proceedings without treating such failure in itself as an admission of the Applicant's allegations.
- (v) Within ten (10) days after delivery of the Defence, the Applicant may deliver to the Respondent and the Arbitral Tribunal a written reply (the "Reply") to the Defence, setting forth, with particularity, its response, if any, to the Defence.

Meetings and Hearings

- 10. The Chair will determine the time, date and location of meetings or hearings for the Arbitration and will give all the parties fifteen (15) days' prior written notice of such meetings or hearings.
- 11. All proceedings and the making of the award will be in private and the parties will ensure that the conduct of the Arbitration and the terms of the decision will be kept confidential, unless the parties otherwise agree; provided, however, that such obligation to maintain confidentiality will not prohibit any Party from complying with applicable law.
- 12. The parties may be represented or assisted by any Person during the Arbitration. Where a Party is represented by another Person, such Party will provide notice in writing of such representation to the other Party and to the Arbitral Tribunal at least five (5) days prior to any Arbitration proceeding.
- 13. The first Arbitration meeting must be held within thirty (30) days of the expiry of the pleadings procedure set forth in section 9 of these Rules. The award of the Arbitral Tribunal must be made within ninety (90) days of the first Arbitration meeting.

Disclosure/Confidentiality

- 14. All information disclosed, including all statements made and documents produced, in the course of the Arbitration will be held in confidence and no Party will rely on, or introduce as evidence in any subsequent proceeding, any admission, view, suggestion, notice, response, discussion or position of either the Applicant or the Respondent or any acceptance of a settlement proposal or recommendation for settlement made during the course of the Arbitration, except (i) as required by law or (ii) to the extent that disclosure is reasonably necessary for the establishment or protection of a Party's legal rights against a third party or to enforce the award of the Arbitral Tribunal or to otherwise protect a Party's rights under these Rules.

Costs

- 15. In determining the allocation between the Parties of the costs of the Arbitration, including the compensation of the Arbitral Tribunal and the costs associated with the Arbitration, the Arbitral Tribunal may invite submissions as to costs and may consider, among other

things, an offer of settlement made by a Party to the other Party prior to or during the course of an Arbitration. Unless otherwise directed by the Arbitral Tribunal, all costs of the Arbitral Tribunal will be paid equally by the Applicant and the Respondent.

Miscellaneous

16. The parties may modify any period of time provided for in these Rules by written agreement.
17. The language of the Arbitration will be English.
18. All awards shall be in writing and copies of all awards shall be provided to each Party in a timely manner.
19. Nothing contained in these Rules prohibits a Party hereto from making an offer or offers of settlement relating to a Dispute during the course of an Arbitration.